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Proposal for a

## **COUNCIL DECISION**

**on the position to be taken on behalf of the European Union on the Draft  
Recommendation of the Committee of Ministers of the Council of Europe on equality  
and artificial intelligence**

## **EXPLANATORY MEMORANDUM**

### **1. SUBJECT MATTER OF THE PROPOSAL**

This proposal concerns the decision establishing the position to be taken on the Union's behalf in the Committee of Ministers of the Council of Europe (“CM”) on the envisaged adoption of a Council of Europe’s Recommendation on Equality and Artificial Intelligence (“the Recommendation”). The Recommendation has been prepared by the Committee of Experts on Artificial Intelligence, Equality and Discrimination (“GEC/ADI-AI”) and is expected to be endorsed at the joint plenary session of the Gender Equality Commission (“GEC”) and the Steering Committee on Anti-Discrimination, diversity and Inclusion (“CDADI”) at its meeting of 18-20 November 2025 with a view of submitting it to the CM for adoption by the end of 2025.

### **2. CONTEXT OF THE PROPOSAL**

#### **2.1. The Committee of Ministers of the Council of Europe**

The CM is the Council of Europe’s decision-making body, composed of Ministers for Foreign Affairs or Permanent Representatives in Strasbourg of the 46 member States of the Council of Europe. The role and functions of the CM are described in Chapter IV of the Statute of the Council of Europe (“the Statute”). In accordance with Article 14 of the Statute, each member of the Council of Europe shall be entitled to one representative on the CM, who each have one vote. All EU Member States are members of the Council of Europe and are thus represented in the CM. The EU has observer status without a right to vote.

#### **2.2. The Committee of Experts on Artificial Intelligence, Equality and Discrimination**

The GEC/ADI-AI is a joint subcommittee to the GEC and the CDADI, tasked by the Committee of Ministers to draft a Recommendation on the impact of artificial intelligence systems, their potential for promoting equality, including gender equality, and the risks they may cause in relation to non-discrimination, by the end of 2025.

The GEC/ADI-AI is composed of eight representatives of Council of Europe member states, four of the GEC and four of the CDADI, as well as six independent experts with established expertise in artificial intelligence, human rights, equality, including gender equality, and non-discrimination. Each member of the GEC/ADI-AI has one vote. The EU is a participant without the right to vote.

The GEC and the CDADI are each composed of the representatives of the 46 Council of Europe’s member States, who each have one vote. In addition, their plenary sessions are attended by representatives of various bodies of the Council of Europe, intergovernmental organisations, representatives of States with observer status, and non-governmental organisations and specialised institutions. Representatives of the European Union occasionally participate in the plenary sessions, without the right to vote.

#### **2.3. The Framework Convention on Artificial Intelligence and Human Rights, Democracy and the Rule of Law of the Council of Europe**

On 17 May 2024, the CM adopted the Council of Europe Framework Convention on Artificial Intelligence and Human Rights, Democracy and the Rule of Law (“the Framework Convention”), a legally binding treaty with the objective to ensure that activities within the

lifecycle of artificial intelligence systems are fully consistent with human rights, democracy and the rule of law, while being conducive to technological progress and innovation.

The Framework Convention covers AI systems potentially interfering with human rights, democracy and the rule of law. The principles and the obligations of the Framework Convention will apply to activities within the lifecycle of AI systems undertaken by public authorities or private actors acting on their behalf. Parties to the Convention are also obliged to address risks and impacts arising from activities within the lifecycle of AI systems by private actors in a manner conforming with the object and purpose of the Convention, but they have the choice whether to apply the Convention obligations or to take other appropriate measures. The Convention provides for a further set of general obligations and fundamental principles related to the protection of human dignity and individual autonomy, as well as the promotion of equality and non-discrimination. Additionally, it mandates respect for privacy and personal data protection along with transparency and oversight to ensure accountability and responsibility. A principle is also devoted to safe innovation and experimentation in controlled environments.

