

Position Paper

EURALARM position on EC proposal for a Regulation on Artificial Intelligence – 7 July 2021

1. Introduction

Euralarm, the European association representing the electronic fire safety and security industry, welcomes the opportunity provided by the European Commission to give comments and suggestions on their 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.

Euralarm welcomes the proposal from the European Commission. We are convinced that the uptake of artificial intelligence is dependent on the trust of the users and the general public for this technology and their general acceptance of it. The proposal for a legislation on the existing concerns is certainly a way to help this uptake by avoiding national legislative initiatives.

This paper focuses on proposals and comments regarding the following aspects of the proposed AI Act:

- definition of AI system
- prohibition of real-time remote biometric identification
- classification as high-risk
- common specifications.

Besides these focal points, Euralarm generally supports the more detailed comments from Orgalim.

2. Proposals and comments on proposed AI Act

2.1. Definition of AI system

Article 3(1) of the proposal writes:

“artificial intelligence system’ (AI system) means software that is developed with one or more of the techniques and approaches listed in Annex I and can, for a given set of human-defined objectives, generate outputs such as content, predictions, recommendations, or decisions influencing the environments they interact with.”

Reading this definition together with the techniques listed in Annex I tends to be understood as that any software should be considered as an AI system. Any software is produced by a logic-based approach, many software make use of statistics (calculating an average is making use of statistics) and knowledge-based approach can be understood as an approach based on the knowledge of the software developer. Such an understanding of AI system is by far too broad and not proportionate. From the discussions we had with the European Commission, we understand that the EC wishes to be as broad as possible in order to be future proof but also wants to focus on software generating outputs by itself as opposed to software generating outputs based on pre-determined rules (IF this THEN that). According to EC, the keywords to reflect this intention in the definition are “*generate outputs*”. From our reading, it appears that the intention is not clearly reflected by the wording proposed by the EC.

Euralarm proposal: Art 3(1) should be changed to: “artificial intelligence system’ (AI system) means software that is developed with one or more of the techniques and approaches listed in Annex I and can, for a given set of human-defined objectives, generate outputs **by itself (based on self-generated rules, not on pre-determined rules)** such as content, predictions, recommendations, or decisions influencing the environments they interact with”.

2.2. Prohibition of real-time remote biometric identification

Article 5(1)(d) writes that the use of 'real-time' remote biometric identification systems in publicly accessible spaces for the purpose of law enforcement is prohibited. From the discussions we had with the European Commission on this article, we understand that 'real-time' remote biometric identification activated for private purposes other than law enforcement are not prohibited by the Act. We also understand that having the feature for 'real-time' remote biometric identification for law enforcement in an AI system is not per se prohibited. It is the activation of this function that is prohibited by the Act (with the proposed exceptions to this prohibition).

Euralarm proposal: In order to better emphasise the focus on the activation, we propose to change the introductory sentence in Article 5(1)(d) by: "the use of 'real-time' remote biometric identification **function of an AI system** in publicly accessible spaces for the purpose of law enforcement, unless and in as far as such use is strictly necessary for one of the following objectives: [...]"

2.3. Classification as high-risk

Article 6(1)(b) intends to make use of the classification already set in other directives and regulations by considering that if the safety component of a product requires third-party conformity assessment, then the AI system is classified as high-risk. This probably works for certain directives and regulations but also some friction is identified when considering the Radio Equipment Directive. The RED provides 4 essential requirements:

- 3(1)(a) protection of health and safety
- 3(1)(b) electromagnetic compatibility
- 3(2) efficient use of radio spectrum
- 3(3) additional essential requirements enforced by DAs.

The one that can be considered as addressing the safety component is Article 3(1)(a) and this one never requires third-party assessment according to Article 17(2) of the RED. Articles 3(2) and 3(3) require third-party assessment in case no harmonised standard cited in the OJEU is used but these 2 articles are not addressing safety components of the product. Hence, the conformity assessment procedure can be hybrid with self-assessment for few essential requirements and third-party assessment for the rest. It is therefore unclear how Article 6(1)(b) should be understood in the particular case of the RED.

