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Ensuring Consistency in AI Supervision: Cooperation Mechanisms under the AI Act

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Abstract

The Artificial Intelligence Act (AI Act) introduces the European Union's first comprehensive framework for regulating AI systems and general-purpose AI models. Its implementation relies on a complex supervisory structure composed of national market surveillance authorities (MSAs), the AI Office, the AI Board and authorities supervising related Union legislation. This paper examines how these actors interpret the AI Act and analyses the mechanisms designed to promote consistent interpretation across its complex supervisory system. Particular attention is given to the challenges arising from open-ended legal norms and overlaps between the AI Act and other Union laws. By analysing both soft-law instruments and binding decision-making procedures, the paper demonstrates how consistent interpretation is essential to ensuring legal certainty and effective (cross-regulatory) supervision. The paper concludes by identifying gaps in the current cooperation framework and recommending ways to strengthen cooperation and enhance predictability for operators across the Union.

Keywords:

AI Act, Supervision, Enforcement, Consistency, Cooperation, Cross-regulatory, AI governance, Market Surveillance Authorities, AI Office, Interpretation of EU Law, Product Safety, Fundamental Rights, Interplay of EU law

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I. Introduction

In recent years, the European Union (EU) has adopted a wide range of legislative instruments aimed at regulating digital technologies, including artificial intelligence (AI), as part of its evolving Digital Rulebook. Among these initiatives, the Artificial Intelligence Act (AI Act) stands out as the first comprehensive, horizontal framework specifically designed to regulate the development, placing on the market, the putting into service and the use of AI systems and general-purpose AI models within the EU.[2] As the digital regulatory landscape has evolved, the EU's approach has become increasingly sophisticated, reflecting the rapid technological developments and the growing importance of ensuring that these digital technologies are integrated into society in a trustworthy and future-proof manner.

A central aspect of this new regulatory framework is supervision, which plays a crucial role in translating its provisions into practice and ensuring that the intended objectives of the law are effectively realised. As digital technologies become more complex, supervisory authorities face the compounded challenge of interpreting flexible and often open-ended legal norms while simultaneously navigating the interplay between the AI Act and other Union legislation. These challenges are particularly pronounced in the AI Act.

The AI Act's supervisory framework is complex, involving multiple actors such as market surveillance authorities (MSAs), the European Commission's AI Office (AI Office), the AI Board, and other authorities supervising related Union law. This complexity makes achieving consistent interpretation of legal norms especially critical. While decentralization allows authorities to draw on existing (sectoral) expertise, risks of divergent interpretations must be minimised. Effective mechanisms to ensure consistent interpretation across the regulatory landscape are therefore essential to provide legal certainty and promote the uptake of trustworthy AI throughout the Union.

This paper outlines how the AI Act's supervisory framework functions in practice and highlights key aspects of interpretation, cooperation, and legal consistency across the Union. The paper first explains why the AI Act's rules require interpretation by supervisory actors (**Section II**) and then outlines its mixed supervisory structure of centralization and decentralization (**Section III**). Next, it stresses the need for legal consistency (**Section IV**) and illustrates this through two situations of supervisory interaction: when multiple AI Act bodies—the MSAs the AI Office, and the AI Board—interpret the same provision, and when AI Act interpretation overlaps with concepts from other EU legislation and requires cooperation with authorities supervising that legislation (**Section V**). The paper then shows why the supervisory structure demands sincere cooperation to ensure consistent interpretation (**Section VI**). Finally, it evaluates existing cooperation mechanisms for ensuring consistency, identifies gaps and opportunities to improve cooperation, and offers recommendations to reinforce the system (**Section VII**). Finally, a brief conclusion will be provided (**Section VIII**).

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[2] 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 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, "AI Act") [2024] OJ L, 2024/1689, 12.7.

II. Interpretation of rules in the AI Act

On 1 August 2024, the AI Act entered into force as the EU's legal framework regulating the development, placing on the market, the putting into service and the use of artificial intelligence (AI), to promote the uptake of human centric and trustworthy AI, while ensuring a high level of protection of health, safety, fundamental rights and supporting innovation.[3] It also forms part of the EU's product safety legislation and its New Legislative Framework (NLF) logic, establishing essential requirements complemented by harmonised standards.[4] The Regulation adopts a risk-based approach: laying down harmonised rules for high-risk AI systems, prohibitions on certain AI practices, transparency rules for AI systems, and rules for general-purpose AI models (GPAI models).[5] The provisions in the AI Act primarily focus on the operators across the AI system (and GPAI model) value chain, with providers and deployers subject to the strictest regulatory requirements.[6]

Providers of high-risk AI systems (listed in Annex I and III of the AI Act) must ensure that the AI systems they develop comply with requirements that will be further specified in harmonized standards. Those technical specifications will be further developed by private standardization organizations.[7] For instance, these requirements entail that providers of AI-systems put in place a risk management system, ensure transparency for their AI systems and that biased data is not used to train these systems.

Next to rules for high-risk AI systems, the AI Act sets out rules for general purpose AI models (GPAI models). GPAI models can – among others – perform a wide range of distinct tasks and be integrated into downstream (high-risk) AI systems. For example, certain large language models used in chatbots may qualify as GPAI models. Rules for GPAI models include for

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[3] Article 1 and recital 1 AI Act. For an overview of the AI Act and AI regulation in general read for example: Gabriele Mazzini and Salvatore Scalzo, 'The Proposal for the Artificial Intelligence Act: Considerations around Some Key Concepts' in *La via europea per l'Intelligenza artificiale*, (Cedam, 2022); Nathalie Smuha and Karen Yeung, 'The European Union's AI Act: Beyond Motherhood and Apple Pie?' in *The Cambridge Handbook of the Law, Ethics, Policy and Artificial Intelligence* (Cambridge University Press, 2025); Michael Veale and Frederik Zuiderveen Borgesius, 'Demystifying the Draft EU Artificial Intelligence Act' [2021] Computer Law Review International 22(4), 97 – 112; Marco Almada and Nicolas Petit, 'The EU AI Act: Between the rock of product safety and the hard place of fundamental rights' [2025] Common Market Law Review, volume 62, No. 1, pp. 85-120; Sandra Wachter, 'Limitations and Loopholes in the EU AI Act and AI Liability Directives: What This Means for the European Union, the United States, and Beyond' [2024] Yale Journal of Law & Technology, volume 26, issue 3; Margot E. Kaminski, 'Regulating the Risks of AI' [2022] Boston University Law Review, volume 103:1347, U of Colorado Law Legal Studies Research Paper No. 22-21.

[4] For more on product safety, NLF standards and the AI Act see Sybe de Vries, Olia Kanevskaia and Rik de Jager, 'Internal Market 3.0: The old "New Approach" For Harmonising AI Regulation' [2023] European Papers 8(2), 583-610; Marta Cantero Gamito and Christopher T Marsden, 'Artificial intelligence co-regulation? The role of standards in the EU AI Act' [2024] International Journal of Law and Information Technology, volume 32.

[5] Article 1 AI Act. Consequently, for many AI-systems that fall under the AI Act's material scope no such rules apply. See also Tobias Mahler, 'Between risk management and proportionality: The risk-based approach in the EU's Artificial Intelligence Act Proposal' in The Nordic Yearbook of Law and Informatics (2021).

[6] Recital 1, AI Act. For more on fundamental rights and product legislation see Gianclaudio Malgieri and Christiana Santos, 'Assessing the (Severity of) Impacts on Fundamental Rights' [2024] Computer Law & Security Review, volume 56.

[7] Article 16 (a) and 40 AI Act. See also footnote 4.

example documentation requirements and systemic risk mitigation measures.[8] These rules are further elaborated in a Code of Practice – developed by stakeholders in the AI ecosystem – and can later be modified into harmonized standards.[9]

The AI Act also sets out other provisions for providers of AI systems that are not specified in harmonized standards.[10] Certain AI systems will be prohibited, for example because they use manipulative practices.[11] In addition, certain transparency obligations apply to AI systems with a specific "transparency risk". These obligations are information requirements that for instance apply to AI systems that can generate deepfakes or to chatbots.[12]

In applying the AI Act, operators must also consider a range of additional provisions, including those related to scope,[13] value chain liability,[14] classification[15] and reporting.[16]

The fact that the AI Act introduces a set of rules for emerging technologies and novel applications raises challenges with regard to the legal certainty that should be provided in order to enhance compliance. Two characteristics of the provisions in the AI Act are important in this regard. Firstly, many provisions include broad, open-ended and vague norms.[17] For instance, the "AI system definition", includes concepts such as "inference" which require interpretation.[18] These broad norms could provide sufficient flexibility and technological neutrality to apply the law, which is positive where the law needs to be able to adapt to technologies that change quickly. On the other hand, there are risks. Rules that include such norms could "be a source of legal

[8] Article, 53 and 55 AI Act.

[9] Article 56 AI Act. For more on standards and Codes of Practice see Lee A. Bygrave and Rebecca Schmidt, 'Regulating Non-High-Risk AI Systems under the EU's Artificial Intelligence Act, with Special Focus on the Role of Soft Law' (University of Oslo Faculty of Law Research Paper No 2024-10, 24 October 2024, rev 29 January 2025) https://doi.org/10.2139/ssrn.4997886.

[10] For example, Article 5, 50 and 86 AI Act.

[11] Article 5 AI Act. See for example European Commission, Guidelines on Prohibited Artificial Intelligence (AI) Practices under Regulation (EU) 2024/1689 (AI Act) (4 February 2025) Commission publishes the Guidelines on prohibited artificial intelligence (AI) practices, as defined by the AI Act. | Shaping Europe's digital future

[12] Article 50 AI Act. Thomas Gils, 'A Detailed Analysis of Article 50 of the EU's Artificial Intelligence Act' in C. N. Pehlivan, N.Forgó and P.Valcke (eds.), The EU Artificial Intelligence (AI) Act: A Commentary (Kluwer Law International, 2025), 776-823.

[13] Article 1 AI Act.

[14] Article 26 AI Act.

[15] Article 6 AI Act.

