EUROPEAN DATA PROTECTION SUPERVISOR

The EU's independent data protection authority

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AI ACT PREPAREDNESS AT EDPS & EUIs

ENISA webinar: Engineering Data Protection in the wake of AI
10 April 2025

The role of the EDPS

> Each Member State should appoint two national competent authorities by 2 August 2025: (1) a **notifying authority** (Art. 28) and (2) a **market surveillance authority** (Art. 70)

> When it comes to EUIs, the EDPS is **responsible** for the enforcement of the AI Act as the sole AI **competent authority**

> The EDPS can take enforcement actions in relation to the prohibitions **on its own initiative or following a complaint**, and impose **administrative fines of up to EUR 1.500.000**

> Beyond supervisory activities on AI systems deployed by EUIs, the EDPS can also establish an AI **regulatory sandboxes**

Towards AI preparedness in the EDPS

Creation of a new AI Unit

In late 2024, the EDPS created a new AI Unit **to manage the responsibilities deriving from the AI Act implementation**

Human capital

The selection process includes both **calls for expression of interest** and **vacancy notices** for officials. The AI Unit has been assigned **7 posts in the 2025 budget** and **3 redeployed FTEs**

Tasks

The unit prepares for and participates in the **AI Board**, and ensures that Union institutions, offices, bodies and agencies (EUI) **comply with the AI Act**.
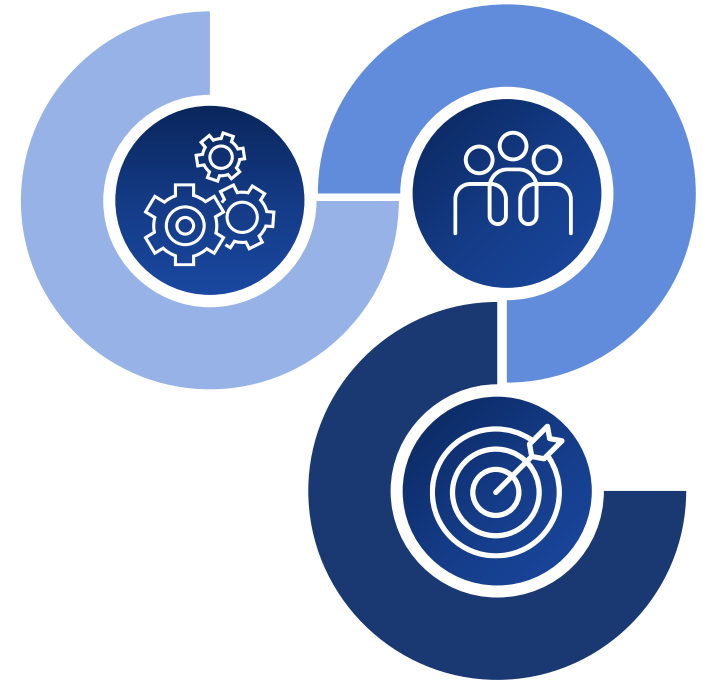
The EDPS AI Preparedness Strategy

The EDPS has hatched a plan for AI. It focuses on three key components: **governance, risk management** and **supervision.**

Governance

For the EDPS, it is necessary to follow a **multilateral and inter - institutional approach**: we need to work together to get a proper use of AI in the EUIs (e.g. **network of "AI Act correspondents"**)

Risk Management

EUIs and the EDPS need to remain pragmatic: if everything is deemed high risk, there will be **paralysis in our actions**, but if real risks are not addressed and mitigated, **the price to pay will be high**.

Supervision

The EDPS' activities include **handling complaints** and developing mechanisms for effective **supervision, prohibition** and **sanctioning**. Resources are fundamental due to the high number of EUIs involved

AI Board (1/2)

The AI Act established the **European Artificial Intelligence Board** to advise and assist the Commission and the Member States on the consistent and effective application of the AI Act. The EDPS participates in the AI Board as **observer**.
In this context, the EDPS is participating in the following sub-groups created in 2024...

Subgroup on Prohibitions

Subgroup on AI Sandboxes

Subgroup on AI Standards

Steering Group on the GPAI Code of practice

AI Board (2/2)

... and in the following ones created in Q1 2025.

Subgroup on Law Enforcement

Subgroup on Interplay of the AI Act with other legislation

Subgroup on Financial Services

Subgroup on High Risk AI systems

AI Act Correspondents Network

Preparation meeting (09/24)

Kick-off meeting (01/25)

AI Act Correspondents

Under the Regulation, EUIs **do not have an obligation** to appoint an "AI Act correspondent". Nonetheless, **the EDPS strongly encourages** the appointment of such a person **to facilitate governance of AI Act** related matters through an **organised network**. Role and duties should not affect those granted by law to the DPO.

