Proposal for a Regulation of the European Parliament and of the Council laying down harmonised rules on artificial intelligence (Artificial Intelligence Act) and amending certain Union legislative acts (COM (2021) 206)

APPROVED FINAL DOCUMENT

The Committee on Transport, Post and Telecommunications, and the Committee on Economic Activities, Trade and Tourism of Italy's Chamber of Deputies,

Having examined, in application of Rule 127.1 of the Chamber's Rules of Procedure, a proposal for a regulation of the European Parliament and of the Council laying down harmonised rules on artificial intelligence (Artificial Intelligence Act) and amending certain Union legislative acts;

Whereas:

The proposal marks the first attempt to exercise regulatory control over artificial intelligence (AI) at a global level, where universal rules are substantially lacking;

The scope of the proposal was outlined in a series of European Commission policy documents, including the White Paper on Artificial Intelligence – A European approach to excellence and trust COM (2020) 65), concerning which the Transport, Post and Telecommunications Committee adopted a final document on 19 May 2021;

The European Commission's proposal is for an Artificial Intelligence Act that, along with other proposed acts on digital services, digital markets and data governance, will serve as one of the foundational legislative documents underpinning the EU's strategic vision for the digital transformation and new technologies;

The proposal follows a commendably anthropocentric approach that is predicated on the proposition that technologies must be at the service of people and aligned to the values, fundamental rights and principles of the European Union;

The proposal rightly takes a horizontal regulatory approach as being the best way of making sure that AI-related instruments, which are now used in most socio-economic sectors, are safe, trustworthy and aligned to the European value system. The approach is also intended to apply to all participants in the artificial intelligence value chain;

Observing that:

Artificial intelligence (AI) is a catch-all term for a wide array of technologies that are now deployed in most socio-economic sectors and are characterised by, among other things, a high degree of autonomy of action and an elevated capacity for the fast processing of large volumes of data;

The increasing use of AI poses a number of risks arising from the design specifications of a given AI system, the type of data entered into a system, and the role of end users in the value chain;

The risks include jeopardising the personal safety of individuals, data protection failures, breaches of the right to privacy, and social and economic discrimination, including with regard to gender differences, arising from biases in data entry;

The importance of having a common legal framework to minimise the foregoing risks needs to be set against the need to give national and European companies the freedom to unleash their potential for pioneering technological innovation so as to keep up with global competitors in the digital sector, notably the USA and China;

Considering that:

Article 3 of the proposal sets out a list of defined terms that offer a broad definition of what constitutes AI, which the same article describes as software that, when presented with a set of human-defined objectives, can generate outputs such as content, predictions, recommendations or decisions that influence the environments with which the software interacts, and that has been developed using one or more of the techniques and approaches listed in Annex I;

Excluded from the scope of the proposal is AI developed or used exclusively for military purposes even though some artificial intelligence systems used by the defence sector are capable of violating fundamental human rights in a manner that is completely analogous to the potential violations that the proposal, which refers to AI for civil use, is supposed to eliminate;

To ensure a technology-neutral legal framework, the Commission has been empowered to issue delegated acts to update the list of techniques and approaches in Annex I to keep up with any technological advances and market developments that have a bearing on these techniques and approaches;

The European Commission's approach is to categorise AI systems according to the level of risk they pose to EU fundamental rights;

In particular, the regulation proposes a system that places burdens on high-risk AI devices, one of the consequences of which is to create a series of obligations for the certification or self-certification of product conformity with the regulatory prescriptions contained in the proposal;

The proposed regulation attaches considerable importance, as well as compliance obligations, to the use of training, validation and testing data sets that are sufficiently relevant, representative, free of errors, and complete;

Because poor quality data sets can give rise to undesirable consequences such as gender-based discrimination or other forms of discrimination that violate fundamental human rights, one particularly creditable aspect of the proposed regulation is that it sets standards for the quality of the data entered into electronic systems for the purposes of AI training, validation and testing;

Whereas the quality of the data entered into an AI system is of the utmost importance for the accuracy of the output from the same, the complexity of AI technologies is such that consideration must be given to the possibility that biases and errors may derive from the original design of the application or device, irrespective of the quality of the input data itself;

Artificial intelligence operates in a highly complex digital ecosystem that is not necessarily amenable to analysis through the traditional lens of seller-buyer relationships. It therefore makes sense to

consider a system of accountability that takes particular account of how and in what context an artificial intelligence system is used;

The proposed regulation envisages a complex system of governance that is essentially distributed across three bodies: the European Commission; the European Artificial Intelligence Board; and a designated national authority, whether already extant or awaiting formation, for enforcement and implementation of the regulation;

The regulation leaves it to each Member State to decide whether to set up a separate purpose-made national authority for data governance or to assign the task to an authority that already exists;