[16] Article 73 AI Act.

[17] Paul de Hert and Paweł Hajduk, 'EU cross-regime enforcement, redundancy and interdependence. Addressing overlap of enforcement structures in the digital sphere after Meta' [2024] Technology and Regulation 291-308, p. 292. Nathalie Smuha, Karen Yeung, 'The European Union's AI Act : Beyond Motherhood and Apple Pie?. The Cambridge Handbook of the Law, Ethics, Policy and Artificial Intelligence.' [2025] Cambridge University Press, p. 21.

[18] Article 3 (1) and recital 12 AI Act. See also European Commission, Guidelines on the Definition of an Artificial Intelligence System Established by Regulation (EU) 2024/1689 (AI Act) (6 February 2025) The Commission publishes guidelines on AI system definition to facilitate the first AI Act's rules application | Shaping Europe's digital future.

miscommunication and divergence in meaning" which affects legal compliance.[19]

Secondly, provisions in the AI Act sometimes overlap with concepts in other Union laws, such as data protection, consumer protection, cybersecurity and non-discrimination legislation.[20] This is the cross regulatory component of the AI Act.[21] An example of such overlap would be the inclusion of the GDPR concept of "profiling" in a prohibited AI practice.[22] Another example is "distortion of behaviour", which is included in a prohibition but also mentioned in the consumer legislation.[23] Overlap between laws can be positive in that these laws could complement each other.[24] However, there is also a risk that such overlaps may add to the complexity of a legal framework. This might make it more difficult to know how to apply or comply with the law.[25] Taking the aforementioned into account, part of an effective implementation of AI Act is to interpret certain provisions to guarantee an adequate level of legal certainty to ensure compliance with the law.[26]

Supervisory authorities and other supervisory actors play an important role in the interpretation of provisions in the AI Act and as such in providing sufficient legal certainty. This is particularly the case where these provisions

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[19] Miroslava Scholten, 'Let us wait and see first how the law does not work? 'Better Regulation' can do it better!'(JMN EULEN Working Paper Series Conference: Enforcement of European Union Law: New Horizons, 19–20 September 2024 at King's College London) Scholten-EULEN-Conference-2024.pdf, p. 10.

[20] The interplay of the AI Act with other Union legislation extends to many elements in the Regulation, from substantive to the material scope of the law, examples are Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market and amending Council Directive 84/450/EEC, Directives 97/7/EC, 98/27/EC and 2002/65/EC of the European Parliament and of the Council and Regulation (EC) No 2006/2004 of the European Parliament and of the Council ('Unfair Commercial Practices Directive': "UCPD") [2005] OJ L 149, 11.6.2005; Directive (EU) 2019/882 of the European Parliament and of the Council of 17 April 2019 on the accessibility requirements for products and services OJ L 151, 7.6.2019; Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) OJ L 119, 4.5.2016.

[21] See for more on this topic Paul De Hert, 'Post-GDPR Lawmaking in the Digital Data Society: Mimesis without Integration. Topological Understandings of Twisted Boundary Setting in EU Data Protection Law' in Deirdre Curtin and Mariavittoria Catanzariti (eds), Data at the Boundaries of European Law (Oxford University Press, 2023); Paweł Hajduk, 'AI Act and GDPR: On the Path Towards Overlap of the Enforcement Structures' (RAILS-Blogspot, 1 October 2023) https://blog.ai-laws.org/ai-act-and-gdpr-on-the-path-towards-overlap-of-the-enforcement-structures/; Vagelis Papakonstantinou and Paul De Hert, 'The Regulation of Digital Technologies in the EU: The Law-Making Phenomena of "act-ification", "GDPR mimesis" and "EU Law brutality"' [2022] Technology and Regulation 48–60.

[22] Article 3 (52) and 5 (1) (d) AI Act.

[23] Article 5 (1) (a) AI Act and Article 2 (e) of the UCPD.

[24] Paul de Hert and Paweł Hajduk, 'EU cross-regime enforcement, redundancy and interdependence. Addressing overlap of enforcement structures in the digital sphere after Meta' [2024] Technology and Regulation 291-308, p. 292.

[25] Miroslava Scholten, 'Let us wait and see first how the law does not work? 'Better Regulation' can do it better!'(JMN EULEN Working Paper Series Conference: Enforcement of European Union Law: New Horizons, 19–20 September 2024 at King's College London) Scholten-EULEN-Conference-2024.pdf, p. 9.

[26] This challenge is not unique, especially not when it comes to other kinds of (digital) legislation, see for example on the GDPR: Nathalie Smuha and Karen Yeung, 'The European Union's AI Act: Beyond Motherhood and Apple Pie?' in The Cambridge Handbook of the Law, Ethics, Policy and Artificial Intelligence (Cambridge University Press, 2025), p. 22.

are not further elaborated in harmonized standards or Codes of practice. In fact, supervisory actors will (and must) frequently interpret key provisions in the AI Act when carrying out their tasks. For example, guidance documents will be provided by the AI Office to clarify rules in the law.[27] Such as on the prohibited practices.[28] Another example is the binding decisions taken by MSAs. When taking a decision, the supervisory authority may be required to, for example, interpret the "AI system definition" in order to argue that an AI system is within the legal scope of the AI Act.[29] Of course, eventually only the Court of Justice of the EU (CJEU) may give an authoritative interpretation of the AI Act. However, interpretations by the authorities will likely – many times – be the first, and serve as a gateway to final interpretations by the CJEU.

Legal certainty under the AI Act does not derive solely from its text, but from how a complex network of supervisory actors interpret its provisions consistently – as we will see. Understanding this supervisory structure is essential, as consistency – and consequently, legal certainty for operators – depends on how these actors interact.

III. The complex supervisory structure of the AI Act

The AI Act introduces a complex supervisory structure that operates both at national and EU level, encompassing many supervisory actors.[30] Because it combines both aspects of centralisation and decentralisation,[31] it can be described as an "intermediate ecosystem model" of supervision.[32] While the supervisory structure is complex, it is also a system that provides an opportunity to leverage the available (sectoral) expertise of existing and specialized actors, as will be explained below.

The "market surveillance activities" under the AI Act will be in the hands of many different MSAs. These authorities have competences derived from – and will have to follow mechanisms set out in – the AI Act but also the Market Surveillance Regulation (MSR), in order to fulfil their tasks of market surveillance. As such, their activities will be integrated into existing structures

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[27] In this paper, I will refer to the AI Office where the AI Act sometimes also refers to the Commission. That is for the sake of clarity and simplicity of this paper. That is also because the AI Office is part of the EU Commission and is in practice also conducting tasks that are attributed to the "Commission" in the AI Act legal text. See European Commission Decision of 24 January 2024 establishing the European Artificial Intelligence Office (C/2024/1459) [2024] OJ C 1459 Decision - 2024/1459 - EN - EUR-Lex.

[28] European Commission, Guidelines on Prohibited Artificial Intelligence (AI) Practices under Regulation (EU) 2024/1689 (AI Act) (4 February 2025) Commission publishes the Guidelines on prohibited artificial intelligence (AI) practices, as defined by the AI Act. | Shaping Europe's digital future.

[29] Article 3 (1) and recital 12 AI Act.

[30] See for an overview Claudio Novelli, Philipp Hacker, Jessica Morley, Jarle Trondal and Luciano Floridi, 'A Robust Governance for the AI Act: AI Office, AI Board, Scientific Panel, and National Authorities' [2024] European Journal of Risk Regulation volume 16, issue 2; Hans-W. Micklitz and Giovanni Sartor, 'Compliance and enforcement in the AIA through AI' [2025] Yearbook of European Law 43.

[31] Kasia Söderlund and Stefan Larsson, 'Enforcement Design Patterns in EU Law: An Analysis of the AI Act' [2023] Digital Society 3:41, p. 10 – 13.

[32] Paul de Hert and Paweł Hajduk, 'EU cross-regime enforcement, redundancy and interdependence. Addressing overlap of enforcement structures in the digital sphere after Meta' [2024] Technology and Regulation 291-308, p. 296; Kasia Söderlund and Stefan Larsson, 'Enforcement Design Patterns in EU Law: An Analysis of the AI Act' [2023] Digital Society 3:41, p. 10 – 13.

of market surveillance under the NLF.[33] Under the AI Act, they can for instance conduct evaluations, require operators to take corrective actions, or issue fines.[34] The MSA of the country where the AI system is used is allowed to carry out all necessary market surveillance activities with respect to this AI system.[35]

The European Data Protection Supervisor (EDPS) will be the MSA where Union institutions, bodies, offices or agencies fall within the scope of the AI Act.[36] Member States can designate existing regulatory authorities – such as data protection authorities (DPAs), cybersecurity authorities and financial sector authorities – but also establish new authorities as MSA. This flexibility allows Member States to leverage existing expertise while also creating new capacities where needed.[37] The EU legislator has made clear that Member States can designate or establish authorities depending on the area or the way in which AI is used.[38] That different authorities could be designated or established depending on the area or way in which AI is used is logical taking into account the many ways in which AI is applied and the (sectoral) expertise that is already available within certain (sector specific) supervisory authorities. In the case of Annex III high-risk AI-systems, lines of competence will be drawn depending on the fields in which AI is used, such as biometrics or the financial sector.[39] For Annex I, which sets out a list of product legislation, such as on medical devices, the MSAs that already supervise that legislation will preferably be the MSA.[40] For supervision of other rules, such

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[33] Regulation (EU) 2019/1020 of the European Parliament and of the Council of 20 June 2019 on market surveillance and compliance of products and amending Directive 2004/42/EC and Regulations (EC) No 765/2008 and (EU) No 305/2011 (Market Surveillance Regulation; "MSR") [2029] OJ L 169/1, Chapter IV.

[34] E.g. Article 79 AI Act.

[35] Article 11 (1) (e) MSR. When it regards cross border cases and division of competences, the supervisory mechanisms of market surveillance (focussing on products) allow the MSA of the AI system where the country is used to carry out enforcement activities. This is different to the enforcement mechanism in the field of services, where the primary competence is with the authority where the provider is established, see Gabriele Mazzini and Salvatore Scalzo, 'The Proposal for the Artificial Intelligence Act: Considerations around Some Key Concepts' in La via europea per l'Intelligenza artificiale, (Cedam, 2022), p. 4 and 5.