Informing and advising on AI Act related matters

Risk Management and Fundamental Rights Impact Assessments

Governance procedures

Facilitate compliance with the AI Act and related policies

Liaison with the EDPS
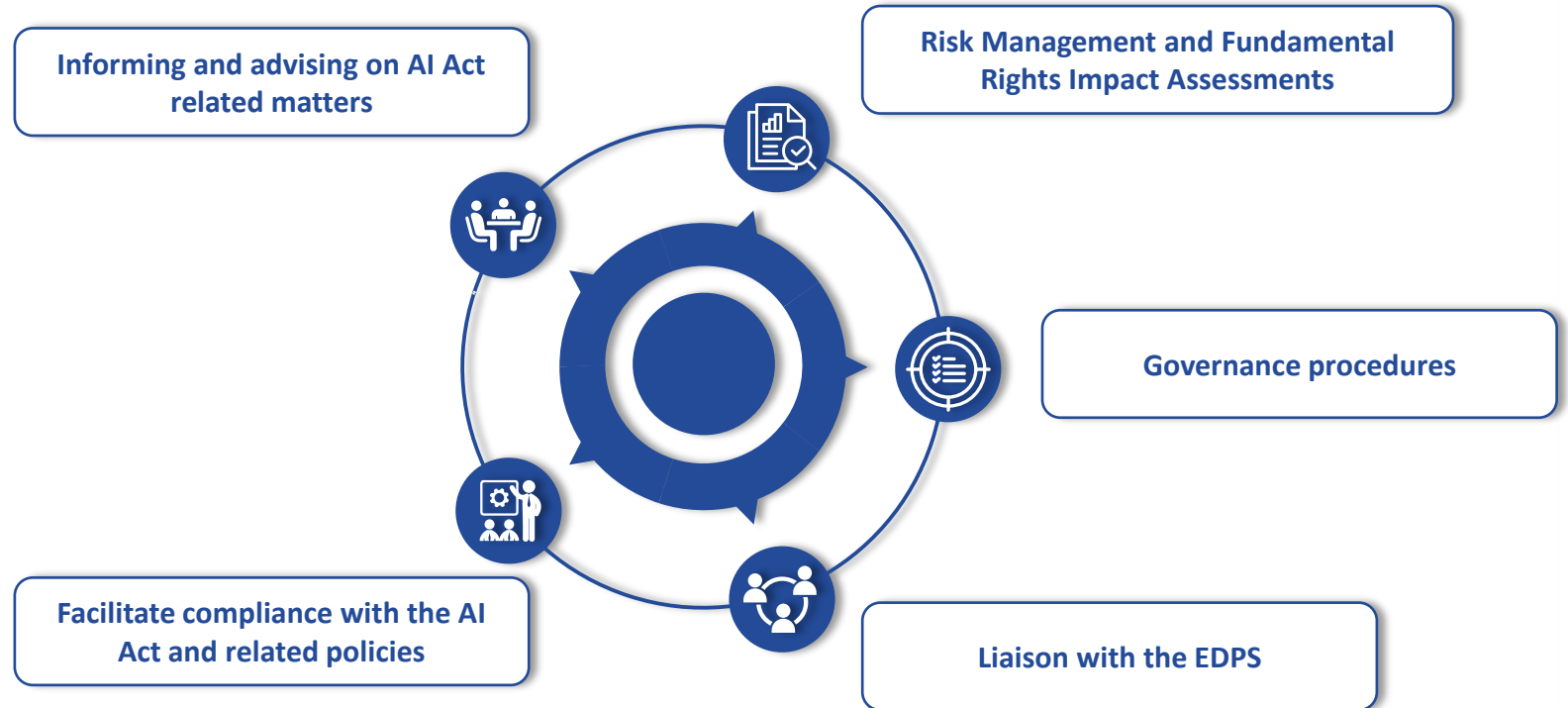
AI Act Correspondents Network

The goal is to facilitate the **exchange of information** and **coordination** between EU institutions and the EDPS.
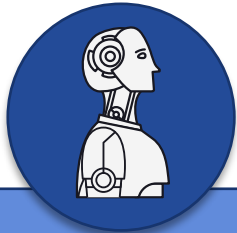
It will facilitate the **consistent implementation of the AI Act policies and standards** across the EUIs.
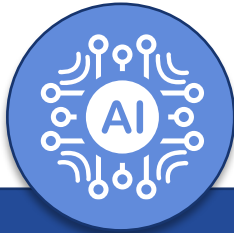
It could serve as a platform for sharing **AI systems** implementation, **use-cases**, and for developing **checklists** for AI Act compliance purposes

