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The European AI Office: the AI Act roadmap for enforcement

Over the last few years, Artificial Intelligence (AI) has become one of the central policy questions within the European Union's (EU) digital agenda. The emergence of AI technologies brings a wide range of economic and societal benefits. However, concerns are escalating regarding its implications on fundamental rights and safety risks. The final text of **the European Union Regulation on laying down harmonized rules on Artificial Intelligence (the AI Act)** has been adopted to establish a comprehensive framework for the development, use and acquisition of AI products, services, and systems with the overarching goal of advancing toward a human-centric AI. Comparable to what has happened with the European Union's General Data Protection Regulation (GDPR)¹, **there is room for the AI Act to become the global standard for ensuring responsible AI.**

One of the **primary challenges following the approval of the AI Act lies in the implementation and enforcement** of said regulation within the European Commission's (EC) regulatory framework. A critical component of this implementation will be the **establishment of the European Office of Artificial Intelligence**, an institution crucial in fostering an ecosystem that ensures compliance with, and respect for, the AI Act. In light of this, we aim to address the question: ***What mechanisms are necessary for the effective functioning of the European AI Office and the application of responsible and trustworthy AI guidelines?*** Ultimately, our goal is to ensure that the competencies of the AI Office contribute to creating an ecosystem of oversight for EU citizens.

In this policy paper, we will adopt a critical approach to identify mechanisms that would enable the AI Office to achieve these goals, providing specific recommendations in the governance landscape and on its role and applicable competencies.

1. Governance Approach: Navigating the Institutional Landscape

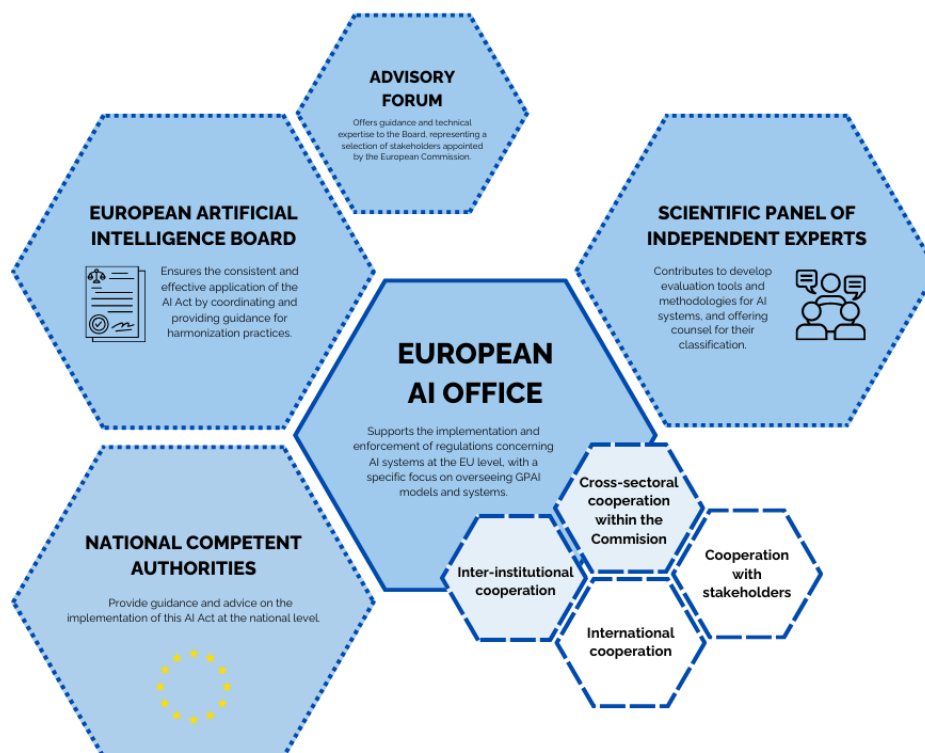
The **objective outlined in Article 1 of the AI Act is to "foster the adoption of human-centric and trustworthy artificial intelligence"** while guaranteeing protection to different health, safety, and fundamental rights "against harmful effects of artificial intelligence systems in the Union." Throughout its 12 Titles, the AI Act lays down harmonized rules, prohibitions of practices, specific requirements for high-risks AI systems, rules on market monitoring, market surveillance governance and enforcement, and measures to support innovation. The text underlines **a risk-based approach to General-Purpose AI (GPAI) models, distinguishing those posing potential systems risks** from others. It entrusts the development of methodologies and benchmarks for assessing the capabilities of GPAI models to the AI Office and addresses unforeseen risks based on alerts from a scientific panel of independent experts.