[36] Article 74 AI Act.

[37] See generally the papers mentioned in the previous footnotes of this paragraph. See for instance on DPA's Rocco Saverino, 'Regulatory (Mis)Alignment: Between Data Protection and AI Authorities' [2024] (Working Paper European Privacy Law Scholars Conference, 25 October 2024) Regulatory (Mis)Alignment: Between Data Protection and AI Authorities - Vrije Universiteit Brussel; Joanna Mazur, Claudio Novelli and Zuzanna Choińska, 'Should Data Protection Authorities Enforce the AI Act? Lessons From EU-Wide Enforcement Data' (JMN EULEN Working Paper Series conference: The many faces and facets of the enforcement of European Union law: adapting in the ever evolving landscape and empowering change for successful policies, 11-12 December 2025) Should Data Protection Authorities Enforce the AI Act? Lessons from EU-wide Enforcement Data by Joanna Mazur, Claudio Novelli, Zuzanna Choińska :: SSRN; and for instance, on financial supervisors Maria Lucia Passador, 'AI in the Vault: AI Act's Impact on Financial Regulation' [2025] Loyola University of Chicago Law Review, 2025, Volume 56.

[38] Article 74 AI Act.

[39] Article 74 (6) to (9) and Annex III AI Act.

[40] Article 74 (3) AI Act, however, as stated here: "By derogation from the first subparagraph, and in appropriate circumstances, Member States may designate another relevant authority to act as a market surveillance authority, provided they ensure coordination with the relevant sectoral market surveillance authorities responsible for the enforcement of the Union harmonisation legislation listed in Annex I." Therefore, where it for example regards the use of AI in medical devices the MSA for the Medical Devices Regulation will also be the MSA for the AI Act. See Regulation (EU) 2017/745 of the European Parliament and of the Council of 5

as the prohibitions,[41] competence will be drawn depending on the kind of AI-practice at hand.[42] The Commission's AI Office will also have certain supervisory tasks under the AI Act, among which the most prominent one is the supervision of GPAI models. This centralizes the supervision on (large) model providers. In case an AI system is based on a GPAI model, and the model and the system are developed by the same provider, the AI Office has powers to monitor and supervise compliance of that AI system as well. For example, where it is used as a high-risk AI system.[43]

Another prominent feature of the enforcement structure in the AI Act is that it involves other authorities beyond MSAs. The extent to which the AI Act sets out a role for these authorities is unique in digital legislation.[44] To begin with, the AI Act includes several rights and powers for authorities that supervise other Union legislation protecting fundamental rights – the "Article 77 authorities" – such as equality bodies and DPAs.[45] While they perform different functions, have different tasks and may pursue different objectives than the MSAs, the AI Office and the AI Board, the AI Act sets out provisions that enable these authorities to fulfil their mandate more effectively and to foster their cooperation with MSAs.[46] This is in order to promote effective cross-regulatory enforcement, taking into account the interplay of the AI Act with many other Union laws. Moreover, the AI Act requires interaction of MSAs with other authorities supervising on product legislation, falling under the umbrella of the MSR, such as authorities that supervise medical devices or cybersecurity requirements.[47] All in all, the AI Act promotes a cooperative cross-regulatory approach where knowledge and expertise can be shared across sectors.[48]

April 2017 on medical devices, amending Directive 2001/83/EC, Regulation (EC) No 178/2002 and Regulation (EC) No 1223/2009 and repealing Council Directives 90/385/EEC and 93/42/EEC (Medical Devices Regulation, "MDR") [2017] OJ L 117, 5.5.2017, p. 1. Also, cybersecurity requirements from the Cyber Resilience Act have to be taken into account, Regulation (EU) 2024/2847 of the European Parliament and of the Council of 23 October 2024 on horizontal cybersecurity requirements for products with digital elements and amending Regulations (EU) No 168/2013 and (EU) 2019/1020 and Directive (EU) 2020/1828 (Cyber Resilience Act, "CRA") [2024] OJL 20.11.2024. See for example Article 54 (14) of the CRA.

[41] This is also the case for transparency obligations mentioned in Article 50 AI Act.

[42] For example, a specific MSA will supervise AI systems that are used for prohibited social scoring practices, as mentioned in Article 5, (1) (c) AI Act.

[43] Chapter V of the AI Act. In some circumstances the AI Office will act as MSA for AI systems integrating GPAI models, see Article 75 AI Act.

[44] Paul de Hert and Paweł Hajduk, 'EU cross-regime enforcement, redundancy and interdependence. Addressing overlap of enforcement structures in the digital sphere after Meta' [2024] Technology and Regulation 291-308, p. 292.

[45] As for example set out in Article 77 (1), 73 (3), 79 (1) and 82 (1) AI Act.

[46] For example, the authorities mentioned in Article 77 could work together with an MSA in testing an AI system. However, this paper will only address cooperation mechanisms that directly touch upon the interpretation of norms.

[47] Which are also MSAs. For the sake of clarity in this paper, when I speak about an MSA, this will be the MSA that supervises on the AI Act. Article 70 and 74 AI Act and the MSR provide cooperation procedures for all these MSAs, in particular in case these authorities supervise on other NLF legislation and this legislation interrelates with the AI Act.

[48] European Commission, Impact Assessment of the AI Act [2021], p. 55: "The governance system would also enable cooperation between market surveillance authorities and other competent authorities supervising enforcement of existing Union and Member State legislation (e.g., equality bodies, data protection) as well as with authorities from other Member States. The mechanism for cooperation would also include new opportunities for exchange of information and joint investigations at national level as well as in cross border cases. All these new powers and resources for market surveillance authorities and mechanisms for cooperation

Lastly, the AI Act supervisory system establishes actors and different bodies to build up central expertise and coordination at Union level.[49] Within the AI Office, Union expertise and capabilities in the field of AI will be developed.[50] To make sure the AI Act is applied consistently and effectively, the AI Board will advise and assist the AI Office and Member States (authorities).[51] This Board is composed of representatives from Member States, along with observers from the EDPS and the AI Office. Tasks are limited to advisory and coordinating functions.[52]

A result of the aforementioned is that it is that the AI Act supervisory system will eventually involve an unpreceded quantity of supervisory authorities and other actors. Many of these actors will be required to interpret provisions in the AI Act when conducting their tasks in all the sectors (biometrics, financial sector, medical devices, cyber security, data protection, etc.) they are active in. They will do so when issuing soft law, but also when they issue binding decisions in their enforcement activities. This paper will focus in several ways in which supervisory actors can issue soft law and binding decisions under the AI Act. These will be explained below.[53]

Firstly, the actors will interpret the AI Act when issuing soft law. Where this concerns the issuing of non-binding guidance at EU level, it is the AI Office that is primarily tasked to draw up guidelines on the practical implementation of the AI Act, as set out in Article 96 of the AI Act.[54] As follows from Article 66 AI Act, the AI Board can also "contribute to, and provide relevant advice on the development of guidance documents".[55] Moreover, guidance and advice could be provided by MSAs at Member State level, as is set out in Article 70 of the AI Act.[56] This guidance and advice will likely focus on more *practical* aspects,[57] and could include guidance in other forms than the

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would aim to ensure effective enforcement of the new rules and the existing legislation on safety and fundamental rights (…)."

[49] Next to the AI Board, there are the other actors such as the scientific panel of independent experts and the advisory forum will assist and advise the AI Office and Member States (authorities), for example on the supervision of GPAI models. Article 67, 68 and 69 AI Act. Due to volume limitations of this paper, these actors will not be further elaborated on in the rest of this paper.

[50] Article 64 AI Act.

[51] Article 65 and 66 AI Act.

[52] Kasia Söderlund and Stefan Larsson, 'Enforcement Design Patterns in EU Law: An Analysis of the AI Act' [2023] Digital Society 3:41, p. 12.

[53] Next to the mechanisms that will be set out below, the AI Act also sets out a specific mechanism that authorities should take into account where AI systems are classified as non-high risk in application of Annex III, see Article 80 AI Act, and for GPAI models, see Chapter IX, Section 5 AI Act. The latter two specific mechanisms will not be addressed due to volume limitations of this paper.

[54] Article 96 AI Act.

[55] Article 66 (l) AI Act.

[56] Article 70 (8) AI Act.

[57] MSAs can provide guidance, but must also take into account the guidance and advice of the AI Board and Commission. In Article 96 AI Act, the Commission is tasked with issuing "guidelines", which could be regarded as a form of providing "guidance". Since MSAs have to take into account EU level guidance and advice in providing their own guidance, it is likely that in their direct supervisory tasks towards operators, their guidance will have more of a practical character. In addition, MSAs are primarily enforcing the AI Act, which means they will have more of a practical relationship with operators. That also means, guidance of MSAs is likely to have more of a practical character.

guidelines that can be issued by the AI Office.[58] An example is by entering into sandbox trajectories with operators, where guidance and advice are directly provided to the operator, and where "exit reports" can also be communicated to the public.[59]

Secondly, MSAs will primarily be interpreting provisions when it comes to the issuing of binding decisions. Binding decisions will be taken after the MSA initiates a procedure for dealing with AI systems presenting a risk, as set out in Article 79 of the AI Act ("procedure at national level for dealing with AI systems presenting a risk"). Under this mechanism, the MSA must, where it has sufficient reason to consider an AI system presents a risk, carry out an evaluation of the AI system in respect of compliance with all requirements and obligations laid down in the AI Act.[60] Next to this mechanism, there is a mechanism in Article 82 of the AI Act (mechanism for "compliant AI systems which present a risk") that includes actions that could be taken in cases where the system is compliant with requirements and obligations in the AI Act, but still presents a risk to health, safety, fundamental rights or other aspects of public interest protection.[61] This mechanism directly connects to the mechanism under Article 79 of the AI Act. The AI Office also plays a role where binding decisions are issued. In case the procedure in Article 81 ("the Union safeguard procedure") is triggered, the AI Office shall decide whether the national measure is justified or not.[62]

In practice, as we will see, in various instances the actors in the supervisory system of the AI Act will encounter each other when interpreting the provisions in the AI Act. In these situations, an adequate level of legal consistency in interpreting these provisions will be required in order to ensure effective supervision.