The Convention also includes a set of measures aiming to ensure availability of accessible and effective remedies for violations of human rights resulting from the activities within the lifecycle of AI systems. It also includes effective procedural guarantees and safeguards for persons whose rights have been significantly affected by the use of AI systems. Additionally, individuals should be provided with notice that they are interacting with an AI system and not with a human being.

The Convention also includes measures for the assessment and mitigation of risks and adverse impacts to be carried out in an iterative manner, so as to identify actual and potential impacts on human rights, democracy and the rule of law and take appropriate prevention and mitigation measures.

Finally, the Convention provides that its Parties should assess the need for bans or moratoria on certain applications of AI systems considered incompatible with the respect of human rights, the functioning of democracy, or the rule of law.

Each Party to the Convention should establish or designate at domestic level one or more effective mechanisms to oversee compliance with the obligations in the Convention, as given effect by the Parties.

The Union signed the Convention on 5 September 2024, following the adoption of Council Decision (EU) 2024/2218 of 28 August 2024 on the signing, on behalf of the European Union, of the Framework Convention. The Convention has also been signed by Andorra, Canada, Georgia, Iceland, Israel, Japan, Liechtenstein, Montenegro, Norway, Republic of Moldova, San Marino, Switzerland, Ukraine, the United Kingdom and the United States of America.

On 3 June 2025, the Commission adopted a proposal for a Council Decision to launch the process for the conclusion of the Framework Convention on behalf of the Union, under the terms set out in Council Decision (EU) 2024/2218.<sup>1</sup>

Within the Union, the Framework Convention is to be exclusively implemented through Regulation (EU) 2024/1689 of the European Parliament and the Council laying down harmonised rules on artificial intelligence (“AI Act”)<sup>1</sup>, and other relevant Union acquis, where

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<sup>1</sup> Regulation (EU) 2024/1689 of the European Parliament and of the Council of 13 June 2024 laying down harmonised rules on artificial intelligence and amending Regulations (EC) No 300/2008, (EU) No

applicable.<sup>2</sup> The AI Act provides a comprehensive regulation on artificial intelligence, aiming to promote innovation and the uptake of trustworthy artificial intelligence, while protecting health, safety and fundamental rights as enshrined in the Charter of Fundamental Rights of the European Union (“the Charter”), including the right to non-discrimination and gender equality. The AI Act contains harmonised rules, generally based on full harmonisation, that regulate the placing on the market, the putting into service and the use of AI systems in the Union. Those rules are directly applicable in the Member States, unless that Regulation explicitly provides otherwise.

#### **2.4. The envisaged Council of Europe Recommendation on equality and artificial intelligence**

The Recommendation focuses on AI's potential to promote equality, including gender equality, and the risks it may pose concerning non-discrimination. It will aim to complement the general framework set by the Framework Convention with regard to the principle of equality on artificial intelligence and human rights, democracy, and the rule of law (CETS No. 225) and developed in close cooperation with the Committee on Artificial Intelligence (CAI).

The Recommendation is based on the “*Study on the impact of artificial intelligence systems, their potential for promoting equality, including gender equality, and the risks they may cause in relation to non-discrimination*”, endorsed by GEC and CDADI in 2023.<sup>3</sup> The study identified four complementary avenues for regulatory and policy intervention to ensure a robust human rights-based approach to artificial intelligence, namely (1) prevention, transparency and accountability, (2) access to justice and legal redress mechanisms, (3) diversity, inclusion, representation and participation, (4) democratic participation, public awareness-raising and capacity-building.

In order to gather input from stakeholders and the interested public, the Council of Europe conducted a public consultation on the draft Recommendation from 10 March 2025 to 28 April 2025.

The draft Recommendation was discussed in the GEC/ADI-AI meetings on 25-26 September 2024 and 26-27 February 2025. A last meeting of the expert group is due to take place on 7-9 October 2025, which would finalise the draft text of the Recommendation. Ahead of that meeting, a fifth revised version of the Recommendation was circulated at the end of July (reference GEC/ADI-AI(2024)7rev5).

