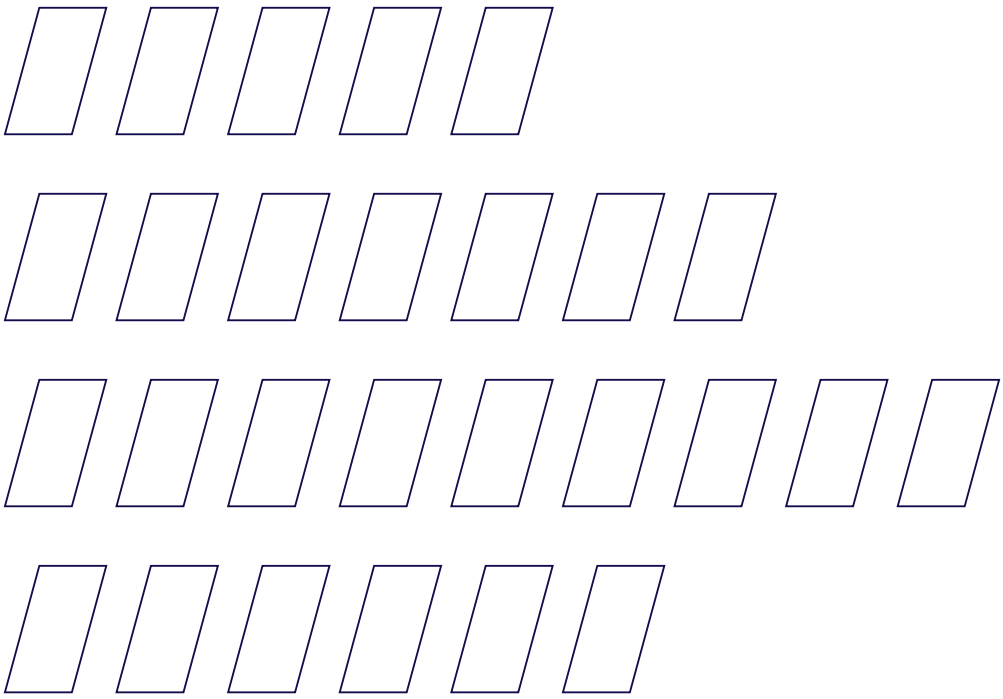
FOTI



Strengthening the EU's Cloud & AI Development Act

Annex: Recommendations at a Glance

A report series by FOTI
November 2026

Our recommendations

We propose 27 recommendations across the four reports in this series to close CADA's loopholes and strengthen its effectiveness. For each recommendation, we identify the relevant provision, propose an amendment and explain the rationale for the change.

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Report 1

01 Map the Risk

No.	Provisions	Recommendation	Justification
A. Reporting and monitoring obligations of Member States and the Union			
A.1	Article 33(1) and (3); Article 22, new paragraph; Articles 7(5), 14(1), 15 and 29(2)	Continuous monitoring of public cloud procurement, reported by contracting authorities to a national authority and the Commission and held in a central register.	Nothing in the proposal records what contracting authorities actually buy: monitoring covers only innovation procurement, once a year, on three SME data points.
A.2	Articles 7, 15, 29 and 33	Publication by default: national strategies and their indicators; an annual Commission report on compute capacity and the capacity gap; non-confidential summaries of public sector risk assessments; a Union scoreboard on the 25% SME objective.	The knowledge the Regulation creates stays with the authorities that produce it, so parliaments cannot scrutinise it, civil society cannot challenge it and providers get no signal on where to invest.
A.3	New article in Title IV; Article 25; new recital after recital 58	Apply Directive (EU) 2019/1937 to the reporting of infringements of Title IV, with national competent authorities competent to receive reports.	The framework rests on what providers declare, and the people who know whether it is true are not protected, because the Directive covers only the acts in its Annex; the AI Act and the Digital Markets Act already extend it.
B. Private sector assessment of dependencies			
B.1	Article 31(1); Article 31(3) deleted; Article 31, new paragraph	Make the private sector dependency assessment mandatory for operators in NIS2 Annex I and II sectors, integrated into their NIS2 risk-management measures.	Private operators of essential services carry the same public order risk as public ones but are only invited to assess it, and an obligation on both sides removes the incentive to litigate where the line falls.
B.2	Article 31(1) and (2); Article 31, new paragraph	Give private operators a right to obtain third-country control and supply chain information from their providers and subcontractors, with a methodology adopted by implementing act.	Unlike the authorities carrying out the assessments of Article 29, private operators have no legal power to obtain this information, and an assessment cannot be carried out without it.

