~~*Article XX*~~

~~*Sustainability of high-risk AI systems*~~

~~*1. Without prejudice to relevant existing Union and national law, high-risk AI systems shall be designed and developed making use of state-of-the art methods and relevant applicable standards to reduce energy use, resource use and waste, as well as to increase energy efficiency, and the overall efficiency of the system. They shall be designed, and developed and set up with capabilities enabling the measurement and logging of the consumption of energy and resources, and, where technically feasible, other environmental impact the deployment and use of the systems may have over their entire lifecycle.*~~

~~*2. Member States shall ensure that relevant national authorities issue guidelines and provide support to providers and deployers in their efforts to reduce the environmental impact and resource use of high-risk AI systems. For the purpose of this Article, providers of high-risk AI systems may additionally take into account relevant codes of conduct developed under Article 69 or under other relevant existing Union or national legislation.*~~

~~*3. The Commission shall be empowered to adopt delegated acts in accordance with Article 73 to detail the measurement and logging procedures, taking into account state-of-the-art methods, in particular to enable the comparability of the environmental impact of systems, and taking into account the economies of scale.*~~

Article 6
Classification rules for high-risk AI systems

1. Irrespective of whether an AI system is placed on the market or put into service independently from the products referred to in points (a) and (b), that AI system shall be considered high-risk where both of the following conditions are fulfilled:

(a) the AI system is intended to be used as a safety component of a product, or ***the AI system*** is itself a product, covered by the Union harmonisation legislation listed in Annex II~~***, the failure or malfunctioning of which endangers the health, safety, or fundamental rights of natural persons (AM 1421, 1431)***~~;

b) the product whose safety component ~~***as meant under***~~ ***pursuant to point (a) (AM 1429, 1430)*** is the AI system, or the AI system itself as a product, is required to undergo a third-party conformity assessment ***related to risks for health and safety~~fundamental rights~~*** with a view to the placing on the market or putting into service of that product pursuant to the Union harmonisation legislation listed in Annex II.

2. In addition to the high-risk AI systems referred to in paragraph 1, AI systems ~~*with an intended purpose (AM 1436)*~~ ***falling under one or more of the critical areas and use cases*** referred to in Annex III shall be considered high-risk ***if they pose a significant risk of harm to the health, safety or fundamental rights of natural persons. Where an AI system falls under Annex III point 2, it shall be considered high-risk if it poses a significant risk of harm to the environment*** ~~*in a way that produces legal effects concerning them or has an equivalently significant effect on them*~~ ***(AM*** ~~*1435*~~***, 1436, 1438, 1439, 1440, 1441)***.

~~*In order to ensure uniform conditions for the implementation of this Regulation,*~~ ***The Commission shall, 6 months prior to the entry into force of this Regulation, following consultation with the AI Office and relevant stakeholders, provide guidelines clearly specifying the circumstances where the output of AI systems referred to in Annex III would pose a significant risk of harm to the health, safety or fundamental rights of natural persons or cases in which it would not.***

3. Where providers falling under one or more of the critical areas and use cases referred to in Annex III consider that their AI system does not pose a significant risk as described in paragraph 2, they shall submit a reasoned notification ~~*to*~~ ***the National Supervisory Authority*** ~~*for an exemption from fulfilling*~~ ***that they are not subject to the requirements of Title III Chapter 2 of this Regulation.*** ~~*Upon receiving this request, the National Supervisory Authority shall enter into regulatory dialogue with the provider and provide a reasoned decision within 1 month.*~~ ***Where the AI system is intended to be used in two or more Member States, the aforementioned*** ~~*application*~~ ***notification shall be addressed to the AI Office*** ~~*and its decision(s) shall be considered as part of its coordinating pursuant to Article 56f.*~~ ***Without prejudice to Article 65, the National Supervisory Authority*** ~~*may raise an objection*~~ ***shall review and reply, directly or via the AI Office, within 3 months if they deem the AI system to be misclassified.*** ~~*shall issue their decision on the notification within 3 months from the day of receipt of the notification.*~~

4. Providers that misclassify their AI system as not subject to the requirements of Title III Chapter 2 of this Regulation and place it on the market before the deadline for objection by National Supervisory Authorities shall be responsible and be subject to fines pursuant to Article 71.