IV. Consistent interpretation in AI Act supervision

We have seen that the application of the AI Act involves the interpretation of many supervisory actors. This has its positive sides – as we have seen in the aforementioned – but there also is a risk of differing interpretations of the AI Act. Therefore, an important aspect of the successful implementation of the AI Act is that these actors interpret the law consistently. Consistency is a prerequisite for legal certainty, "without consistency, citizens and organisations alike do not know which rules apply to them and remain in the dark on how conflicts between rules must be resolved."[63] A lack of legal consistency must result in legal uncertainty, which could adversely affect the rights of EU citizens.[64]

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[58] Guidance has a broader meaning than developing guidance documents. Nevertheless, in case MSAs are participating in the AI Board, these authorities could "contribute to, and provide relevant advice on, the development of guidance documents", as follows from Article 66 (l) AI Act.

[59] Article 57, in particular (7) and (8) AI Act.

[60] Article 79 AI Act.

[61] Article 82 AI Act.

[62] Article 81 AI Act.

[63] Bart van der Sloot, 'Legal consistency after the General Data Protection Regulation and the Police Directive' [2018] European Journal of Law and Technology, volume 9, no. 3, p. 10.

[64] Ester Herlin-Karnell and Theodore Konstadinides, 'The Rise and Expressions of Consistency in EU Law: Legal and Strategic Implications for European Integration' in Cambridge Yearbook of European legal Studies (Cambridge University Press, 2013), p. 143.

In EU law, "consistency implies that two rules are consistent when they produce the same result on the same facts or raise a similar legal issue."[65] Legal consistency is a constitutional principle of EU law that Member States, including their administrative authorities, should respect when they carry out tasks, flowing from the EU treaties. That legal consistency is an important principle in EU law is clear, as it is extensively embedded in the Treaty on the Functioning of the European Union (TFEU).[66] The AI Act – as secondary EU legislation – also clearly sets out that consistency should be ensured.[67] Hence, all the authorities in the AI Act supervisory system must ensure the legal consistency of rules in the AI Act, when supervising these rules.

While this paper will focus on legal consistency, it is important to mention that it is not the only principle or element that must be taken into account in supervising EU law.[68] The principle of legal consistency may for instance come into conflict with the principle of subsidiarity that "aims to ensure that decisions are taken as closely as possible to the citizen and that constant checks are made to verify that action at EU level is justified in light of the possibilities available at national, regional or local level. Specifically, it is the principle whereby the EU does not take action (except in the areas that fall within its exclusive competence), unless it is more effective than action taken at national, regional or local level."[69] In essence, a push for consistency could come at the price of flexibility and openness, which are important elements of the law because a "law can never fully foresee all potential aspects affected by a law nor specify in detail how general rules should be applied to specific circumstances (…)."[70] This possible tension highlights the need for careful

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[65] In EU law, "consistency implies that two rules are consistent when they produce the same result on the same facts or raise a similar legal issue." However, there is no standard definition to what consistency means. To illustrate, in different language versions of the EU treaties consistency is referred to as coherence. "In the literal sense, though, consistency does not necessarily denote coherence and *vice versa*. In EU law, consistency is often defined as 'the absence of contradictions, whereas coherence refers to positive connections'. While recognising that EU policies shall be both consistent and coherent, as an all-encompassing principle rather than a precondition to coherence." Ester Herlin-Karnell and Theodore Konstadinides, 'The Rise and Expressions of Consistency in EU Law: Legal and Strategic Implications for European Integration' in Cambridge Yearbook of European legal Studies (Cambridge University Press, 2013), p. 141; Bart van der Sloot, 'Legal consistency after the General Data Protection Regulation and the Police Directive' [2018] European Journal of Law and Technology, volume 9, no. 3, p. 11. See also Lon Luvois Fuller, The Morality of the Law (Yale University Press, 1964).

[66] For example, Article 7 explicitly sets out the principle: "The Union shall ensure consistency between its policies and activities, taking all of its objectives into account and in accordance with the principle of conferral of powers." That policies and laws should be consistent follows from 11 other Articles in the TFEU, namely Articles 121, 127, 146, 148, 181, 196, 212, 214, 219, 256 and 329 TFEU.

[67] Recital 3 AI Act.

[68] Consequently, this paper will provide a simplified view of interpretation of rules in the AI Act by multiple supervisory authorities; in that it only addresses legal consistency in relation to mechanisms for cooperation.

[69] As such, it is closely bound up with the principle of proportionality, which requires that any action by the EU should not go beyond what is necessary to achieve the objectives of the Treaties. See EUR-Lex, 'Principle of subsidiarity' Principle of subsidiarity - EUR-Lex

[70] Bart van der Sloot, 'Legal consistency after the General Data Protection Regulation and the Police Directive' [2018] European Journal of Law and Technology, volume 9, no. 3, p. 11, Consistency is also closely connected to the notions of uniformity and effectiveness (*effet utile*) as it broadens the scope of EU (implied) powers. Ester Herlin-Karnell and Theodore Konstadinides, 'The Rise and Expressions of Consistency in EU Law: Legal and Strategic

balancing between consistent application of the law and adaptability of the AI Act – such as by means of flexible rules and a degree of decentralization in supervision – to specific circumstances.

Consistency can have a vertical and horizontal aspect, which will both be assessed in this paper. In case there is consistency between the national and EU level, there is vertical consistency, which ensures that interpretation at both "levels" aligns effectively. For example, between the MSAs in a Member State and the AI Office. In the case consistency exists at a specific level, for example the EU level, there is horizontal consistency. An example would be the consistency between the AI Office and EDPB guidelines.[71]

This paper will address both forms of consistency with respect to two scenarios. The first scenario regards a situation in which different actors that supervise the AI Act (the MSAs, the AI Office and the AI Board) could interpret similar concepts. The second one regards a situation in which there is a cross-regulatory component, so the actors supervising the AI Act and the ones supervising other overlapping Union laws are involved in the interpretation of provisions in the AI Act. These scenarios illustrate both the horizontal and vertical challenges in applying the AI Act consistently across different levels and fields of application.

V. Scenarios in which multiple supervisory actors interpret the AI Act

Hereafter, two scenarios will be assessed where supervisory actors could be involved in interpreting similar provisions. Firstly, it could regard the scenario where interpretation of a provision in the AI Act affects (multiple) MSAs, the AI Office and the AI Board, which mandate is the supervision (market surveillance) of the AI Act. Secondly, there is the scenario where the interpretation of a provision by (at least) one MSA, the AI Office and the AI Board requires the involvement of a supervisory actor that should interpret a concept in it stemming from other Union legislation. These two scenarios where legal consistency must be ensured will be illustrated with examples below.

i. Scenario I: MSAs, the AI Office and the AI Board interpret a similar provision in the AI Act

In the first scenario, multiple MSAs, the AI Office and the AI Board must interpret a similar rule in a similar situation.[72] This is possible in both intra-border and cross-border contexts. Firstly, the same rule could be supervised by MSAs in different Member States. To illustrate, the Dutch MSA may interpret the concept of the prohibition on manipulative AI-practices, such as "subliminal techniques". [73] Similarly, the French MSA supervising this

Implications for European Integration' in Cambridge Yearbook of European legal Studies (Cambridge University Press, 2013) , p. 144.

[71] Bart van der Sloot, 'Legal consistency after the General Data Protection Regulation and the Police Directive' [2018] European Journal of Law and Technology, volume 9, no. 3, p. 12.

[72] Authorities will also be able to supervise upon the *same* system and operator in some cases, as is illustrated in the following article: Robert Mahari and Gabriele Mazzini, 'Sentencing the Brussels effect: The Limits of the EU's AI Rulebook' [2025] Federal Sentencing Reporter, volume 37, no. 3-4.

[73] Article 5 (1) (a) AI Act.

prohibition in its Member State may interpret the same concept. When both authorities apply this provision, there is a potential risk of differing interpretations.

Secondly, even *within* a single Member State there is the possibility that MSAs interpret a similar provision. This occurs when a provision can be applied horizontally across different fields in which MSAs are competent to supervise.[74] For instance, the definition of an AI system must always include that it is "machine-based", regardless of how it is applied or used.[75] Within a Member State, all MSAs can interpret this AI system definition, because it applies (and is possibly interpreted) across various fields and contexts.[76]

Finally, at the EU level and Member State level, multiple supervisory actors could also interpret similar provisions. Take for example those related to the transparency provisions and the meaning of "manipulated content"; the AI Office (together with the AI Board) may provide guidelines on transparency rules, while MSAs may provide explanations of specific concepts in these rules in exit reports of the sandbox.[77]

All in all, an important challenge for the MSAs, the AI Office and the AI Board – in supervising the AI Act – is that they consistently interpret the concepts in the AI Act. It highlights the need for cooperation mechanisms to ensure that interpretations complement rather than contradict each other.

ii. Scenario II: MSAs, the AI Office and the AI Board have to involve an authority or other actor supervising other relevant Union legislation

In the second scenario, an extra layer of complexity is added. Here, a rule in the AI Act will have to be interpreted by an MSA, the AI Office or the AI Board. However, now the rule will also have to be interpreted together with (multiple) authorities that supervise on Union Law that is of relevance for the rule in the AI Act that is being interpreted.[78]

All these actors could be involved in the interpretation of similar provisions at once. That is because, where the authority that is competent to supervise on that Union legislation and has ruled on the application of certain provisions (or concepts) of that legislation with respect to the same or similar practice, the MSA cannot deviate from the interpretation of that authority. Even in

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[74] Other harmonization legislation generally establishes or designated one specific authority per Member State, which makes issues with regards to consistency within Member States less likely. However, does not preclude the MSAs affecting each other's interpretative discretion within a Member State on certain concepts that are used in all of these forms of NLF legislation, such as the concept of "substantial modification", etc.