One of the critical components in the implementation will be the governance framework among the institutions themselves. To develop expertise and capabilities in the field of AI, the AI Act specifies in its Title VI on governance (chapters 1 and 2), the establishment of the **European AI Office** (article 55b), the **European Artificial Intelligence Board –The Board-** (article 56) and its **Advisory Forum** (article 58a), the **Scientific Panel of Independent Experts** (article 58b) and the designation of **National Competent Authorities** (article 59). The AI Office's primary responsibility is to support the implementation and enforcement of regulations concerning AI systems at the EU level, with a specific focus on overseeing GPAI models and systems, considered the most powerful forms of AI to date. On the other hand, the Board is tasked with ensuring the consistent and

¹ The ECJ's first judgment on Automated Decision-Making (**Case C-634/21**) also highlight the need to interpret article 22 of the GDPR under the framework of the EU's AI Act.

effective application of regulations by coordinating and providing guidance for harmonization practices.

Furthermore, an Advisory Forum will be constituted to offer guidance and technical expertise to the Board, representing a selection of stakeholders appointed by the EC. The Scientific Panel of Independent Experts will play a critical role in alerting the AI Office of systems risks, contributing to develop evaluation tools and methodologies for AI systems, and offering counsel for their classification. Lastly, the National Competent Authorities will provide "guidance and advice on the implementation of this Regulation" at the national level in each Member State. **How this institutional framework for implementing the AI Act will operate will be vital for the effective governance and oversight of AI systems.**



Source: Own elaboration based on the proposal for the European Union Regulation on laying down harmonized rules on Artificial Intelligence.

Focusing specifically on the **AI Office**, it is noteworthy to mention another aspect of the institution's governance before delving into its roles and competencies. The regulation of its **establishment and operations is governed by the Decision of January 24, 2024**, emphasizing the necessity for collaboration with various stakeholders to perform its functions. This decision outlines four **types of cooperation**:

1. **Cooperation with stakeholders** (article 4): This involves regular consultation with stakeholders, including experts from the scientific community, the educational sector, citizens, civil society, and social partners, to gather input for its tasks.
2. **Cross-sectoral cooperation within the Commission** (article 5): The AI Office will collaborate with relevant Directorate-Generals to promote the use of AI models and systems as transformative tools in Union policies and raise awareness about emerging risks.
3. **Inter-institutional cooperation** (article 6): The AI Office will cooperate with other bodies, offices, and agencies of the Union.
4. **International cooperation** (article 7): It will advocate internationally and promote the Union's approach to trustworthy AI.

Good case practice: Guaranteeing AI's Office Independence – An algorithmic “European Anti-Fraud Office” Approach

Significant challenges could undermine the effectiveness of the AI Office, particularly concerning its independence and autonomy from the European Commission. In order to set an effective benchmark for national agencies at the member-state level, this organization needs to operate independently. This **autonomy would foster trust in the system and ensure consistent policy development on algorithmic accountability**, aligning outcomes between the European Data Protection (EDPS) -coming from GDPR-, the European Center of Algorithmic Transparency (ECAT) -coming from the Digital Services Act (DSA)- and the AI's Office. Independence is necessary to effectively oversee the expansion of Big Tech companies, mitigate unfair competitive practices, and concentrate exclusively on the goals of algorithmic utilization and their effects on individuals and societal rights.

