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NOTE

From: General Secretariat of the Council
To: Antici Group (Simplification)

Subject: Omnibus VII: Digital Omnibus on AI – Explanatory note

Delegations will find enclosed an explanatory note prepared by AGS for the meeting on 30 January 2026 on Digital Omnibus on AI (Omnibus VII)

Antici Group on Simplification (AGS)

30 January 2026

Omnibus VII: Digital Omnibus on Artificial Intelligence - 1st Presidency compromise text

The purpose of this explanatory note is to provide delegations with additional information, clarifications and reasoning for the amendments proposed by the Presidency.

The explanatory note follows the order of the relevant provisions.

This document is for reference only.

Recitals	
Recital 3	Minor clarification.
Recital 5	Revisions corresponding to the changes in Article 1(4) on AI literacy. The Presidency proposes to add some examples of European competence frameworks and to clarify that providers and deployers of high-risk AI systems are still required to ensure AI competences of persons working with such systems.
Recital 6	Revisions corresponding to changes in Article 1(5) concerning the extension of the legal basis to exceptionally process special categories of personal data for the purpose of ensuring bias detection and correction also to providers and deployers of non-high-risk AI systems and AI models as well as deployers of high-risk AI systems. The Presidency proposes to elaborate further on the substantial public interest underpinning the extension of this legal basis and clarify that Article 4a should not be covered by the delayed application timeline so that providers and deployers of high-risk AI systems can prepare in advance for compliance with the provisions on high-risk AI systems.
Recital 7	Clarification corresponding to the changes in Article 1(10) on single application procedure for conformity assessment bodies.
Recital 9	Clarifications corresponding to the changes in Articles 1(6), (14) and (32) on the reinstatement of the obligation for providers to register AI systems in the EU database for high-risk systems under Annex III, where they have been exempted from classification as high-risk, and simplification of the registration content.
Recital 13	Revised to align with the changes in Article 1(22)(b).
Recitals 14 and 16	Revised to align with the changes in Article 1(25) on market surveillance and control of AI systems and mutual assistance. The Presidency may propose further changes to this recital once the final wording of Article 1(25) is agreed.
Recital 19	Clarification corresponding to the change in Article 1(26)(b).
Recital 22	Revisions corresponding to changes in Article 1(31) concerning the proposal to establish a fixed timeline for the delayed application of high-risk rules.
Recital 27	Standard recital on the consultation of the European Data Protection Supervisor and the European Data Protection Board.
Articles	
Article 1(2)	Clerical addition to include references to Articles 110, 58 and 59 of the AI Act, which were omitted by mistake.
Article 1(4)	Proposal to include references to European competence frameworks and to oblige the AI Board to issue recommendations on non-binding common objectives for AI literacy, in order to clarify the modalities of the application of this provision.
Article 1(5)	Proposal to reinstate the standard of strict necessity from the current Article 10(5) AI Act for the processing of special categories of personal data for the purpose of

	ensuring bias detection and correction. The Presidency also proposes to redraft Article 4a(2) to clarify that in the case of non-high-risk AI systems and AI models, processing of such data is subject to the same conditions and safeguards as for high-risk AI systems. These changes are aligned with the opinion of EDPS/EDPB on the proposal.
Article 1(6)	Proposal to reinstate the obligation for providers to register AI systems in the EU database for high-risk systems under Annex III, where they consider their systems to be exempted from classification as high-risk under Article 6(3) of the AI Act. At the same time, the Presidency proposes to simplify the respective registration process by deleting the registration content required in points 7 and 9 in Annex VIII, section B (see also changes in Article 1(6) and (32)).
Article 1(10)	Clarification that proposed changes do not interfere with the internal organisation of the Member States. The additional modifications are meant to ensure that the single application and single assessment procedure will not lead to unnecessary duplications, and will build on the procedures for designation under the Union harmonisation legislation listed in Section A of Annex I.
Article 1(14)	Modification linked to the change in Article 1(6) as described above.
Article 1(15)	Proposal to make a change ensuring that there will be sufficient Member States' involvement in the assessment whether adherence to the codes of practice is adequate to ensure compliance (via the AI Board).
Article 1(17)	The changes include a clarification ensuring equal and non-discriminatory treatment of SMEs and small mid-caps (SMCs) with regard to participation in the EU level sandbox and the removal of the requirement for the Member States to strengthen cross-border cooperation between their sandboxes.
Article 1(18)	The proposed change is meant to ensure that the detailed rules for the governance of AI regulatory sandboxes to be laid down in implementing acts will not interfere with the autonomy of national authorities.
Article 1(20)	The proposed modifications clarify that the voluntary real-world testing agreements referred to in this article would have no binding effect on Member States other than those which are party to the agreement. The changes also clarify that accountability and governance mechanisms for such testing should be specified within the voluntary agreement. The legal framing of this article is still being analysed and the Presidency may propose further changes in the subsequent version of the text.
Article 1(22)	Proposal to reinstate the obligation of the Commission to facilitate access by the Member States and their national authorities to the pool of experts.
Article 1(25)	The addition in Article 75(1) clarifies that the AI Office will not have competence over AI systems referred to in Annex III, point 2 (AI systems in critical infrastructure), when such systems are based on a general-purpose AI model and developed by the same provider. The second subparagraph has been moved to the new Article 75a (1). Article 75(1)(a) has been modified to provide more details on the cooperation between the AI Office and national authorities. Article 75a has been added to include the provisions on investigation and enforcement in respect of AI systems supervised by the AI Office in the AI Act itself, rather than fully leaving this to further specification in an implementing act, as originally proposed. The wording of this new article is based on similar provisions from the Digital Services Act, the Digital Markets Act and the Market Surveillance Regulation. Furthermore, a new Article 75b has been added with provisions on judicial authorisation and fundamental rights, also based on the above mentioned laws, to

	clarify, where relevant, the judicial authorisation procedure for involving Member State law enforcement authorities as well as to ensure sufficient procedural safeguards for operators.
Article 1(26)	Proposal to clarify that the changes do not interfere with the existing powers of the authorities or bodies referred to in Article 77 of the AI Act. These changes are aligned with the opinion of EDPS/EDPB on the proposal.
Article 1(31)	In the interest of legal certainty and predictability for the market, the Presidency proposes to establish a fixed timeline for the delayed application of Chapter III, Sections 1, 2, and 3. The proposed new application dates would be 2 December 2027 for high-risk AI systems from Annex III, and 2 August 2028 for high-risk AI systems from Annex I.
Article 1(32)	Modification linked to the change in Article 1(6) as described above.