It will also serve as supporting network for the EUIs to organise **joint procurement** operations and **standard T&C** applicable to service providers

The network could provide a forum for **collective training and professional development** of AI Act Correspondents

Finally, a coordinated network will enable **more effective crisis management** and a unified response in the event of incidents

THE EU AI ACT TIMELINE
IMPLEMENTATION & ENFORCEMENT

Timeline (top annotations)

The AI Office to publish the **Codes of Practice for General Purpose AI (GPAI)** models by this date. (Art. 56(1))

Commission reviews the list of **prohibited AI applications**. (Art. 112(1)) ①

Deadline for the Commission to provide guidelines specifying the practical implementation of the **classification of high-risk AI (HRAI)** systems, including a post-market monitoring plan. (Art. 6(5))

By this date, the Commission shall:
- evaluate the functioning of the AI Office. (Art. 112(5))
- evaluate the impact and effectiveness of voluntary codes of conduct. (Art. 112(7)) ③
- assess and report on the need for amendments to the area headings in Annex III, the list of AI systems requiring additional transparency measures in Article 50, and the supervision and governance system. (Art. 112(2)) ④
- submit a progress report on 'standardisation deliverables' related to energy-efficient development of GPAI models. (Art. 112(6)) ④
- prepare a report on the delegation of power outlined in Art. 97.
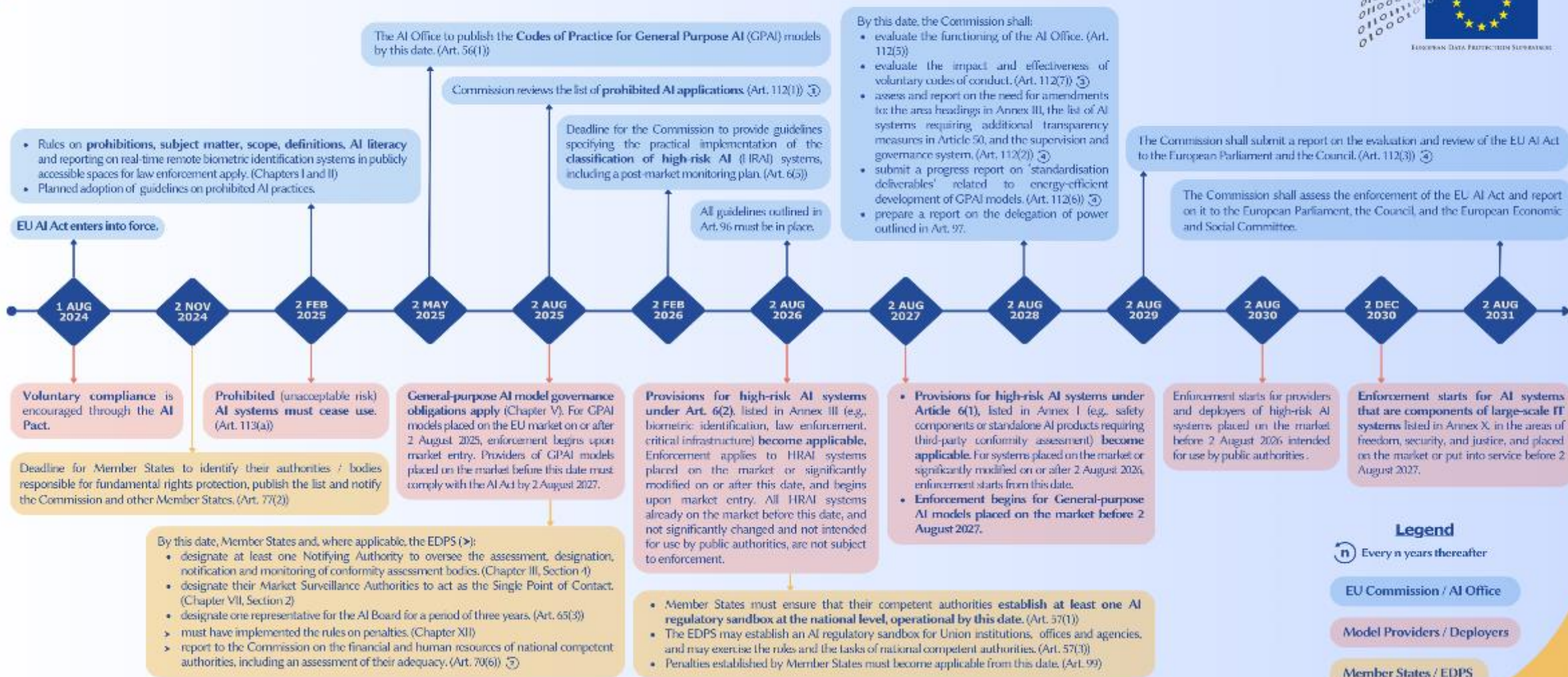
The Commission shall submit a report on the evaluation and review of the EU AI Act to the European Parliament and the Council. (Art. 112(3)) ④