5. National supervisory authorities shall submit a yearly report to the AI Office detailing the number of notifications received, the related high-risk areas at stake and the ~~*number of*~~ ***decisions taken concerning received notifications.***

Covered: AMs 981 (EPP), 982 (EPP), 983 (S&D), 984 (S&D), 985 (The Left), 986 (EPP)
Falls

'safety component of a product or system' means, ***in line with Union harmonisation legislation listed in Annex II, (AM 982)*** a component of a product or of a system which fulfils a ~~***direct***~~ ***critical (AM 982)*** safety function for that product or system~~, or~~ the failure or malfunctioning of which endangers the health and safety of persons~~, or property~~ ***(AM 982)*** ~~***or fundamental rights;***~~***(AMs 983, 984)***

Article 12
Record-keeping

1. High-risk AI systems shall be designed and developed with capabilities enabling the automatic recording of events ('logs') while the high-risk AI systems is operating. Those logging capabilities shall conform to ***the state of the art and (AM 1768)*** recognised standards or common specifications.

2. ~~The logging capabilities shall~~ ***In order to (AM 1771)*** ensure a level of traceability of the AI system's functioning throughout its ***entire (AM 102)*** life***time*** that is appropriate to the intended purpose ~~***or reasonably foreseeable use (AMs 1773; 1774)***~~ of the system***, the logging capabilities shall facilitate the monitoring of operations as referred to in Article 29(4) as well as the post market monitoring referred to in Article 61 (AMs 103; 1771). In particular, they shall enable the recording of events relevant for the identification of situations that may:***

(i) result in the AI system presenting a risk within the meaning of Article65(1); or

(ii) lead to a substantial modification of the AI system;

~~3. In particular, logging capabilities shall enable the monitoring of the operation of the high-risk AI system with respect to the occurrence of situations that may result in the AI system presenting a risk within the meaning of Article 65(1) or lead to a substantial modification, and facilitate the post-market monitoring referred to in Article 61.~~ (***AM 1776)***

2 a. High-risk AI systems shall be designed and developed with the logging capabilities enabling the recording of energy consumption, the measurement or calculation of resource use and environmental impact of the high-risk AI system during all phases of the system's lifecycle.

4. For high-risk AI systems referred to in paragraph 1, point (a) of Annex III, the logging capabilities shall provide, at a minimum:

(a) recording of the period of each use of the system (start date and time and end date and time of each use);

(b) the reference database against which input data has been checked by the system;

(c) the input data for which the search has led to a match;

(d) the identification of the natural persons involved in the verification of the results, as referred to in Article 14 (5).

Addition to Article 28b

(ba) without prejudice to relevant existing Union and national law, foundation models shall be designed and developed making use of state-of-the art methods and relevant applicable standards to reduce energy use, resource use and waste, as well as to increase energy efficiency, and the overall efficiency of the system. They shall be designed, developed and set up with capabilities enabling the measurement and logging of the consumption of energy and resources, and, where technically feasible, other environmental impact the deployment and use of the systems may have over their entire lifecycle. This obligation shall not apply before the standards referred to in Article 40 are published.

Addition of EPP proposal below

New Recital XX

(xx) AI systems should take into account state-of-the art methods and relevant applicable standards to reduce the energy use, resource use and waste, as well as to increase their energy efficiency and the overall efficiency of the system. The environmental aspects of AI systems that are significant for the purposes of this Regulation are the energy consumption of the AI system in the development, training and deployment phase as well as the recording and reporting and storing of this data. The design of AI systems should enable the measurement and logging of the consumption of energy and resources at each stage of development, training and deployment. The monitoring and reporting of the emissions of AI systems must be robust, transparent, consistent and accurate. In order to ensure the uniform application of this Regulation and stable legal ecosystem for providers and deployers in the Single Market, the Commission should develop a common specification for the methodology to fulfil the reporting and documentation requirement on the consumption of energy and resources during development, training and deployment. Such common specifications on measurement methodology can develop a baseline upon which the Commission can better decide if future regulatory interventions are needed, upon conducting an impact assessment that takes into account existing legislation;

- ***Add Recital:***

In order to achieve the objectives of this Regulation, and contribute to the EU's environmental objectives while ensuring the smooth functioning of the internal market and it may be necessary to establish recommendations and guidelines and, eventually, targets for sustainability. For that purpose the Commission is entitled to develop a methodology to contribute towards having Key Performance Indicators (KPIs) and a reference for the Sustainable Development Goals (SDGs). The goal should be in the first instance to enable fair comparison between AI implementation choices providing incentives to promote using more efficient AI technologies addressing energy and resource concerns. To meet this

objective this Regulation should provide the means to establish a baseline collection of data reported on the emissions from development and training and for deployment;

- **Add in Article 40 a link to Article 28b to connect standards with foundation models:**

Article 40
Harmonised standards

1. High-risk AI systems ***and foundation models*** which are in conformity with harmonised standards or parts thereof the references of which have been published in the Official Journal of the European Union ***in accordance with Regulation 1025/2012 (AM 2122)*** shall be presumed to be in conformity with the requirements set out in Chapter 2 of this Title ***or Article 28b***, to the extent those standards cover those requirements.