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167/2013, (EU) No 168/2013, (EU) 2018/858, (EU) 2018/1139 and (EU) 2019/2144 and Directives 2014/90/EU, (EU) 2016/797 and (EU) 2020/1828 (Artificial Intelligence Act)

<sup>2</sup> In particular, the two Directives on standards for equality bodies Council Directive (EU) 2024/1499 of 7 May 2024 on standards for equality bodies in the field of equal treatment between persons irrespective of their racial or ethnic origin, equal treatment in matters of employment and occupation between persons irrespective of their religion or belief, disability, age or sexual orientation, equal treatment between women and men in matters of social security and in the access to and supply of goods and services, and amending Directives 2000/43/EC and 2004/113/EC; : Directive (EU) 2024/1500 of the European Parliament and of the Council of 14 May 2024 on standards for equality bodies in the field of equal treatment and equal opportunities between women and men in matters of employment and occupation, and amending Directives 2006/54/EC and 2010/41/EU.

<sup>3</sup> Meeting report of the 7<sup>th</sup> Plenary Meeting of the Steering Committee on Anti-Discrimination, Diversity and Inclusion (CDADI), 27-29 June 2023, CDADI (2023)13, <https://rm.coe.int/7th-plenary-meeting-27-29-june-2023-report/488010b9d5>.

The draft Recommendation was also discussed in the GEC and the CDADI meetings in November 2024 and is due to be approved in a joint plenary session of the GEC and the CDADI from 18-20 November 2025, for submission to the CM. The CM aims to formally adopt the Recommendation by the spring of 2026.

The purpose of the envisaged Recommendation is “to assist Member States to promote equality, including gender equality, and to prevent and combat all forms of discrimination, in all their activities and those of public and private sector actors within the lifecycle of AI systems”.

The Recommendation would not create legally binding effects and obligations and would be based on the voluntary application by the member states of the Council of Europe. However, in accordance with Article 15(b) of the Statute, the CM may request the member governments “to inform it of the action taken by them” in regard to recommendations.

### **3. POSITION TO BE TAKEN ON THE UNION'S BEHALF**

It is proposed that the position of the Union should be to agree with the adoption of the draft Recommendation by the CM provided that it ensures consistency with the Union acquis, in particular the AI Act, and coherence with the Council of Europe Framework Convention. The current draft of the Recommendation (rev5 of July 2025) is not yet fully consistent.

More specifically, the Union should agree with the adoption of the draft recommendation on the condition that the Recommendation respects the following requirements:

1. Measures concerning actors within the lifecycle of AI systems do not exceed obligations established under the AI Act which generally fully harmonises the rules for AI in the Union, including in the area of equality.

In particular, the Recommendation should allow sufficient flexibility in the implementation of the AI Act (in line with the approach of the Framework Convention),<sup>[OBJ]</sup> which would require appropriate amendments of the references to the need to take “effective measures” in paragraphs 7, 9, 10 and 36 of the draft Recommendation;

- The measures proposed in paragraphs 9, 10.1 and 18.2 of the draft Recommendation should be amended in an appropriate manner to avoid recommendations for the introduction of additional positive obligations in relation to the promotion of equality by providers and deployers of AI systems;
  - The provisions of paragraph 5.1 of the draft Recommendation should be adjusted in an appropriate manner to avoid an open-ended restriction on the use of AI which is incompatible with the EU approach to AI regulation and EU policy on innovation.
2. The formulation of the measures and standards within the Recommendation is clarified in the text to ensure consistency and interoperability with the Union legal framework, both terminologically and substantively.
    - In particular, appropriate adjustments should be made in paragraph 18 to the references to “uniform standards” in order to ensure sufficient flexibility in the implementation, and to the references to “biases” to ensure the measures remain proportionate and focused on harms.
  3. Safeguards relating to human review and appeal procedures (in paragraph 16bis) are adjusted in an appropriate manner consistent with both the AI Act and the