The Commission shall assess the enforcement of the EU AI Act and report on it to the European Parliament, the Council, and the European Economic and Social Committee.

- Rules on **prohibitions, subject matter, scope, definitions, AI literacy** and reporting on real-time remote biometric identification systems in publicly accessible spaces for law enforcement apply. (Chapters I and II)
- Planned adoption of guidelines on prohibited AI practices.

EU AI Act enters into force.

All guidelines outlined in Art. 96 must be in place.

Timeline dates

| 1 AUG 2024 | 2 NOV 2024 | 2 FEB 2025 | 2 MAY 2025 | 2 AUG 2025 | 2 FEB 2026 | 2 AUG 2026 | 2 AUG 2027 | 2 AUG 2028 | 2 AUG 2029 | 2 AUG 2030 | 2 DEC 2030 | 2 AUG 2031 |

Timeline (bottom annotations)

Voluntary compliance is encouraged through the **AI Pact.**

Deadline for Member States to identify their authorities / bodies responsible for fundamental rights protection, publish the list and notify the Commission and other Member States. (Art. 77(2))

Prohibited (unacceptable risk) **AI systems must cease use.** (Art. 113(a))

General-purpose AI model governance obligations apply (Chapter V). For GPAI models placed on the EU market on or after 2 August 2025, enforcement begins upon market entry. Providers of GPAI models placed on the market before this date must comply with the AI Act by 2 August 2027.

By this date, Member States and, where applicable, the EDPS (➤):
- designate at least one Notifying Authority to oversee the assessment, designation, notification and monitoring of conformity assessment bodies. (Chapter III, Section 4)
- designate their Market Surveillance Authorities to act as the Single Point of Contact. (Chapter VII, Section 2)
- designate one representative for the AI Board for a period of three years. (Art. 65(3))
- must have implemented the rules on penalties. (Chapter XII)
- ➤ report to the Commission on the financial and human resources of national competent authorities, including an assessment of their adequacy. (Art. 70(6)) ⑤

Provisions for high-risk AI systems under Art. 6(2), listed in Annex III (e.g., biometric identification, law enforcement, critical infrastructure) **become applicable.** Enforcement applies to HRAI systems placed on the market or significantly modified on or after this date, and begins upon market entry. All HRAI systems already on the market before this date, and not significantly changed and not intended for use by public authorities, are not subject to enforcement.

- Member States must ensure that their competent authorities **establish at least one AI regulatory sandbox at the national level, operational by this date.** (Art. 57(1))
- The EDPS may establish an AI regulatory sandbox for Union institutions, offices and agencies, and may exercise the rules and the tasks of national competent authorities. (Art. 57(3))
- Penalties established by Member States must become applicable from this date. (Art. 99)

- **Provisions for high-risk AI systems under Article 6(1)**, listed in Annex I (e.g., safety components or standalone AI products requiring third-party conformity assessment) **become applicable.** For systems placed on the market or significantly modified on or after 2 August 2026, enforcement starts from this date.
- **Enforcement begins for General-purpose AI models placed on the market before 2 August 2027.**

Enforcement starts for providers and deployers of high-risk AI systems placed on the market before 2 August 2026 intended for use by public authorities.

Enforcement starts for AI systems that are components of large-scale IT systems listed in Annex X, in the areas of freedom, security, and justice, and placed on the market or put into service before 2 August 2027.

Legend

- ⓝ Every n years thereafter
- EU Commission / AI Office
- Model Providers / Deployers
- Member States / EDPS

AI Act – prohibited practices

Harmful manipulation

Article 5(1)(a)
These prohibitions target **AI systems that deploy subliminal, purposefully manipulative or deceptive techniques that are significantly harmful** and materially influence the behaviour of natural persons or group(s) of persons.

