CAIR4.eu - Checklist for Open Source AI Systems under the EU AI Acts (Version 1.1)

1. AI system?	yes	no	unclear because
First, check whether the (planned) AI offer is actually an **AI system** within the meaning of the EU AI Act:			
• If the definition of AI systems according to Article 3 No. 1 EU AI Act is met, e.g.:			
o Is the offer machine-based and does it have an interaction interface?			
o Are the other criteria met?			

2. Risk classification?	yes	no	unclear because
Check whether your AI system qualifies as **a prohibited AI practice** or **high-risk AI**. In this case, the exception to Article 2 (12) EU AI Act will no longer apply.			
• **Prohibited AI practice** (Article 5 EU AI Act):			
o Is it one of the practices described there?			
o Is there an exception within the meaning of Article 5 (2) EU AI Act?			
• **High-risk AI** (Article 6 EU AI Act):			
o For example, is it a system for critical infrastructure, finance or healthcare?			
o Is there an exception within the meaning of Article 6 (3) EU AI Act?			

3. Transparency obligations?	yes	no	unclear because
Check whether your AI system is subject to the **transparency obligations** of Article 50 of the EU AI Act. In this case, the exception to Article 2 (12) of the EU AI Act will no longer apply.			
• **Direct interaction with natural persons (para. 1):**			
o Is the AI system designed to interact directly with natural persons?			
o For example, is it an AI chatbot in the form of an application or in browser-based form?			
• **GPAI system with general purpose (para 2):**			
o Is it an AI system in which a general-purpose AI model is integrated (GPAI model), cf. Articles 3 No. 63, 66 EU AI Act?			
• **Other generative AI systems (para 2):**			
o Can the AI system create synthetic content such as image, sound, video or text using another AI model?			

4. License types?	yes	no	unclear because
For the exemption from Article 2 (12) EU AI Act, the following criteria must be met cumulatively:			
• **Free License**:			
o Is the AI system including its components published under a free license (e.g. Creative Commons)?			
o Is the use, distribution and modification of the AI system explicitly permitted by the license?			
• **Open source**:			
o Is the source code of the AI system, including its components, publicly visible and changeable?			
o Has the source code been disclosed with regard to all decision-relevant components of the AI system?			

5. Documentation?	yes	no	unclear because
Review the **documentation requirements** for your open source AI system:			
• Has the operation of the AI model, including the training data, algorithms and parameters, been disclosed?			
• Were recognized documentation standards (e.g. model cards) used?			

6. Data sources, APIs and interface?	yes	no	unclear because
Check the disclosure of the connection of **additional data sources**, **APIs** and **interaction interfaces**:			
• Are any additional data sources used in the AI system free and disclosed?			
• Have you freely and correctly disclosed API connections and interfaces?			
• Are the codes for the interaction interface free and disclosed?			

Green means: The next step usually has to be further examined. In the case of red, the exception of Article 2 (12) EU AI Act does not apply, unless a further exception is fulfilled in the direct subsequent step.

Until the publication of official guidelines for open source within the meaning of the EU AI Act, the checklist is based on the methodological interpretation of standards, annexes and recitals of the EU AI Act as well as the analysis of related technical articles.

The document is subject to regular updating.

Explanations of this checklist can be found at:
- https://cair4.eu/en/all-checklists-for-the-eu-ai-act/eu-ai-act-open-source-checklist
- https://cair4.eu/en/checklists-for-the-eu-ai-act