Framework Convention, thereby ensuring coherence between the two instruments while avoiding the introduction of AI specific obligations for providers or deployers of AI systems not contemplated in the Union *acquis*.<sup>4</sup>

4. The scope of sectors listed at the end of paragraph 36 of the draft Recommendation as requiring particular attention is amended to ensure it is consistent and does not go beyond the high-risk areas defined under the AI Act (Annexes I and III), thereby avoiding the inclusion of sectors not listed therein, or alternatively reformulating such references in terms of monitoring actions or other sufficiently flexible approaches.<sup>5</sup>

## **4. LEGAL BASIS**

### **4.1. Procedural legal basis**

#### *4.1.1. Principles*

Article 218(9) of the Treaty on the Functioning of the European Union (TFEU) provides for decisions establishing ‘*the positions to be adopted on the Union’s behalf in a body set up by an agreement, when that body is called upon to adopt acts having legal effects, with the exception of acts supplementing or amending the institutional framework of the agreement.*’

Article 218(9) TFEU applies regardless of whether the Union is a member of the body or a party to the agreement.<sup>6</sup>

The concept of ‘*acts having legal effects*’ includes acts that have legal effects by virtue of the rules of international law governing the body in question. It also includes instruments that do not have a binding effect under international law, but that are ‘*capable of decisively influencing the content of the legislation adopted by the EU legislature*’<sup>7</sup>.

#### *4.1.2. Application to the present case*

As outlined in Section 2, the Recommendation is to be adopted by the CM, which is a body set up by an international agreement and might produce legal effects by influencing the way the AI Act is implemented and applied.

More specifically, certain provisions of the AI Act explicitly state that existing “international approaches” and “international standards” should be taken into account in the implementation of the AI Act. For example, Article 40(3) of the AI Act provides that participants in the standardisation process need to take into account “existing international standards in the field of AI that are consistent with Union values, fundamental rights and interests”. The Recommendation will set out guidance on the promotion of equality in the life cycle of AI systems, which could constitute one of the benchmarks against which harmonised standards are assessed. At the same time, Article 56(1) AI Act requires the AI Office to take into account “international approaches” when facilitating the drawing up of codes of practice at Union level. The first Code of Practice on general purpose AI models has already been

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<sup>4</sup> see version with reference GEC/ADI-AI(2024)7rev5

<sup>5</sup> see version with reference GEC/ADI-AI(2024)7rev5

<sup>6</sup> Judgment of the Court of Justice of 7 October 2014, Germany v Council, C-399/12, ECLI:EU:C:2014:2258, paragraph 64.

<sup>7</sup> Judgment of the Court of Justice of 7 October 2014, Germany v Council, C-399/12, ECLI:EU:C:2014:2258, paragraphs 61 to 64.

finalised and assessed by the Commission as adequate for providers of general purpose AI models to demonstrate compliance with the relevant obligations of the AI Act.

In accordance with Article 56(6) first subparagraph of the AI Act, the AI Office and the Board must regularly monitor and evaluate the achievement of the objectives of the codes of practice by the participants and their contribution to the proper application of this Regulation.

At the envisaged time of adoption of the Recommendation, the work on the harmonised standards will have advanced and the AI Act's Code of Practice for general-purpose AI models has already been finalised. The Recommendation might be relevant for future updates of the Code of Practice and the standards.

Therefore, the procedural legal basis for the proposed decision is Article 218(9) TFEU.

## **4.2. Substantive legal basis**

### *4.2.1. Principles*

The substantive legal basis for a decision under Article 218(9) TFEU depends primarily on the objective and content of the envisaged act in respect of which a position is taken on the Union's behalf. If the envisaged act pursues two aims or has two components and if one of those aims or components is identifiable as the main one, whereas the other is merely incidental, the decision under Article 218(9) TFEU must be founded on a single substantive legal basis, namely that required by the main or predominant aim or component.