Drawing a **comparison with the European Anti-Fraud Office (OLAF)**, which operates independently within the EC, highlights the importance of autonomy for regulatory bodies. The success and legitimacy of OLAF stem from its operational independence, enabled by budgetary and administrative autonomy. Similarly, the AI Office would require compulsory audit and inspection powers, enabling an examination of algorithms and their deployment. Additionally, it would possess information gathering capabilities, allowing it to investigate algorithmic failures at any stage and recommend policy changes to regulatory bodies. Furthermore, the Office would have the authority to engage third-party expertise to navigate the evolving and complex landscape of AI and foster collaboration with relevant stakeholders.

2. Regulatory Approach: The power of the AI Office

In the preceding section, we discussed the positioning of the AI Office and its interaction with various relevant institutions within the enforcement framework of the AI Act. Continuing along this line, another critical aspect of **the institution's effectiveness will be its role and the competencies granted to it. Article 3 of the Decision of January 24, 2024**, outlines the tasks assigned to the AI Office. These competencies can be categorized into two main areas: inspection and testing mechanisms and development of methodologies and standards.

Focusing on the first competence, the AI Office will play a pivotal role in **evaluating and inspecting GPAI models, with extensive authority to investigate potential rule infringements** related to GPAI. It includes collecting complaints, issuing document requests, conducting thorough evaluations, and proposing enforcement measures when necessary. Beyond its regulatory duties, the AI Office will actively contribute to developing secondary legislation, ensuring harmonized application and providing guidance to stakeholders. Moreover, it will facilitate the establishment of regulatory sandboxes and codes of practice to promote innovation while maintaining compliance standards. Additionally, the AI Office will oversee the supervision and enforcement of relevant Union legislation, such as the DSA, and mandate annual independent audits for VLOPs and VLOSEs (Very Large Online Platforms and Very Large Online Search Engines) to ensure compliance with algorithmic systems, spanning advertising, recommendation engines, and content moderation.

Regarding the second competence, standardization plays an essential position in providing technical solutions to ensure compliance with the Regulation. The AI Office, within its jurisdiction, will be tasked with **overseeing standards, developing methodologies, and conducting mandatory conformity assessment exercises aimed at promoting fair AI practices**, as outlined in Annex VI and VII of the AI Act. These exercises may include internal control assessments, evaluations of quality management systems, and assessments of technical documentation. Moreover, harmonized standards not only impact the internal market but also shape the development of methodologies and auditing criteria by non-governmental organizations specializing in algorithmic auditing (AA). Given the significance of metrics in AA, the AI Office is keen

to collaborate with independent experts and auditors to effectively evaluate AI systems and uphold its commitment to ethical standards.

Unlocking synergy: AI Office and ECAT collaboration for effective oversight

Collaboration between the AI Office and various EU agencies, including the European Data Protection Supervisor and the European Center for Algorithmic Transparency, is essential for effectively enforcing the AI Act. As stated earlier, the AI Office is mandated to oversee standards, develop methodologies, and conduct mandatory conformity assessments to ensure fair AI. It includes **cooperation with ECAT to test GPAI models and facilitate enforcement and supervision of the AI Act**. Working closely with these agencies allows for a comprehensive approach to regulatory oversight, leveraging their expertise to address complex challenges associated with AI technologies.

Established in April 2023, **ECAT brings specialized technical expertise to the table, particularly in analyzing the societal impact of algorithmic systems deployed by online platforms and search engines**. Its role differs from the AI Office's centralized approach, focusing on tasks such as studying the long-term effects of algorithms, identifying systemic risks associated with online platforms, and developing methodologies for fair and transparent algorithmic approaches. Although ECAT primarily enforces the DSA, collaboration with the AI Office becomes imperative upon the final adoption of the AI Act. **Together, they will work on implementing relevant legislation, translating methodologies into practice, and establishing information platforms to identify prohibited AI practices and high-risk AI systems**. This partnership underscores the importance of combining regulatory oversight with technical expertise to address the challenges posed by AI technologies effectively.

3. Guiding the Future: Recommendations for the AI Office

As we approach the final section of this paper, it is of the utmost importance to highlight specific recommendations aimed at strengthening the effectiveness of regulatory oversight by the European AI Office to ensure it truly fulfils its mission of a more ethically sound and trustworthy AI landscape in the European Union.

