

EN

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Answer given by Executive Vice-President Virkkunen  
on behalf of the European Commission  
(26.2.2025)

Article 3 (44) of the Artificial Intelligence (AI) Act defines the notion 'publicly accessible spaces'. These are locations where the general public can freely enter, often without restrictions. A school may be considered a publicly accessible space, depending on the circumstances. The premises outside the school yard should normally be considered publicly accessible.

Article 2(3) AI Act provides that the AI Act does not apply to AI systems for national security. According to the Court of Justice, it is for the Member States to define their essential security interests and to adopt appropriate measures. However, the responsibility of Member States is limited to the primary interest in protecting essential functions of the State and fundamental interests of society and encompasses the prevention and punishment of activities capable of seriously destabilising the fundamental constitutional, political, economic or social structures of a country and, in particular, of directly threatening society, the population or the State itself, such as terrorist activities<sup>1</sup>.

According to the settled case-law of the Court of Justice, the mere fact that a national measure has been taken for the purpose of protecting national security cannot render EU law inapplicable and exempt the Member States from their obligation to comply with the EU rules<sup>2</sup>. Ultimately in such cases it corresponds to the Court of Justice to provide for the interpretation of EU law.

The Commission will monitor the prohibitions and set up an AI Act Service Desk, which will answer questions of stakeholders on the application of the AI Act.

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<sup>1</sup> ECJ Judgment of 6 October 2020, *La Quadrature du Net and Others*, C-511/18, C-512/18 and C-520/18, paragraph 135.

<sup>2</sup> ECJ Judgement of 6 October 2020, *C-623/17 - Privacy International*, paragraph 44.