### *4.2.2. Application to the present case*

The stated objective of the envisaged Recommendation is to “*assist Member States in their actions to promote equality, including gender equality, and to prevent and combat all forms of discrimination, in all their activities and those of public and private sector actors within the lifecycle of AI systems*”.

This aligns with the purpose of the AI Act, which is to “*improve the functioning of the internal market by laying down a uniform legal framework in particular for the development, the placing on the market, the putting into service and the use of artificial intelligence systems in the Union, in accordance with Union values, to promote the uptake of human centric and trustworthy artificial intelligence while ensuring a high level of protection of health, safety, fundamental rights as enshrined in the Charter of Fundamental Rights of the European Union, including democracy, the rule of law and environmental protection, to protect against the harmful effects of AI systems in the Union, and to support innovation*”.

The Recommendation overlaps mostly with the AI Act, in particular:

- The Recommendation aims at combating inequality stemming from AI, which is similar to the objective of the AI Act, i.e. to ensure a high level of protection of the fundamental rights enshrined in the EU Charter of Fundamental Rights, including the rights to equality and non-discrimination, against the harmful effects of AI systems in the Union.
- The personal and material scope for which the AI Act and (the measures in) the Recommendation are intended to apply are essentially the same, namely public and private actors that develop or deploy AI and activities within the lifecycle of AI systems.

- A similar graduated and differentiated approach to AI systems is taken in both the AI Act and the Recommendation, in line with the Framework Convention on AI;
- The Recommendation sets out transparency and (human) oversight requirements for the identification, prevention and combatting of discrimination following activities within the lifecycle of AI systems which are similar to those laid down in the AI Act, in particular in, among others, its Articles 13, 14, 49, 50 and 86;
- The Recommendation's requirements to identify, evaluate, mitigate and monitor discrimination risks are similar to the AI Act's requirements and obligations for providers or deployers of high-risk AI systems, in particular in, among others, its Articles 9, 10, 17, 26 and 27; provisions in relation to standards are also included in the Recommendation, which resemble those related to Union harmonised standards in Article 40 to 49.
- The Recommendation contains measures in relation to documentation, procedural safeguards and remedies which are similar to those in the AI Act, in particular in Articles 11, 12, 26, 53, 85, 86 of the AI Act).
- The Recommendation identifies target sectors to mainstream equality and requires measures where the risks of discrimination are particularly acute which partly overlap with the high-risk categorisation of the AI Act (Article 6 and Annexes I and III).

The Recommendation also covers elements common to the Union *acquis* on non-discrimination and equality. This concerns, in particular, the Directives on Equality Bodies, adopted on the basis of Articles 19 and 157 TFEU.<sup>8</sup> The relevant elements of the Recommendation include:

- Requirements for member States to equip Equality Bodies with sufficient financial, human and technical resources and to cooperate with them when developing appropriate legislation, policies and administrative, regulatory or other frameworks (relevant for Articles 3 and 4 of the Directives);
- Transparency and oversight requirements, enabling Equality Bodies to scrutinise whether discrimination has occurred and to assess whether such AI systems necessitate a moratorium or a ban (relevant for Articles 8 and 9 of the Directives);
- Requirements to support or assist victims of AI-based discrimination to assert their rights, including by submitting observations to the court (relevant for Articles 6, 7, 8, 9, 10 and 11 of the Directives).