~~***Technical specifications exclusively related to fundamental rights shall be developed in accordance with Aritcle 41.***~~

1a. The Commission shall issue standardisation requests covering all requirements of this Regulation, ~~***with the exception of technical specifications exclusively related to fundamental rights,***~~ ***in accordance with Article 10 of Regulation 1025/2012 no later than 2 months after the date of entry into force of this Regulation.*** ~~***In order to address specific fundamental rights concerns, the Commission shall complement harmonised standards in accordance with Article 41(1b).***~~ ***(AM 2125, 2128). When preparing standardisation request, the Commission shall consult the AI Office and the Advisory Forum.***

1b. When issuing a standardisation request to European standardisation organisations, the Commission shall specify that standards shall be coherent, including with sectorial legislation listed in Annex II, and aimed at ensuring that AI systems or foundation models placed on the market or put into service in the Union meet the relevant requirements laid down in this Regulation (AM 2124, TRAN 94)

1c. The actors involved in the standardisation process shall take into account the general principles for trustworthy AI set out in Article 4(a), seek to promote investment and innovation in AI as well as competitiveness and growth of the Union market, and contribute to strengthening global cooperation on standardisation and taking into account existing international standards in the field of AI that are consistent with Union values, fundamental rights and interests (AM 2124, ITRE 55), and ensure a balanced representation of interests and effective participation of all relevant stakeholders in accordance with Articles 5, 6, and 7 of Regulation (EU) No 1025/2012 (AM 160, ITRE 56).

- **Add in Article 41 that the Commission will develop a common spec on this requirement so it is harmonised and binding;**

Article 41
Common specifications

1. ~~Where harmonised standards referred to in Article 40 do not exist or where the Commission considers that the relevant harmonised standards are insufficient or that there is a need to address specific safety or fundamental right concerns~~ ***~~When there are undue delays in the standardisation procedure or if the standardisation request referred to in Article 40 has, without justification, not been accepted by any the European standardisation organisations concerned (AM 2130),~~*** ~~the Commission may, by means of implementing acts~~ ***~~and after consulting the AI Office (AM 2130, TRAN 95)~~***~~, adopt common specifications in respect of the requirements set out in Chapter 2 of this Title. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 74(2).~~*

1. ***The Commission may, by means of implementing act adopted in accordance with the examination procedure referred to in Article 74(2) and after consulting the AI Office and the AI Advisory Forum (AM 2130, TRAN 95), adopt common specifications in respect of the requirements set out in Chapter 2 of this Title or Article 28b when the following conditions are fulfilled:***

(a) there is no reference to harmonised standards already published in the Official Journal of the European Union related to the essential requirement(s), unless the harmonised standard in question is an existing standard that must be revised; and

(b) the Commission has requested one or more European standardisation organisations to draft a harmonised standard for the essential requirement(s) set out in Chapter 2; and

(c) the request referred to in point (b) has, ~~without justification,~~ not been accepted by any of the European standardisation organisations; or there are undue delays in the establishment of an appropriate harmonised standard; or the standard provided does not satisfy the requirements of the relevant EU legislation, or does not comply with the request of the Commission. (AM 2130)

~~*1b. The Commission shall by means of implementing acts, adopt common specifications in respect of the requirements set out in Chapter 2 exclusively related to fundamental rights.*~~

1. ***1b. Where the Commission considers there is a need to adress specific fundamental rights concerns, common specifications adopted by the Commission in accordance with paragraph 1 shall also address those specific fundamental rights concerns.***

1b. The Commission shall develop common specifications for the methodology to fulfil the reporting and documentation requirement on the consumption of energy and resources during development, training and deployment of the high risk AI system

2. The Commission, ***throughout the whole process of drafting*** the common specifications referred to in paragraph***s 1 and 1b***, shall ***regularly consult (AM 2143) the AI Office and the Advisory Forum, (AM 2130), the European standardisation organisations and*** bodies or expert groups established under relevant sectorial Union law ***as well as other relevant stakeholders (AM 161), (AM 2139, 2141, 2143, 2144, CULT 50, TRAN 96, ITRE 60),*** ~~bodies or expert groups established under relevant sectorial Union law~~. ***The Commission shall fulfil the objectives referred to in Article 40(1c) and (AM 2140) duly justify why it decided to resort to common specifications (2138). Where the Commission intends to adopt common specifications pursuant to paragraph 1b of this Article, it shall also clearly identify the specific fundamental rights concern to be addressed.***

2. When adopting common specifications pursuant to paragraphs 1 and 1b of this Article, the Commission shall take into account the opinion issued by the AI Office referred to in Article 56e(b) of this Regulation. Where the Commission decides not to follow the opinion of the AI Office, it shall provide a reasoned explanation to the AI Office.