[75] European Commission, Guidelines on the Definition of an Artificial Intelligence System Established by Regulation (EU) 2024/1689 (AI Act) (6 February 2025) The Commission publishes guidelines on AI system definition to facilitate the first AI Act's rules application | Shaping Europe's digital future.

[76] Because the definition touches upon the scope of the Regulation, it will (almost) in all cases be assessed. The interpretation of this criterion does for example not depend on whether it is used for biometric identification or for educational purposes, which are "fields" that draw the line of competence between authorities.

[77] Article 50 (4) AI Act.

[78] A similarity with scenario I is that the risk of differing interpretation exists where there is an intra and cross-border component.

absence of a decision by the other authority, the MSA should at minimum seek cooperation. For instance, as to determine whether it must wait for that authority to take a decision.[79] Such cross-regulatory interaction could happen both in cross-border and intra-border situations. For instance, the MSA in Italy can interpret the provision on AI systems "*making risk assessments of natural persons in order to assess or predict the risk of a natural person committing a criminal offence, based solely on the profiling of a natural person or on assessing their personality traits and characteristics"*.[80] It must involve the DPA because the concept of "profiling" directly stems from Data Protection legislation, which means it should be interpreted in line with this legislation.[81] The DPA in the same or in another Member State will be competent to supervise on (and interpret) this concept.[82] Moreover, at EU level, the European Data Protection Board (EDPB) could be involved, which has provided non-binding guidance on the concept of profiling.[83] Similarly, the AI Office (and the AI Board) could be involved because of their task to provide guidance documents on the prohibitions in the AI Act.

Not in all situations – like in the aforementioned situation – it would be so clear what concept in the rule relates to what kind of Union legislation and who should be asked for interpretation of the concept, in case the MSA needs to apply that concept. Take for instance the prohibition of AI systems that deploy *"subliminal techniques beyond a person's consciousness or purposefully manipulative or deceptive techniques, with the objective, or the effect of materially distorting the behaviour of a person or a group of persons by appreciably impairing their ability to make an informed decision (...)".* The concept of "*materially distorting behaviour"* in this prohibition is being applied in consumer law, but here it is interpreted in line with the concept of the "*average consumer"*. However, the prohibition in the AI Act does not focus on consumers (only), but on all individuals, also in circumstances outside consumer-provider relationships. In other words, the same wording in the AI Act and consumer law, here likely requires a (slightly) different interpretation, taking into account the scoping and goals of the AI Act.[84] Therefore, it is not clear to what extent the other authority – in this case the consumer protection authority – should be involved. In case there are doubts as to the scope of the assessment that should be carried out by the MSA and the other authority supervising Union law, the MSA would at minimum need

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[79] See in particular and by analogy Meta Platforms Inc v Bundeskartellamt C-252/21 [2022] ECLI:EU:C:2022:704 para 56 and 57; AG Rantos, Opinion in Meta Platforms Inc v Bundeskartellamt C-252/21 [2022] ECLI:EU:C:2022:704, paras 30 and 31. Section VI and VII will further address sincere cooperation between authorities.

[80] Article 5 (1) (d) AI Act.

[81] Article 3 (52) states: 'profiling' means profiling as defined in Article 4, point (4), of Regulation (EU) 2016/679.

[82] See on the GDPR enforcement structure for example Giulia Gentile and Orla Lynskey, 'Deficient by design? The transnational enforcement of the GDPR' [2022] International & Comparative Law Quarterly , Volume 71, Issue 4, 799 – 830; Chris Jay Hoofnagle, Bart van der Sloot and Frederik Zuiderveen Borgesius, 'The European Union General Data Protection Regulation: What It Is And What It Means' [2019] Information & Communications Technology Law, 28(1), 65-98, p. 92 – 97.

[83] EDPB, Guidelines on Automated individual decision-making and Profiling for the purposes of Regulation 2016/679 (wp251rev.01).

[84] Article 5 (1) (a) and recital 29 AI Act. Recital 18 and 19 UCPD. See also European Commission, Guidelines on Prohibited Artificial Intelligence (AI) Practices under Regulation (EU) 2024/1689 (AI Act) (4 February 2025) Commission publishes the Guidelines on prohibited artificial intelligence (AI) practices, as defined by the AI Act. | Shaping Europe's digital future, p. 24 and 25.

to seek cooperation. For instance, in order to dispel its doubts or to determine whether it must wait for the other authority to take a decision.[85]

In sum, just like in the first scenario, it is important that all the actors that are involved interpret concepts consistently, even when they have different mandates. Also, this scenario underlines the crucial role of mechanisms for cross-regulatory cooperation to maintain the consistent application of the AI Act.

VI. Sincere cooperation in AI Act supervision

As we have seen, the large number of supervisory actors and the complexity of the AI Act's supervisory system underlines the need for mechanisms that ensure consistent interpretation. Because the AI Act supervisory structure incorporates many decentralized elements, such consistency must be achieved by a significant degree of cooperation.[86] It cannot be achieved by centralization only.

This need for cooperation arises from the fact that several actors – such as the MSAs, the AI Office, the AI Board and actors supervising other relevant Union legislation – can (and must) interpret provisions of the AI Act. These actors should therefore interpret the AI Act's provisions consistently and in collaboration to ensure consistency within the current supervisory structure.

That consistency can be ensured by cooperation follows from the EU principle of sincere cooperation (set out in article 4 (3) TEU).[87] It requires that authorities protecting Union law[88] must in full mutual respect assist each other in carrying out tasks that flow from the Treaties.[89] Cooperation mechanisms in the AI Act may be regarded as a *lex specialis* supplementing and clarifying the general principle of sincere cooperation. It is important to mention that cooperation mechanisms in the AI Act must not make it impossible or in

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[85] See in particular and by analogy Meta Platforms Inc v Bundeskartellamt C-252/21 [2022] ECLI:EU:C:2022:704, para 57. Section VI and VII will further address sincere cooperation between authorities.

[86] Ester Herlin-Karnell and Theodore Konstadinides, 'The Rise and Expressions of Consistency in EU Law: Legal and Strategic Implications for European Integration' in Cambridge Yearbook of European legal Studies (Cambridge University Press, 2013) , p. 148 and 149. Consistent interpretation of norms is one of the tasks that supervisory authorities have to conduct. The principle of sincere cooperation applies where these authorities are carrying out their tasks under Union law. See also Giulia Gentile and Orla Lynskey, 'Deficient by design? The transnational enforcement of the GDPR' [2022] International & Comparative Law Quarterly , Volume 71, Issue 4, 799 - 830, p. 802.

[87] Ester Herlin-Karnell and Theodore Konstadinides, 'The Rise and Expressions of Consistency in EU Law: Legal and Strategic Implications for European Integration' in *Cambridge Yearbook of European legal Studies* (Cambridge University Press, 2013), p. 149.

[88] Meta Platforms Inc v Bundeskartellamt C-252/21 [2022] ECLI:EU:C:2022:704, para 53; 41. Italy v Commission [1989] (C-14/88) ECLI:EU:C:1989:421, para 20; Athanasopoulos and Others [1991] (C 251/89) ECLI:EU:C:1991:242, para 57.

[89] Meta Platforms Inc v Bundeskartellamt C-252/21 [2022] ECLI:EU:C:2022:704, para 53. The procedures in the AI Act could (by analogy) be regarded as *lex specialis* supplementing and clarifying the general principle of sincere cooperation. AG Rantos, Opinion in Meta Platforms Inc v Bundeskartellamt C-252/21 [2022] ECLI:EU:C:2022:704, see footnote 26.

practice excessively difficult to exercise rights conferred by EU law, as ensured in the principle of effectiveness.[90]

In this paper, the cooperation mechanisms in the AI Act (as *lex specialis*) will be assessed – in light of the principle of sincere cooperation and legal consistency. There are different forms of cooperation that could be included in these mechanisms. Due to volume limitations of this paper, the primary focus of it will be on two forms of cooperation, namely consultation duties and dispute resolution mechanisms. These forms of cooperation are among the most prominent ones to ensure the consistent interpretation of rules. Consultation duties will require that an opinion and/or advice is being asked for – in this case the interpretation of a legal concept or provision – and taken into consideration. Dispute resolution regards a mechanism in which – in this case, interpretation – can be challenged and ultimately one takes preference over another. Information sharing mechanisms that are also part of effective cooperation will not be assessed extensively.[91] Nevertheless, it is important to mention that the AI Act sets out many ways in which authorities can share information.[92] In the following, cooperation mechanisms in the AI Act and the consistency these could provide will be assessed.

VII. Assessing cooperation and interpretation of rules in AI Act supervision

Hereafter, cooperation mechanisms in the AI Act in relation to the issuing of soft law and binding decisions will be assessed. This will be done per scenario – which have been set out in Section V – in which there is a risk of differing interpretations in supervision.

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[90] East Sussex County Council [2015] (C-71/14) ECLI:EU:C:2015:656, paras 54-55; Križan [2013] (C-416/10) ECLI:EU:C:2013:8, para 106. The principle of effectiveness in turn limits the principle of procedural autonomy enshrined in EU law. Sincere cooperation ensures the effective application of Union law as stated in Meta Platforms Inc v Bundeskartellamt C-252/21 [2022] ECLI:EU:C:2022:704, para 54. AG Rantos, Opinion in Meta Platforms Inc v Bundeskartellamt C-252/21 [2022] ECLI:EU:C:2022:704, para 29. The principle of sincere cooperation also closely relates to the principle of administrative cooperation enshrined in Article 197 TFEU: European Parliament Policy Department C: Citizens' Rights and Constitutional Affairs, The General Principles of EU Administrative Procedural Law [2015], p. 8. Micaela Lottini, 'From 'Administrative Cooperation in the Application of European Union Law to 'Administrative Cooperation in the Protection of European Rights and Liberties', [2012] European Public Law 19, no. 1, p. 131. Another principle that should be taken into account in this respect is the *ne bis in idem* principle that prohibits double jeopardy, and as such requires that mechanisms for cooperation should not be duplicated: Menci [2018] (C-524/15) ECLI:EU:C:2018:197, para 25 and the case-law cited. Bpost SA v Autorité belge de la concurrence [2022] (C-117/20) ECLI:EU:C:2022:202), paras 43 - 58: there should be "clear and precise rules making it possible to predict which acts or omissions are liable to be subject to a duplication of proceedings and penalties, and also to predict that there will be coordination between the different authorities, whether the two sets of proceedings have been conducted in a manner that is sufficiently coordinated and within a proximate timeframe (…)".