- 1. The AI Office must adopt comprehensive end-to-end socio-technical methodologies as part of its framework for evaluating GPAI Models.** By incorporating these methodologies into its processes, the Office can effectively perform its role in developing tools, methodologies, and benchmarks tailored to assess the capabilities of GPAI models, especially those presenting systemic risks. These socio-technical methodologies would enable a holistic evaluation approach, considering not only the technical aspects of AI models but also their broader societal implications and ethical considerations throughout the entire lifecycle of development, deployment, and impact assessment.
- 2. The EU Database should encompass all categories of AI Systems.** The EU Database (Title VII) should not only be limited to those classified as high-risk systems in Annex III of the AI Act. It should compile data sourced from National Agencies of Artificial Intelligence concerning AI systems deployed across both private and public sectors. We advocate for comprehensive inclusion of information concerning the decision-making processes and societal impact of these systems within the Database.
- 3. Enhanced inspection capabilities must be granted for non-compliance with legal standards.** This involves granting the Office the authority not only to investigate potential infringements and mitigate the negative impacts of AI systems but also to supervise and evaluate the process of alerts and complaints collected until their effective compliance. By leveraging its function in investigating possible infringements of rules on GPAI models and systems the Office can effectively ensure adherence to regulatory standards and uphold accountability in the AI ecosystem.

4. **Establish a streamlined avenue for citizen recourse (“single-window citizenship”).** The AI Office, in collaboration with Scientific Panel of Experts and ECAT, is empowered by its authority to request information and documentation and should manage and address complaints and alerts concerning AI systems, subsequently forwarding them to the relevant public entity. Citizens should have access to readily available templates to submit their requests or complaints to the Office as a single point of contact. The Office must ensure that the right of appeal, redress, and recourse is upheld whenever an AI system affects individual or collective rights.
5. **Capacity-building and research initiatives are imperative.** The Office should allocate a substantial budget for training programs and the development or commissioning of studies to enhance the capability and capacity to fulfill its obligations effectively. Moreover, all third-party contracts must be transparently disclosed and accessible to the public on the Office's website.
6. **The Scientific Panel of Experts must incorporate algorithmic auditors.** This independent body, established by the EC whose role is to advise and support the AI Office, will comprise experts chosen for their scientific or technical knowledge in AI. Their role will involve contribution to developing evaluation tools and methodologies for GPAI models and systems, potentially through benchmarks. Including independent auditors within this panel is essential to bridge the gap between theoretical frameworks and practical implementation, ensuring the translation of abstract concepts into tangible metrics.

Conclusion

As we bring our discussion to a close, **it has become evident that the establishment of the European AI Office marks a significant milestone in the implementation and enforcement of the European AI Act.** Positioned as a central authority for supervising and enforcing the stipulation outlined in the Act, the Office stands as a beacon of accountability and regulation in the rapidly evolving landscape of artificial intelligence. With audits integrated as a fundamental component of its oversight mechanism within the conformity assessments framework, the Office sets a precedent for future AI regulation, emphasizing the importance of rigorous inspection and evaluation to ensure adherence to ethical standards and the safeguarding of fundamental rights.

Moreover, the proactive development of harmonized methodologies and standards underscores the Office's commitment to fostering transparency and accountability in AI systems. By providing a structured framework for testing and evaluation, these standards serve as a cornerstone for promoting fairness and responsible AI practices across diverse sectors and applications. This proactive approach not only enhances regulatory compliance but also garners public trust in AI technologies, paving the way for their widespread adoption and beneficial integration in society. Uncertainties surrounding the Office's autonomy as a Unit within the EC's DG CNECT and the practical workings of the cooperation forum will be clarified in the coming months.

As underscored by Gemma Galdon, Eticas' CEO, **the success of the AI Act relies upon its capacity for robust enforcement.** Only through collective societal commitment can we ensure the development, deployment and procurement of artificial intelligence are rigorously auditable, ethically responsible, and extremely fair.

*The articles mentioned of the European AI Act are numbered following the text of the last proposal, pending for its final adoption, and voting by the European Parliament.