The Commission is to be commended for its efforts to support innovation by, in particular, providing for AI regulatory sandboxes and including measures to support SMEs and start-ups and lighten their regulatory burden*;*

Taking cognisance of the report on the proposal issued by the Government pursuant to Article 6.5 of Law 234 of 24 December 2012;

Taking note of the intelligence and opinions acquired during the examination of the document in question;

Taking cognisance of the favourable opinion and the attached remarks on the document published by the European Union Policies Committee at its sitting of 29 March 2022;

Aware that this final document needs to be promptly forwarded to the European Commission as a contribution to the political dialogue, as well as to the European Parliament and the Council,

do herewith express a

FAVOURABLE ASSESSMENT

with the following remarks:

a) The rules and definitions set out in Article 3 and Annex I of the proposed regulation may need to be reviewed with particular regard to the term "artificial intelligence." The definitions should be broadened so as to refer not only to the technical mode of operation of the computer system, but also to the purposes and specific characteristics of the instrument, including its capacity to replicate human functions, skills and behaviours;

b) The scope of the definition of "artificial intelligence" will need to be assessed so as to ascertain the continuing relevance for the latest AI systems and for the scope of application of the new regulatory system of some of the technologies listed under Annex I, such as traditional statistical systems and modelling approaches ensuring explainability and transparency, also in order to prevent legal uncertainty;

c) Whereas ensuring that the new regulatory system is technology-neutral is an objective worthy of support because it makes it possible to keep pace with scientific and industrial progress, the exercise of the power to update the definition of 'system' needs to allow for the broadest possible participation of Member States, also taking account, as a matter of priority, of the consequences that changes to the scope of application might have for national systems of production and their specific features;

d) To obviate the risk of regulatory fragmentation, some thought should be given to the possible adoption of common guidelines regulating the powers of Member States to authorise the use, in whole or in part, of AI systems for 'real-time' remote biometric identification in publicly accessible spaces for the purpose of law enforcement, as per Article 5.4 of the proposed regulation;

e) The new regulatory arrangements will need to be coordinated with other regulatory dispensations, both of a horizontal nature (such as the General Data Protection Regulation) and of a sectoral nature (such as future regulations on digital finance or the proposed directive on improving working conditions in platform work) to prevent the duplication of burdens and to avoid legal misalignments that might cause the regulations to fail their objectives, with particular regard to the protection of fundamental rights;

f) It would be useful to consider whether the provisions of Article 10 are effectively applicable where, in respect of high-risk AI systems, they state that training, validation and testing data sets must be relevant, representative, free of errors and complete. The provisions of Article 10 also need to be seen in the light of Recital 44 in the same document, which states that training, validation and testing data sets should be sufficiently relevant, representative and free of errors and complete in view of the intended purpose of the system. Allowances will also need to be made for the fact that biases and errors may derive from the independent choices of AI system designers rather than from low-standard data;

g) With reference to Chapter 3, more precise detail is needed about the workings of a system of accountability that corresponds to the active role of participants in the AI value chain, including those who participate in adapting and customising an AI system so as substantially to alter the manner of its deployment or even the very purpose for which it was originally conceived by the supplier;

h) The transparency of information about AI systems and the accessibility of the information both need to be improved;

i) As regards the codes of conduct which the Commission and the Member States wish to encourage as per Article 69, AI providers, including in the high-risk categories, can adopt self-regulation and should be encouraged and facilitated to do so without causing excessive burdens for the market. To this end, a working group of stakeholders should be set up so that discussions of the code will already be ongoing by the time the proposed regulation is under the examination of the appropriate bodies of the European Union;

l) The setting up of AI regulatory sandboxes as envisaged in Article 53 needs to be strongly encouraged. To avoid excess bureaucracy, encourage innovative companies, avoid the risk of regulatory fragmentation and ensure uniformity of administrative protocols, the regulatory framework should be as homogeneous as possible;

m) With respect to the designation of national competent authorities as per Article 59 of the proposal, whether a Member State sets up a new supervisory body to perform the relevant functions or assigns them to one that already exists, the authority in question must be equipped with the necessary specialist resources and be granted sufficient deliberative autonomy, also because its functions

include the vitally important task of safeguarding fundamental rights, especially those of the person, which the deployment of regulatory noncompliant AI instruments places in jeopardy;

n) Member States should be prompted to start laying the groundwork for the enactment and implementation of the regulation;

o) Policies are needed for the improvement of digital literacy, AI skills, and, especially, hybrid skills, which are particularly useful in view of the wide range of issues that the use of artificial intelligence raises. The findings of the latest DESI (*Digital Economy and Society*) report likewise suggest the need for such policies.

p) Finally, the national AI strategy adopted in November 2021 needs to be rolled out with a particular emphasis on the policies for enhancing AI skills. The national strategy will also need to be aligned with the European regulatory framework of the future, which the Council of Europe is now starting to discuss.