3. High-risk AI systems which are in conformity with the common specifications referred to in paragraph ~~*1*~~ ***1 and 1b*** shall be presumed to be in conformity with the requirements set out in Chapter 2 of this Title, to the extent those common specifications cover those requirements

3a Where a harmonised standard is adopted by a European standardisation organisation and proposed to the Commission for the publication of its reference in the Official Journal of the European Union, the Commission shall assess the harmonised standard in accordance with Regulation (EU) No 1025/2012. When reference of a harmonised standard is published in the Official Journal of the European Union, the Commission shall repeal acts referred to in paragraph 1 and 1b, or parts thereof which cover the same requirements set out in Chapter 2 of this Title.

4. Where providers ***of high-risk AI systems (AM 2149)*** do not comply with the common specifications referred to in paragraph 1, they shall duly justify that they have adopted technical solutions that ***meet the requirements referred to in Chapter II to a level (AM 2148)*** ~~***are***~~ at least equivalent thereto.

- ***In the review article:***

This assessment shall review the requirements in the light of the technological progress and shall address in particular the appropriateness:

(x) to update the specific requirements regarding the sustainability of AI Systems, building on the reporting and documentation requirement in annex;

- **Annex III**

8. Administration of justice and democratic processes:

(ad) AI systems used by social media platforms that have been designated as very large online platforms within the meaning of Article 33 of Regulation EU2022/2065, in their recommender systems to recommend to the recipient of the service user-generated content available on the platform.

Recital

Considering the scale of natural persons using the services provided by social media platforms designated as very large online platforms, such online platforms can be used in a way that strongly influences safety online, the shaping of public opinion and discourse, election and democratic processes and societal concerns. It is therefore appropriate that AI systems used by those online platforms in their recommender systems are subject to this Regulation so as to ensure that the AI systems comply with the requirements laid down under this Regulation, including the technical requirements on data governance, technical documentation and traceability, transparency, human oversight, accuracy and robustness. Compliance with this Regulation should enable such very large online platforms to comply with their broader risk assessment and risk-mitigation obligations in Article 34 and 35 of Regulation EU 2022/2065. The obligations in this Regulation are without prejudice to Regulation (EU) 2022/2065 and should complement the obligations required under the Regulation (EU) 2022/2065 when the social media platform has been designated as a very large online platform. Insofar as point 8 (ad) of Annex III applies, the competent authorities under the Regulation (EU) 2022/2065 should remain the competent authorities for the enforcement of the obligations laid down under this Regulation applicable to social media platforms designated as very large online platforms.

- **Add sentence in guidelines**

Article XX
Guidelines from the Commission on the implementation of this Regulation

1. The Commission shall develop, in consultation with the AI office, guidelines on the practical implementation of this Regulation, and in particular on:

(i) the application of the requirements referred to in Articles 8 - 15 and Article 28 to 28b
(ii) the prohibited practices referred to in Article 5;
(iii) the practical implementation of the provisions related to substantial modification;

(iv) the practical circumstances where the output of an AI system referred to in Annex III would pose a significant risk of harm to the health, safety or fundamental rights of natural persons as referred to in Article 6, paragraph 2, including examples in relation to high risk AI systems referred to in Annex III;

(v) the practical implementation of transparency obligations laid down in Article 52;

(vi) the development of codes of conduct referred to in Article 69

(vii) the relationship of this Regulation with other relevant Union legislation, including as regards consistency in their enforcement.

(viii) the practical implementation of Article 12 and 28b on environmental impact of foundation models and Annex IV 3(b), particularly the measurement and logging methods to enable calculations and reporting of the environmental impact of systems to comply with the obligations in this Regulation, including carbon footprint and energy efficiency, taking into account state-of-the-art methods and economies of scale

When issuing such guidelines, the Commission shall pay particular attention to the needs of SMEs including start-ups, local public authorities and sectors most likely to be affected by this Regulation.

2. Upon request of the Member States or the AI Office, or on its own initiative, the Commission shall update already adopted guidelines when deemed necessary.