<sup>8</sup> Directive (EU) 2024/1500 of the European Parliament and of the Council of 14 May 2024 on standards for equality bodies in the field of equal treatment and equal opportunities between women and men in matters of employment and occupation, and amending Directives 2006/54/EC and 2010/41/EU (OJ L, 2024/1500, 29.5.2024, ELI: <http://data.europa.eu/eli/dir/2024/1500/oj>); Council Directive (EU) 2024/1499 of 7 May 2024 on standards for equality bodies in the field of equal treatment between persons irrespective of their racial or ethnic origin, equal treatment in matters of employment and occupation between persons irrespective of their religion or belief, disability, age or sexual orientation, equal treatment between women and men in matters of social security and in the access to and supply of goods and services, and amending Directives 2000/43/EC and 2004/113/EC, (OJ L, 2024/1499, 29.5.2024, ELI: <http://data.europa.eu/eli/dir/2024/1499/oj>).



While the Recommendation aims to promote equality and prevent discrimination, it primarily contains legislative and policy measures targeted at actors within the lifecycle of AI systems (cf point 2 of the Recommendation). More specifically, it sets out recommendations on equality impact assessments, certification, the transparency, monitoring, and oversight of AI systems as explained above.

Within the Union, the predominant part of the Recommendation will be implemented, not through horizontal equality legislation that applies to all economic actors, such as the Equality bodies legislation, but through legislation addressed specifically at operators providing and deploying AI systems, notably the AI Act and/or its implementing measures. In fact, the Explanatory Memorandum expressly acknowledges that the AI Act already implements (part of) the Recommendations (cf para 11 EM).

It follows that the centre of gravity of the Recommendation falls within the area covered by the AI Act. The substantive legal basis for the position to be taken on behalf of the Union on those elements of the Recommendation should therefore be Article 114 TFEU, which is the primary legal basis of the AI Act.

Therefore, the substantive legal basis of the proposed decision is Article 114 TFEU.

#### **4.3. Conclusion**

The legal basis of the proposed decision should be Article 114 TFEU, in conjunction with Article 218(9) TFEU.

Proposal for a

## **COUNCIL DECISION**

### **on the position to be taken on behalf of the European Union on the Draft Recommendation of the Committee of Ministers of the Council of Europe on equality and artificial intelligence**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114, in conjunction with Article 218(9) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) The Council of Europe aims to adopt a Recommendation (“the Recommendation”) to address the impact of artificial intelligence (“AI”) systems, their potential for promoting equality, including gender equality, and the risks they may cause in relation to non-discrimination. The Recommendation is due to be adopted by the Council of Europe’s Gender Equality Commission (“GEC”) and the Steering Committee on Anti-Discrimination, Diversity and Inclusion (“CDADI”), during their joint plenary session from 18-20 November 2025 and to be formally approved by the Committee of Ministers of the Council of Europe.
- (2) The Recommendation aims to complement the Council of Europe Framework Convention on Artificial Intelligence and Human Rights, Democracy and the Rule of Law (“the Framework Convention”), which was signed by the Union pursuant to Council Decision (EU) 2024/2218, with regard to the principle of equality, by making detailed, equality-specific recommendations to member states.
- (3) The Framework Convention lays down general principles and obligations that parties to the Framework Convention should observe to ensure the protection of human rights, democracy, and the rule of law in relation to the activities within the lifecycle of AI systems. The Commission has proposed that the Union concludes the Framework Convention.<sup>9</sup> The Council decision for conclusion of the Framework Convention is in process of adoption by the Council.
- (4) On 13 June 2024, the European Parliament and Council adopted, on the basis of Articles 16 and 114 of the Treaty on the Functioning of the European Union (TFEU), Regulation (EU) 2024/1689 (<sup>10</sup>), which lays down harmonised rules, generally based

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<sup>9</sup> Proposal for a COUNCIL DECISION on the conclusion, on behalf of the European Union, of the Council of Europe Framework Convention on Artificial Intelligence and Human Rights, Democracy and the Rule of Law, COM(2025) 265 final.