[91] This paper does not focus in information sharing mechanisms as a means for cooperation, in case one would consider that to be part of "cooperation mechanisms" in supervision. The focus will not be on information sharing because it is not a legal obligation that will necessarily require (a) an extra interpretation of the provision by another actor/authority (consultation), or (b) the authority to change the interpretation because of another interpretation by another actor/authority in the supervisory system (dispute resolution).

[92] See for example Articles 57, 66, 70, 73, 75, 77, 79 and 82 AI Act.

i. Soft law

In this Section, cooperation mechanisms will be assessed with respect to issuing of soft law. Subsection a discusses scenario I, while subsection b discusses scenario II.

To start with, the AI Office, the AI Board and the MSAs are competent to issue different kinds of soft law and are therefore involved in the interpretation of provisions in the AI Act (scenario I). The AI Act sets out several ways in which these actors can consult each other when issuing soft law. While the AI Act already provides a foundation for such cooperation, additional clarification could further enhance practical cooperation between these actors when they issue soft law.

Next, regarding the cross-regulatory interpretation of norms when issuing soft law (scenario II), the AI Act already creates opportunities for, but offers limited formal mechanisms to further strengthen legal consistency in interpretation. Furthermore, the mechanism that is included in the AI Act would benefit from additional clarification.

a. Scenario I

On EU level, the AI Office can provide non-binding guidance on the interpretation of the AI Act. The AI Office could draft such documents together with the AI Board. Centralisation of providing guidance documents helps to ensure consistency in the issuing of soft law. On top of that, the effective involvement of Member States (authorities) via the AI Board could strengthen consistency. However, it is not clear from the AI Act itself how the AI Board is expected to contribute the development of guidance documents. For example, the AI Act does not specify under what circumstances the Board becomes directly involved in development (such as in the drafting) of guidance documents and when it should ideally provide advice on them.[93]

On Member State level, the AI Act sets out that the MSAs must "take into account" EU level guidance and advice when providing practical guidance and advice to operators. This mechanism helps to ensure vertical consistency. Additional clarification on how MSAs should take into account the EU level guidance and advice in these situations could be helpful to strengthen legal consistency.[94] This is not clear from the AI Act. For instance, the AI Act does not specify which mechanism applies when the EU level guidance is unclear to the authorities themselves, nor how they could request clarification. It would also be helpful to clarify what the role is of the AI Board in this regard. Moreover, mechanisms to ensure that the practical guidance and advice of the MSAs flows to the AI Office are – to this date – largely unclear. For instance, a process by which national guidance and advice from MSAs is coordinated and effectively communicated to the EU level is not defined, and it is not clear how this will be taken into account by the AI Office and the AI Board. The clarification of such mechanisms could help strengthen vertical consistency, for instance because the AI Office can then better take into account in its

[93] Article 96 and Article 66 (l) AI Act.

[94] Article 70 (10) AI Act.

guidance documents the interpretation at Member State level that is based on supervisory practice. Lastly, regarding the vertical consistency between MSAs, the AI Act does not provide detailed procedures for consultation between MSAs in case they provide guidance and advice. MSAs and the AI Office may propose joint activities in cross-border cases, such as providing "guidance in relation to this Regulation with respect to specific categories of high-risk AI systems that are found to present a serious risk".[95] However, the procedures for these activities where multiple authorities are involved are not defined. For example, if, and in what circumstances authorities should consult each other and within which timeframes.

Arguably, the most important challenge is that the AI Act does not specify how coordination – and where necessary consultation – should function to ensure that national guidance and advice is effectively coordinated, and flows uniformly and effectively to the AI Office and AI Board.[96] To a certain extent, this omission is understandable considering the procedural autonomy of Member States. However, introducing, for example, an obligation to appoint a coordinating authority – responsible for coordinating the input the MSAs of Member States – would be compatible with that procedural autonomy. Such an obligation is not included in the AI Act, but does exist in other digital legislation, such as the DSA.[97] The AI act does state that Member States shall designate an MSA that must act as "single point of contact" (SPOC) in the AI Act. However, the AI Act does not sufficiently clarify the tasks of such a SPOC; at least not whether it has the task to coordinate.[98] Although the AI Act does set out in another provision that Member States must facilitate coordination, the AI Act does not specify which supervisory actor should facilitate coordination or how it should be organized.[99]

Overall, the AI Act provides several mechanisms that promote consistency in the issuing of soft law – notably through the role of the AI Office in issuing guidance documents. However, the AI Act or implementing legislation of Member States could further specify how supervisory actors should involve each other.

A first way forward to further reinforce consistent interpretation could be a more explicit description of how the AI Board should contribute to guidance documents of the AI Office. For example, by granting the AI Board a formal opportunity to provide an advice to the AI Office concerning certain guidance

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[95] Article 74 (11) and Recital 160 AI Act and Article 9 MSR.

[96] The AI Act only states in Article 74 (10) that: "Member States shall *facilitate* coordination between market surveillance authorities designated under this Regulation and other relevant national authorities or bodies which supervise the application of Union harmonisation legislation listed in Annex I, or in other Union law, that might be relevant for the high-risk AI systems referred to in Annex III." See also Article 10 (6) of the MSR.

[97] Regulation (EU) 2022/2065 of the European Parliament and of the Council of 19 October 2022 on a Single Market For Digital Services and amending Directive 2000/31/EC (Digital Services Act, "DSA") [2022] OJ L 277, 27.10.2022, Chapter IV; and read for example the European Commission Proposal for a Regulation of the European Parliament and of the Council Laying Down Harmonised Rules on Artificial Intelligence (Artificial Intelligence Act) [2021] COM/2021/206 final EUR-Lex - 52021PC0206 - EN - EUR-Lex, where the appointment of an AI Act a coordinating authority was required (national supervisory authority), Article 3 (42) of the Commission proposal of the AI Act.

[98] The only explanation on the SPOC is being provided in Recital 153 AI Act.

[99] Article 74 (10) AI Act.

documents before these are being published, or by establishing a structured mechanism to contribute to these documents.

Another way forward to strengthen alignment between guidance at Member State level, and with the EU level could be that the legislator introduces a duty to appoint a coordinating authority per Member State. Moreover, effective coordination – and where necessary consultation – mechanisms could be put in place at national level as part of the "coordination" that must be facilitated by the Member State.[100] This could for instance be done by setting up platforms – accompanied by a memorandum of understanding (MOU) or another arrangement – at Member State level where guidance by national MSAs can be shared, interpreted uniformly and communicated to EU level.

The AI Office could also use the coordinating mechanisms to explain in concrete terms how Member States authorities should operationalise EU-level guidance documents when issuing practical guidance. This would enhance vertical legal consistency when the AI Act is being interpreted at EU and Member State level.

b. Scenario II

A special feature of the AI Act is that it sets out mechanisms for cross-regulatory cooperation when issuing of non-binding guidance. However, this mechanism is limited as it only creates a consultation duty at Member State level, i.e. between authorities and not for example between Boards. Nevertheless, this requirement contributes positively to horizontal consistency in cross-regulatory situations, as MSAs must consult other authorities supervising Union law providing practical guidance and advice to operators.[101] Yet, it is unclear how the aforementioned mechanism is intended to operate. For instance, how the MSA can assess effectively what Union laws are relevant in the interpretation of a provision, or what the MSA must do when the other authority does not provide an answer within a reasonable time.

While at Member State level a consultation duty is set out, the AI Act does not set out a procedure for cooperation at EU level for the AI Office and the AI Board with respect to other supervisory Boards (for example, the EDPB, the European Union Agency for Cybersecurity (ENISA), the European Medicines Agency (EMA), the European Banking Authority (EBA) and the European Board of Digital Services). For instance, no procedures exist for the AI Office to involve the EDPB in interpreting concepts stemming from the GDPR in guidance documents and *vice versa*.[102] Because many of these Boards have a task to issue EU level guidance documents, providing for such mechanisms could significantly strengthen cross-regulatory consistency. [103]

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[100] Article 74 (10) AI Act and Article 10 (6) MSR. The Member State representative in the AI Board must also be empowered to facilitate coordination between the authorities at Member State level, as set out in Article 65 (4) (c) AI Act.

[101] Article 70 (8) AI Act provides a consultation duty.

[102] The AI Office and the EDPB could issue joint guidance on the AI Act and the GDPR, but it is not clear how these actors must precisely involve each other.

[103] Bart van der Sloot, 'Legal consistency after the General Data Protection Regulation and the Police Directive' [2018] European Journal of Law and Technology, volume 9, no. 3, p. 12: "Traditionally, [horizontal consistency is provided] more often at MSs level than on EU level, but there is no reason why this should be the case per sé."

In short, regarding cross-regulatory cooperation, the AI Act provides at most limited and not yet fully specified mechanisms that could help foster legal consistency in interpretation only at Member State level. An important limitation is that the AI Act lacks a mechanism at EU level explicitly dedicated to ensuring consistency.[104] Establishing or strengthening such mechanisms for cross regulatory consistency would enhance legal consistency, as supervisory actors could for example more easily identify how provisions in the AI Act relate to other Union legislation and who should interpret which part of the provision.

At the Member State level, a solution analogous to the one proposed for the cooperation challenges in scenario I, could be to set out in the AI Act a duty to appoint a coordinating authority. In addition, clear mechanisms for coordination – and, where necessary, consultation – should be put in place. To ensure consistency in cross-regulatory contexts, such coordination mechanisms must also involve authorities supervising other relevant Union legislation. These authorities could then also coordinate through a similar platform, thereby reinforcing the consistent interpretation of norms.