Harmful exploitation of vulnerabilities

Article 5(1)(b)
This article refers to AI systems that exploit **any of the vulnerabilities** of a natural person or a specific group of persons due to their **age, disability or a specific social or economic situation**.
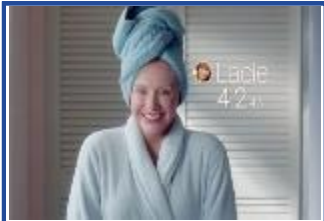
Social scoring

Article 5(1)(c)
Unacceptable **AI-enabled 'social scoring' practices** that assess or classify individuals or groups based on their **social behaviour or personal characteristics** and lead to detrimental or unfavourable treatment are prohibited.

Criminal offence prediction

Article 5(1)(d)
The regulation prohibits AI systems **assessing or predicting the risk of a natural person committing a criminal offence** based solely on profiling or assessing personality traits and characteristics.

Untargeted scraping of facial images

Article 5(1)(e)
This prohibition concerns **AI systems that create or expand facial recognition databases through the untargeted scraping** of facial images from the Internet or CCTV footage.

Emotion recognition in education and work

Article 5(1)(f)
In principle, the AI Act prohibits AI systems **to infer emotions of a natural person in the areas of workplace and education institutions**, except where the use of the system is intended for medical or safety reasons.

Biometric categorisation sensitive characteristics

Article 5(1)(g)
Biometric categorisation systems that **categorise individually natural persons based on their biometric data** to deduce or infer their race, political opinions, religious or philosophical beliefs, sex life or sexual orientation are prohibited.

Real-time RBI in public spaces

Article 5(1)(h)
The AI Act AI Act prohibits **the use of real-time remote biometric identification (RBI) systems in publicly accessible spaces for law enforcement purposes**, subject to limited exceptions exhaustively set out in the Regulation.

EDPS comments and observations to the Public Survey on prohibited practices

Generally speaking, **the EDPS is happy** to note that the Guidelines are detailed and often take into account the AI Act's interactions with the LED, GDPR, EUDPR.

The EDPS is looking forward to working together with the **AI Office** to further clarify the provisions and interplay, as enforcement has already begun in February 2025.
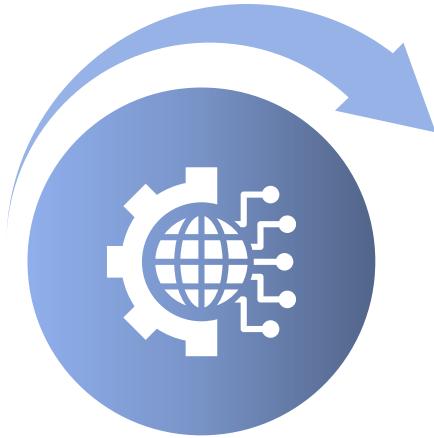
The EDPS **also submitted comments** to the public survey on prohibited practices. e.g. stressing where definitions could be clearer, or offering use-case examples.

EDPS first steps on prohibited practices

Secs-Gen gathering

EDPS Secretary General met Secs-Gen of all EUIs to warn about prohibited practices and align on strategy
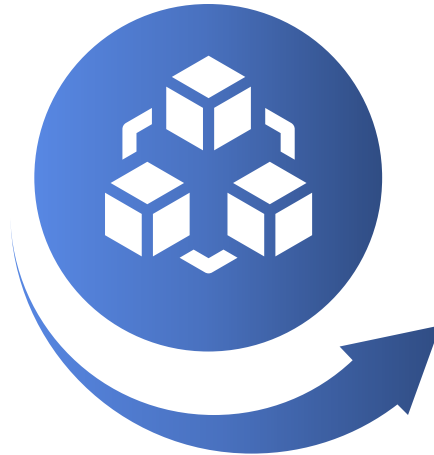
Correspondents

Creation and kick off (27 January) of the AI Act Correspondents Network, and discussion on new obligations kicking-in
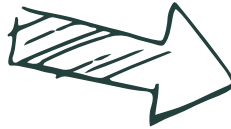
Mapping

Specific letter from the EDPS Secretary General to EUIs asking for informal and high-level mapping on prohibited practices and high-risk AI systems
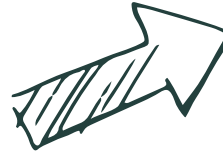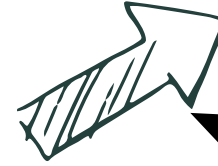
GPAI Code of Practice

BROAD INVOLVEMENT
1000+ Stakeholders involved in the drafting process

4 WORKING GROUPS
Transparency & Copyright
Risk identification
Technical risk mitigation
Governance risk management

ITERATIVE PROCESS
The Code is expected to be adopted in May 2025, after four different round of drafts texts

CONTRIBUTIONS
The EDPS is about to submit comments to the third and final draft, as happened for the previous ones

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