<sup>10</sup> Regulation (EU) 2024/1689 of the European Parliament and the Council of 13 June 2024 laying down harmonised rules on artificial intelligence and amending Regulations (EC) No 300/2008, (EU) No 167/2013, (EU) No 168/2013, (EU) 2018/858, (EU) 2018/1139 and (EU) 2019/2144 and Directives 2014/90/EU, (EU) 2016/797 and (EU) 2020/1828 (Artificial Intelligence Act) (OJ L, 2024/ 1689, 12.7.2024).

on full harmonisation, that regulate the placing on the market, the putting into service and the use of AI systems in the Union. Those rules are directly applicable in the Member States, unless explicitly provided otherwise.

- (5) The Framework Convention is to be implemented in the Union exclusively through the AI Act and other relevant Union *acquis*, where applicable.
- (6) It is appropriate to establish the position to be taken on the Union's behalf on the Recommendation in the joint plenary session of the GEC and the CDADI, as well as in the Committee of Ministers, as the Recommendation, even if non-binding, will be capable of decisively influencing the content of Union law, namely Regulation (EU) 2024/1689 of the European Parliament and the Council laying down harmonised rules on artificial intelligence..
- (7) The personal and material scope of the Recommendation coincides, to a large extent, with Regulation (EU) 2024/1689, which provides for rules for AI that are generally based on full harmonisation within the Union.
- (8) The adoption of the Recommendation may affect existing and foreseeable future common Union rules or alter their scope within the meaning of Article 3(2) TFEU. The Union therefore enjoys exclusive external competence to take a position on behalf of the Union for adoption of the Recommendation.
- (9) The Union should ensure that the Recommendation is compatible with Union law and, for all aspects that are harmonised at Union level, can be implemented in the Union legal order through the existing Union *acquis*, in particular Regulation (EU) 2024/1689 and Directives 2024/1499 and 2024/1500. For specific recommendations that concern the development and use of AI systems that are fully harmonised in the Union, the Union should aim to ensure that the Recommendation is consistent with the provisions of the AI Act and the principles set out in the Council of Europe Framework Convention on AI.
- (10) Provided that these conditions are met, the Recommendation may be approved on behalf of the Union. at the joint plenary session of the GEC and the CDADI that is going to take place on 18-20 November 2025 and at a subsequent meeting of the Committee of Ministers.
- (11) As the Union is not a member of the Council of Europe but all of its Member States are, the Union's position is to be expressed by its Member States, acting jointly.

HAS ADOPTED THIS DECISION:

#### *Article 1*

The position to be taken on the Union's behalf in the joint plenary session of the GEC and the CDADI, as well as in the meeting of the Committee of Ministers, shall be to not object to the adoption of the Recommendation on AI and Equality, provided that the following conditions are taken into account:

1. Measures concerning actors within the lifecycle of AI systems do not exceed obligations established under the AI Act which generally fully harmonises the rules for AI in the Union, including in the area of equality. In particular, the Recommendation should allow sufficient flexibility in its implementation , in line with the approach of the Framework Convention. It should also avoid recommending

the introduction of additional positive obligations in relation to the promotion of equality by providers and deployers of AI systems as well as imposing an open-ended restriction on the use of AI.

2. The formulation of the measures and standards within the Recommendation needs to ensure consistency and interoperability with the Union legal framework, both terminologically and substantively.
3. Safeguards relating to human review and appeal procedures must be consistent with both the AI Act and the Framework Convention, thereby ensuring coherence between the two instruments while avoiding the introduction of AI specific obligations for providers or deployers of AI systems not contemplated in the Union *acquis*.
4. The scope of sectors identified in the Recommendation as requiring particular attention should ensure consistency with and not go beyond the high-risk areas defined under the AI Act (Annexes I and III). Alternatively, the Recommendation should differentiate in an appropriate manner between the treatment of the sectors in terms of monitoring actions or other sufficiently flexible approaches.

#### *Article 2*

The position referred to in Article 1 shall be expressed by the Member States of the Union that are members of the Council of Europe, acting jointly.

#### *Article 3*

This Decision is addressed to the Member States.

Done at Brussels,

*For the Council  
The President*