A way to ensure an even more effective way to strengthen cross-regulatory cooperation could be to introduce a similar coordination mechanism at EU level. For example, a "High level Board/group" could ensure coordination between other "Boards" at EU level, including the various Boards of digital regulators,[105] but also Boards of other sectoral regulators.[106] This would be a new entity, ensuring cross-regulatory cooperation.[107] Such a "High Level Board/group" could for instance introduce a centralized platform for AI regulation, that would support greater consistency in the interpretation of provisions in the AI Act. Where necessary, the EU legislator could also

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[104] Due to volume limitations, this paper will not assess the cooperation of Member State level authorities supervising the AI Act with Boards, such as the EDPB at EU level.

[105] See European Data Protection Supervisor, 'Towards a Digital Clearinghouse 2.0, concept note' [2025], p. 17 and 18. Regarding digital regulators, there for example is the European Data Innovation Board ('EDIB'), the European Union Agency for Cybersecurity ('ENISA'), the European Digital Services Board, the European Data Protection Board, etc. Article 40 of the DMA already mandates the establishment by the European Commission of a high-level group of representatives of European bodies and networks (including the EDPB and the EDPS, the Body of the European Regulators for Electronic Communications, the European Competition Network, the Consumer Protection Cooperation Network, and the European Regulatory Group of Audiovisual Media Regulators). Regulation (EU) 2022/1925 of the European Parliament and of the Council of 14 September 2022 on contestable and fair markets in the digital sector and amending Directives (EU) 2019/1937 and (EU) 2020/1828 (Digital Markets Act, "DMA") [2022] OJ L 265, 12.10.2022.

[106] Claudio Novelli, Philipp Hacker, Jessica Morley, Jarle Trondal and Luciano Floridi, 'A Robust Governance for the AI Act: AI Office, AI Board, Scientific Panel, and National Authorities' [2024] European Journal of Risk Regulation volume 16, issue 2, p. 27, such a Board could include many different representatives of other Boards: "The scope for such overlaps is not limited to national data protection authorities but extends to other entities, such as decentralized agencies, including the European Data Protection Board (EDPB), the European Union Agency for Cybersecurity (ENISA), the Fundamental Rights Agency (FRA), the European Medicines Agency (EMA), the European Banking Authority (EBA), and the European Union Intellectual Property Office (EUIPO). The likelihood of overlaps and interferences with the constellation of bodies now introduced by the AIA – e.g., the Office, the Board, the Forum, etc. – is high."

[107] The DMA for example introduces such as high-level group consisting of multiple Boards, as mentioned in Article 40 DMA. See also Thibault Schrepel, Adaptive Regulation (ALTI Working paper, version November 2025) Adaptive Regulation by Thibault Schrepel :: SSRN, p. 34.

introduce consultation mechanisms between the Boards to further ensure the overall consistency and legal certainty in the AI Act supervisory landscape.

ii. Binding decisions

This Section assesses the mechanisms for cooperation with respect to the issuing of binding decisions. Subsection a addresses scenario I, while subsection b addresses scenario II.

To begin with, MSAs can take binding decisions after an evaluation. The evaluation procedure in the AI Act provides consultation duties and a dispute-resolution mechanism that involves MSAs and the AI Office (scenario I). One area where clarification would be beneficial is that it is not entirely clear how the AI Office will come to a final decision in case the dispute resolution mechanism is triggered. Another area where there appears to be room for improvement is that this procedure only applies in cross-border and not intra-border cases.

Further, the AI Act provides a mechanism where MSAs, the AI Office and other authorities become involved in the taking of binding decisions (scenario II). However, the mechanism for cross-regulatory cooperation is limited in scope because it only applies where risks to fundamental rights are identified. Moreover, the mechanism is not always clearly defined. It is for example unclear to what extent cooperation duties and consultation relate to the interpretation of legal concepts in the AI Act. Also, it is not clear how the AI Office will eventually decide whether the measure is justified. Lastly, this mechanism for cross-regulatory cooperation only applies to certain authorities.

a. Scenario I

Where it concerns the issuing of binding decisions, the AI Act provides possibilities to ensure legal consistency between MSAs in cross-border cases. Initially, MSAs can ensure the legal consistency of their interpretations when issuing binding decisions by conducting joint investigations, a possibility that the AI Act provides. However, clear procedures for such joint investigations are not set out.[108] Providing more detail on these procedures could support a more uniform supervisory practice and the consistent interpretation of provisions in the AI Act in an *ex-ante* way.

Moreover, the AI Act sets out an extensive mechanism that will strengthen – primarily in an *ex-post* way – legal consistency in cross border cases. This is the evaluation procedure set out in Article 79 of the AI Act, that will have to be taken into account where the MSA has evaluated whether the AI system is in compliance with all requirements and obligations laid down in the AI Act. The mechanism requires the initiating MSA to inform and consult the AI Office and other Member States in case an evaluation is concluded. In addition, a dispute resolution mechanism is set out. While the procedure is elaborated upon in the AI Act, further clarification might help make its operationalisation more predictable and effective in ensuring consistency. The procedure will be assessed in the following.

[108] Article 74 (11) and Recital 160 AI Act.

Where the MSA considers that non-compliance is not restricted to its national territory, the evaluation procedure requires the MSA to share the results of an evaluation and the (corrective) actions that it has required the operator to take with the AI Office and other Member States.[109] In case the operator did not take adequate corrective actions, the MSA shall take provisional measures and notify the AI Office and other Member states.[110] This information may include interpretations of AI Act provisions applied during the evaluation, which can then be accessed by other MSAs and the AI Office. Next, under the evaluation procedure, the MSAs of other Member States have the possibility to inform the AI Office and initiating MSA of any adopted measures and additional information at their disposal relating to the non-compliance of the AI system that has been evaluated by the initiating MSA. This could also be information on (a previous) interpretation of a provision in the AI Act that is subject to the evaluation. By means of such information requirements, it is likely that all relevant information on the interpretation of the provisions concerning the case at hand will be accessible to the all the involved MSAs and the AI Office.

More importantly, now would be the time for the AI Office and other MSAs to share objections to the measure of the initiating MSA, which could logically also focus on the interpretation of a concept in the law. This starts the so called "Union safeguard procedure".[111] The procedure will be set out below.

In case there are no objections by the other MSA or AI Office, the measure shall be deemed justified.[112] In case the measure is justified, other Member States (MSAs) shall ensure that they take appropriate measures with respect to the AI-system. On the other hand, the other MSA can – as set out before – also share objections in case they disagree with the national measure.[113] Moreover, the AI Office may consider the measure to be "contrary to Union law" (and as such object it). Yet, is unclear from the AI Act what "contrary to Union law" exactly means in this context and to what extent this relates to interpretation of provisions in an evaluation by an MSA.[114] Clarifying these aspects could help enhance consistency for all supervisory actors.

In case objections are raised (by the MSAs or the AI Office itself), the AI Office shall enter into consultation with the MSA of the relevant Member State and operators to evaluate the measure. Based on the results of that evaluation, the AI Office shall decide whether the national measure is justified and shall notify the concerned MSA and other MSAs of its decision.[115] In case

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[109] Article 79 (3) AI Act.

[110] Article 79 (5) AI Act. Article 79 (6) states: "The notification referred to in paragraph 5 shall include all available details, in particular the information necessary for the identification of the non-compliant AI system, the origin of the AI system and the supply chain, the nature of the non-compliance alleged and the risk involved, the nature and duration of the national measures taken and the arguments put forward by the relevant operator (…)"

[111] Article 79 (7) and 81 (1) AI Act.

[112] Article 79 (8) AI Act. "Objections shall be issued within three months, or 30 days where it regards a non-compliance with the prohibitions. In addition, as stated in this Article: "This shall be without prejudice to the procedural rights of the concerned operator in accordance with Article 18 of Regulation (EU) 2019/1020."

[113] Article 79 (7) AI Act.

[114] Article 81 (1) AI Act.

[115] Article 81 (1) AI Act, within six months, except for the prohibitions where this is 60 days, the decision shall be taken.

the measure is unjustified, the Member States (MSAs) shall withdraw the measure and inform the AI Office.[116] All in all, this could potentially mean that in cross border cases, the AI Office would decide upon the interpretation of a concept in the AI Act in the evaluation procedure. From the AI Act, it is not clear how the AI Office decides whether a measure is justified or not. For instance, what factors the AI Office will take into account in assessing whether the measure justified or not. More detailed guidance on these decision criteria could further support legal certainty and consistency.

It is important to reiterate that the aforementioned ways to cooperate focus primarily on cross-border cases. Mechanisms that could apply within the Member State are not specified in the AI Act, which is understandable given the procedural autonomy of Member States.[117] Nevertheless, it is also important that MSAs interpret provisions consistently within a Member State, as multiple authorities may have competence to supervise within the same Member State. One could argue that procedural autonomy would not have prevented the EU legislator from including a general obligation – requiring Member States to provide intra-border cooperation mechanisms – in the AI Act. The EU legislator has not imposed such a general obligation. This means that the Member State does not have to provide a mechanism for cooperation regarding binding decisions in its implementing legislation. Introducing such a requirement could offer an additional way to strengthen intra-border consistency.

To sum up, where it regards multi-MSA cooperation in case of the issuing of binding decisions, there are mechanisms in the AI Act that could ensure consistency. Yet, the mechanism requires clarification as to how the Union safeguard procedure functions and what the role of the AI Office in that procedure is. Moreover, to ensure consistency in intra-border situations, Member States should establish robust cooperation procedures in their implementing legislation. Such clarifications and national mechanisms would complement the existing framework and support more consistent supervisory outcomes.

ii. Scenario II

A novel feature in the AI Act is that it introduces a mechanism for cross-regulatory cooperation regarding the issuing of binding decisions. This mechanism has potential to enhance legal consistency in the case authorities issue binding decisions and there is a cross-regulatory component. However, this mechanism is limited in scope and it is not always clear. Further elaboration could therefore support a more consistent interpretation across regulatory domains. The mechanism will be assessed below.

