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CONTRIBUTION

From: To:	General Secretariat of the Council Working Party on Telecommunications and Information Society
Subject:	Artificial Intelligence Act - HU comments on 1st part of 3rd compromise proposal (doc. 12206/1/22 REV 1; Arts 1-29, Annexes I-IV)

Delegations will find in the Annex the HU comments on 1st part of 3rd compromise proposal on Artificial Intelligence Act (doc. 12206/1/22 REV; 1 Arts 1-29, Annexes I-IV).

MEMBER STATE comments on first part of third compromise proposal on AIA (document 12206/1/22 REV 1; Arts 1-29, Annexes I-IV)

Reference	Third compromise proposal	Drafting suggestion	Comment
Recital 46	„…Furthermore, providers or users should keep logs automatically generated by the high-risk AI system, including for instance output data, start date and time etc., to the extent that such a system and the relatedsuch logs are under their control, for a period that is appropriate to enable them to fulfil their obligations."	„…Furthermore, providers or users should keep logs automatically generated by the high-risk AI system, including for instance *input and* output data, start date and time etc., to the extent that such a system and the related ~~such~~ logs are under their control, for a period that is appropriate to enable them to fulfil their obligations."	We support the more detailed specification, however in order to be able to verify the correct operation of the AI system, not only the output data, but also the input data should be recorded in the logs. Therefore we propose to amend the Recitals (46) in this way.
Recital 70	Such specific categories can relate to physical aspects, such as sex, age, hair colour, eye colour, tatoos, personal traits, ethnic origin or to personal preferences and interests such as sexual or political orientation.	Such specific categories can relate to physical aspects, such as sex, age, hair colour, eye colour, ~~tatoos, personal traits~~, distinctive bodily characteristic, ethnic origin or to personal preferences and interests such as sexual or political orientation.	A more general wording is suggested for "tatoos, personal traits".
Article 2 (7) Article 3 (52)	„7. This Regulation shall not apply to affect any research and development activity regarding AI systems.in so far as such activity does not lead to or entail placing an AI system on the market or putting it into service." and (52) 'AI regulatory sandbox' means a concrete framework set up by a national competent authority which offers providers or prospective providers of AI systems the possibility to develop, train, validate and test, where appropriate in real world	„7. This Regulation shall not ~~apply to affect~~ any research and ~~development activity~~ regarding AI systems.~~in so far as such activity does not lead to or entail placing an AI system on the market or putting it into service~~." or (52) 'AI regulatory sandbox' means a concrete framework set up by a national competent authority which offers providers or prospective providers of AI systems the possibility to ~~develop~~, train, validate and test, where appropriate in real world conditions, an innovative AI system, pursuant to a specific plan for a limited time under regulatory supervision.	Research and development activities are excluded from the AI regulation, however, in Article 3. (52), the definition of 'AI regulatory sandbox' includes development activity. In our view, this collision should be resolved either by deleting the exemption of 'development activity' in Article 2. paragraph 7. or deleting 'develop' from the definition of 'AI regulatory sandbox' in Art. 3. (52).

Reference	Third compromise proposal	Drafting suggestion	Comment
	conditions, an innovative AI system, pursuant to a specific plan for a limited time under regulatory supervision.		
Article 3 (4)			We recommend reinstating the exception in the definition of users to create a household-exemption for regular daily use by natural persons within their private, non-professional activity, e.g. using smart phone apps that have built-in facial recognition feature."
Article 5, (1)d	the use of 'real-time' remote biometric identification systems in publicly accessible spaces **by law enforcement authorities or on their behalf** for the purpose of law enforcement, unless and in as far as such use is strictly necessary for one of the following objectives:	The use of 'real-time' ~~remote~~ biometric identification systems in publicly accessible spaces ~~by law enforcement authorities or on their behalf~~, ~~for the purpose of law enforcement~~ unless and in as far as such use is strictly necessary for the purpose of law enforcement **by law enforcement authorities or on their behalf** for one of the following objectives:	We recommend rephrasing this prohibition in a way, that it constitutes a general probihibiton,stating that no one else should use such AI system, except for LEAs and authorities acting on their behalf within the context of their law enforcement activities.
Annex III (1)			We continue to propose to include "emotion recognition" among the high-risk AI systems. We recommend adding emotion recognition AI systems to the list of high-risk AI systems in general, regardless the application environment – the current proposal only considers emotion recognition AI systems as high risk, where these are applied for law enforcement or migration, asylum and border control management purposes. Emotion recognition is highly intrusive and potentially comes with a mass collection of sensitive personal data also.

Reference	Third compromise proposal	Drafting suggestion	Comment
Annex III (5)d			Hungary is open towards the potential reinstatement of the text regarding the insurance sector in 5 d).
Annex III (2) aa)	**AI systems intended to be used to control or as safety components in the management and operation of critical digital infrastructure;**		We would like to see the term "safety component in the management and operation of critical digital infrastructure" further explained - it would have added value to put some examples in a recital, or it would be also fine to specify in recital 34 that the failure of the AI system would lead directly to a systemic failure or significant impairment of the critical digital infrastructure.

For specifying the relevant provision, please indicate the relevant Article or Recital in 1st column and copy the relevant sentence or sentences as they are in the current version of the text in 2nd column. For drafting suggestions, please copy the relevant sentence or sentences from a given paragraph or point into the 3rd column and add or remove text. **Please do not use track changes**, but highlight your additions in yellow or use strikethrough to

indicate deletions. You do not need to copy entire paragraphs or points to indicate your changes, copying and modifying the relevant sentences is sufficient. For providing an explanation and reasoning behind your proposal, please take use of 4th column.