Euralarm proposal: Focusing on the safety component aspect which could be enlarged to security aspects, we propose to clarify the case of the RED by identifying the essential requirements related to safety and security, i.e. Articles 3(3)(e) on privacy and 3(3)(f) on protection from fraud when they are enforced by their corresponding delegated act. We therefore propose to add the following to item 6 of Annex II: "[...] limited to Articles 3(3)(e) and 3(3)(f) as from the date the transition period laid down in their respective delegated act is expired".

Euralarm also wishes a clear distinction between AI systems generating **decisions** as an output vs. AI systems generating **recommendations** as an output. The former, where classified as high-risk, shall be accompanied by **human oversight** according to the proposed Regulation and Euralarm agrees with this. To the opposite, the latter provides a recommendation to be converted to a decision via a **human intervention**. As an example, we can consider an AI system within an alarm receiving centre taking into account a large number of parameters to generate as an output whether the received alarm is recommended to be considered as a true or a false alarm. The operator will then intervene and take the decision on whether the response authorities have to be called or not. Such an AI system could be considered as high-risk due to item 5(c) in Annex III of the proposed Regulation. Euralarm believes that an AI system requiring by its intended use a human intervention for the final decision should not be classified as high-risk.

Euralarm proposal: We propose to add a third paragraph to Article 6 writing: "The classification as high-risk as a consequence of Article 6(2) shall be disregarded for AI systems which intended use demonstrates that the generated output is a recommendation requiring a human intervention to convert this recommendation into a decision".

2.4. Common specifications

Article 41 introduces the possibility to develop technical specifications out of the framework defined by the Regulation on standardisation (1025/2012). This new way of developing technical specifications is seen as a risk at various levels:

- having 2 different kinds of technical specifications would lack of clarity when the manufacturer does his risk analysis and tries to identify the appropriate specification;

- having 2 different processes with different actors and about no coordination between both brings the risk of overlapping scopes and uncertainty on the technical specification to be applied for a particular AI system;
- standards produced by the ESOs are considered as the state of the art and it is unclear yet how the common specifications could get the same consideration;
- the process for elaborating these common specifications is unknown: will it be based on consensus, will there be a voting process, who will have the right to vote, what happens in case the industry demonstrates the impossibility to fulfil or to test certain requirements?

We also acknowledge the fact that the EC has been unsatisfied by the deliverables provided by the ESOs during the recent years and therefore tries to find an escape route in case of urgent situations. Hence, we could understand the need for such a provision but with more guarantees on the exceptional use of it.

Euralarm proposal: Either remove Article 41 or rewrite it as proposed by Orgalim in their position paper on the same topic.

3. Conclusions

Euralarm would like to thank DG CONNECT for the opportunity to comment on their proposal, for the exchange we had on this topic and for the consideration they will give to our comments and proposals.

Euralarm has put forward several proposals supported by specific arguments. We remain available to further discuss these comments and proposals and the possible ways forward. We believe that the proposals suggested in this position paper would contribute to the clearer regulatory environment which could stimulate the uptake of trustworthy AI in the EU economy. We look forward to working with the Commission and all stakeholders involved to build a future for AI that will be legally certain and enable the fast evolving of this technology to take full advantage of the tremendous opportunities in Europe.

About Euralarm

Euralarm represents the fire safety and security industry, providing leadership and expertise for industry, market, policy makers and standards bodies. Our members make society safer and secure through systems and services for fire detection and extinguishing, intrusion detection, access control, video monitoring, alarm transmission and alarm receiving centres. Founded in 1970, Euralarm represents over 5000 companies within the fire safety and security industry valued at 67 billion Euros. Euralarm members are national associations and individual companies from across Europe.

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Note: The English version of this document, GD-2021-014, is the approved Euralarm reference document