In the evaluation procedure under article 79 of the AI Act, MSAs are required to inform the relevant "Article 77 authority" where the latter has identified a risk to fundamental rights. Also, the MSA must under such situations fully cooperate with this authority.[118] Next, MSAs can, after having performed an evaluation under Article 79 conclude that although the AI Act requirements

[116] Article 81 (2) AI Act.

[117] Article 74 (1), 79 and 80 AI Act only regard cross border situations.

[118] Article 79 (2) AI Act.

and obligations are complied with, the high-risk AI system nevertheless presents a risk to health or safety of persons, to fundamental rights, or to other aspects of public interest protection as set out in Article 82 AI Act.[119] In this situation, the AI Act sets out that MSAs can only conclude there is such a risk "after consulting the relevant national public authority" protecting fundamental rights.[120]

In essence, the aforementioned means that relevant authorities supervising other Union laws will become involved in the evaluation procedure where a risk to fundamental rights is being identified. This could mean they will – under this mechanism – become involved by the MSA in the interpretation of provisions that include concepts that are covered by their supervisory mandate. For example, where a prohibited practice is being assessed, there could be a GDPR-related risk, which means that the relevant DPA must be involved. Involvement could then also mean that the DPA is involved in the interpretation of concepts in the prohibition that relate to the GDPR, such as the concept of profiling. However, the AI Act does not set out how such cooperation and consultation would work exactly, also in relation to the interpretation of provisions. More importantly, this mechanism in the AI Act for cross-regulatory cooperation is limited in scope, because it is only triggered where the MSA identifies a risk to fundamental rights. There may also be situations in which provisions touching upon other Union legislation require consistent interpretation, even without such a risk being identified.

To resume, in the procedure set out in Article 82 of the AI Act – so in the case the MSA and the "Article 77 authority" find that although a high-risk AI system complies with this Regulation, it nevertheless presents a risk to the health or safety of persons, to fundamental rights, or to other aspects of public interest protection – the AI Office and other Member States must be informed of this finding. After having been informed, the AI Office shall enter into consultation with the Member State concerned and relevant operators to evaluate the national measures taken. An important difference with the procedure in Article 79 with respect to scenario I is that this procedure does not require the authorities in other Member States to share relevant information. Moreover, the procedure does not set out that other authorities can object to the findings. Based on the results of its evaluation, the AI Office shall decide whether the measure is justified. From the AI Act is it unclear what this procedure exactly entails. For instance, on the basis of what criteria the AI Office will conduct such an evaluation, or how the AI Office will involve the relevant "Article 77 authorities" when carrying out an assessment of whether the measure is justified.

Another limitation of the cross-regulatory component of the procedure in Articles 79 and 82 of the AI Act is that it is only directed towards "authorities

[119] Article 81 (1) AI Act. While it is not clear from the law what this exactly means, it could for example be where the AI Act is complied with, but there is no compliance with other Union legislation. An example would be where a DPA has found an infringement of the GDPR. Reason for that being that an infringement of the GDPR means there is "a risk" to fundamental rights. See also: the definition of a serious incident (article 3 (49)) in the AI Act. See also Gianclaudio Malgieri and Christiana Santos, 'Assessing the (Severity of) Impacts on Fundamental Rights' [2024] Computer Law & Security Review, volume 56.

[120] Article 79 and 82 AI Act.

protecting fundamental rights".[121] Arguably, this means it only concerns supervisory authorities such as DPAs, and not authorities supervising legislation that has another legal basis, such as legislation that falls under the MSR (because the legal basis of that legislation is not the protection of fundamental rights). These authorities could also be mandated to interpret concepts in provisions of the AI Act, such as on cybersecurity legislation. Broadening the scope of the mechanism could therefore contribute to more comprehensive legal consistency.

To summarize, where it regards the interpretation of norms in issuing binding decisions in cases of cross-regulatory cooperation, there is room to further strengthen legal consistency. The mechanism is limited in scope, as it only applies in a specific situation and involves a limited number of authorities. In addition, the mechanism is unclear as to how authorities should consult each other and what the role is of the AI Office in the cooperation mechanism. Providing additional procedural clarity could therefore enhance the effectiveness of this cooperation framework.

A first possible way forward to tackle these issues could be to further clarify the procedures in Article 79 and 82, for example on the ways in which cooperation and consultation should take place and on the role of the AI Office. However, this alone would not address the limited, scope of cross-regulatory cooperation mechanisms currently in the AI Act.

A way forward here would be to set out a broader consultation mechanism in the AI Act. One that does not link the involvement of authorities supervising other Union law solely to the identification of risks to fundamental rights, but rather to the consistent application of the AI Act and these other Union laws. Moreover, such procedures should be further specified.

A starting point in setting out such procedures could be the one already outlined in the CJEU Bundeskartellamt case.[122] For instance, in this procedure, the MSA would then be required to ascertain whether the application of certain provisions (or concepts) of that legislation with respect to the same or similar practice has already been the subject of a decision by the authority supervising that Union legislation (or the court).[123] If the MSA takes the view that the provision in other Union law must be interpreted, it should then consult and seek cooperation with the other authority in order to determine whether it must wait for the other authority to take a decision.[124]

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[121] This is a consultation duty towards authorities that is not as broadly phrased as the duty under Article 70 (8) AI Act. However, many authorities that must be consulted under Article 70 (8) AI Act will also be authorities protecting fundamental rights, because of the AI Act strong focus on fundamental rights.

[122] It is not clear to what extent the system of consultation set out in the Bundeskartellamt case also regards the issuing of non-binding guidance. Logically, this system could also be applied by analogy in the drawing up of non-binding guidance. While the Bundeskartellamt case regards a case on DPAs and competition authorities, this consultation mechanism could be by analogy applied in the situation of MSAs and other authorities protecting Union law. That is because mechanisms are broadly phrased and include the interpretation of other Union law by different authorities supervising on that Union law. See AG Rantos, Opinion in Meta Platforms Inc v Bundeskartellamt C-252/21 [2022] ECLI:EU:C:2022:704, footnote 26.

[123] Meta Platforms Inc v Bundeskartellamt C-252/21 [2022] ECLI:EU:C:2022:704, para 56.

[124] Meta Platforms Inc v Bundeskartellamt C-252/21 [2022] ECLI:EU:C:2022:704, para 57.

This procedure could also account for situations in which there are doubts as to the scope of the assessment that should be carried out by the MSA and the other authority supervising Union law. For example, by requiring the MSA to consult and seek cooperation in order to dispel its doubts or to determine whether it must wait for the other authority to take a decision.[125] Lastly, the procedures could elaborate on the (time)frames in which cooperation should take place.[126] Such measures would broaden the scope of the mechanism, clarify procedural responsibilities, and provide a more constructive solution to ensure the consistent interpretation of provisions in cross-regulatory situations.

VIII. Conclusion

The AI Act establishes a comprehensive and decentralized supervisory framework, involving multiple actors such as MSAs, the AI Office, the AI Board, and other authorities supervising related Union law. Given the AI Act's reliance on open, flexible norms, consistent interpretation is essential to ensure legal certainty, effective supervision, and a uniform level of protection across the Union.

The Act also lays down meaningful cooperation mechanisms, reflecting the EU principle of sincere cooperation under Article 4(3) TEU. Its supervisory structure, which encompasses elements of decentralization, cannot rely solely on centralization but must be supported through sincere cooperation among all relevant supervisory actors.

With regard to soft law, the AI Act provides multiple avenues for cooperation. The AI Office and AI Board can issue guidance at the EU level, which MSAs are required to consider when issuing practical guidance and advice nationally. These mechanisms support consistency, yet further clarification on procedural roles, coordination of Member State input, and integration of national-level experience into EU-level guidance would enhance their effectiveness. Similarly, cross-regulatory cooperation could benefit from procedures that are more detailed. Mechanisms for this kind of cooperation are not as developed, but are innovative in that they involve many actors supervising other Union laws, such as data protection, cybersecurity, and other (sectoral) legislation. Now could be the time to strengthen these mechanisms even more. For instance, by streamlining coordination at national level, but also by putting in place an EU-level cross regulatory coordination mechanism. On the whole, by refining the mechanisms for cooperation when supervisory actors issue soft law, the AI Act could achieve even more legal consistency, ensuring both clarity and predictability for regulated actors.

In the context of binding decisions, the AI Act already provides robust mechanisms to strengthen legal consistency, such as the possibility for joint investigations, the evaluation procedure, and a Union safeguard procedure. These procedures facilitate cooperation and consultation between MSAs and the AI Office, contributing to legal consistency in supervision. While certain procedural details remain ambiguous – such as the precise criteria the AI Office uses in assessing measures, or how intra-border consistency is ensured

[125] Meta Platforms Inc v Bundeskartellamt C-252/21 [2022] ECLI:EU:C:2022:704, para 57.

[126] Meta Platforms Inc v Bundeskartellamt C-252/21 [2022] ECLI:EU:C:2022:704, paras 58 and 59.

– the framework is nonetheless promising. Moreover, the Act's cross-regulatory cooperation provisions, although currently narrow in scope, primarily triggered by risks to fundamental rights – highlight a forward-looking approach to cooperation in AI supervision. Generally, expanding these mechanisms to encompass a broader range of regulatory interactions and providing clearer procedural guidance would further strengthen consistency and legal certainty.

Overall, the AI Act represents a major step forward in creating a cooperative supervisory structure capable of ensuring consistent interpretation of its provisions. While some mechanisms could be clarified or expanded, the Act's emphasis on structured cooperation, consultation, dispute resolution, and cross-regulatory engagement demonstrates a strong commitment to consistent interpretation in supervision. By building on these mechanisms – through clear procedural rules, platforms for coordination, and broader consultation frameworks – the AI Act can deliver a supervisory landscape that ensures a sufficient level of consistency and legal certainty. Operationalizing this cooperative approach will be key to supporting the uptake of human centric and trustworthy AI, while ensuring a high level of protection of health, safety and fundamental rights, and may serve as a model for other supervisory frameworks regulating new (digital) technologies.

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