Report 2

02 Set a Strong Standard

No.	Provisions	Recommendation	Justification
A. Ensure independent authorities			
A.1	Article 25(3) and new paragraphs; Articles 17(10) and 29(5)	Guarantee the independence of national competent authorities (instructions, staff, budget, appointments) on the model of GDPR Article 52, align Article 25(3) with recital 59, and require reasoned, published Commission decisions on referrals and sector levels.	Recognition must rest on technical grounds alone, yet only recital 59 mentions independence and Article 25(3) drops it, while Union law already guarantees it for data protection and certification authorities.
B. Transparency requirements for the cloud sovereignty framework			
B.1	Annex II, introductory paragraph and new point at each level; Annex III, new audit criterion; Article 23(1)	Add a transparency requirement on hardware components (name, function, manufacturer, country of origin) and on changes to them, with matching audit evidence.	Excluding hardware from the requirements is pragmatic today, but without disclosure no authority can see where hardware dependencies lie or act if a new risk emerges.
B.2	Article 19(2) and (3); Article 17(3)	Give the Level 1 EU statement of conformity real content: a published, updated list of software and hardware components and subcontractors, notified to the national authority, on a Commission template.	Level 1 is self-declared and the proposal does not say what the statement must contain, which creates a false sense of security at the level required of the whole public sector.
B.3	Article 16(3); second Article 44(4)	Open the review and amendment of the assurance levels to mandatory public consultation of industry and civil society.	The Annexes that decide what counts as sovereign are amended with only Member State experts consulted, leaving providers, customers, auditors and civil society without a voice.
C. Improve the definitions in Annex II and Article 18			
C.1	Article 2, new point; Annex II, points 1.1, 1.2, 2.1, 2.2, 3.1, 3.2, 4.1 and 4.2; Annex III	Clarify Annex II: define "security-relevant components"; use the same CRA definitions at Levels 3 and 4; confine software supply chain requirements to proprietary software so that open source rules are clear; list the cases in which a public sector body may "explicitly require otherwise"; delete the "direct contractual relationship" condition for subcontractors or make the criteria non-cumulative.	Undefined terms, inconsistent definitions and open derogations deny providers, auditors and authorities legal certainty and let third-country suppliers enter recognised supply chains unchecked.

No.	Provisions	Recommendation	Justification
C.2	Annex II, points 2.1(i)(ii) and 3.1(i)(ii); Annex III, audit criterion I; new article in Section 3; Article 22, new paragraph	Reverse the burden of proof for source code audits so that dominant component suppliers cannot decide who is recognised: refer to the EUCS source code requirements, oblige component manufacturers to give auditors access, or create a register of component audits open to all EU providers and authorities.	The audit obligation falls on the provider, not on the manufacturer that holds the source code, so a supplier with no alternative can block recognition at Levels 2 and 3 by refusing access.
C.3	Article 18(1)(a)	Define a “relevant” adequacy decision and cover decisions adopted before the GDPR.	Eleven adequacy decisions in force, including those for Switzerland and Israel, were adopted before the GDPR and would not qualify on a literal reading, and “relevant” is undefined.

Report 3

03 Build Sovereign Capacity

No.	Provisions	Recommendation	Justification
A. Build and recognise the skills needed for sovereign cloud and AI			
A.1	New Annex IV; Article 4(8)(b); Article 16(2) and (3)	Define in a new Annex IV the competences needed to build, operate, audit and procure sovereign cloud and AI; tie the common curriculum to it; reflect it in ESCO.	The Act requires four competences and defines none of them, and no European qualification produces them; an Annex can evolve with Annexes II and III.
A.2	Article 6(3), new sentence; Article 5(2), new point	Dedicate a defined share of Union advanced digital skills funding (Digital Europe Programme and its successor) to those curricula and deliver them through the Centres for AI.	A curriculum without funding and without a classroom remains a document, and sovereign cloud skills would otherwise compete, unprotected, within the Programme's smallest objective.
A.3	Article 7(2), new point (i); Article 7(5); Article 47(3)	Put skills measures and targets in national strategies and in the Commission's evaluation.	None of the eight mandatory elements of a national strategy concerns the people who will build, operate, audit or procure, and skills receive neither an indicator nor an objective.
B. Build sovereign access conditions for frontier AI priority projects			
B.1	Article 9, new paragraph	Allocate Union and Member State compute only on infrastructure whose operator is headquartered and controlled in the Union, with assets and management located there.	Article 9 says nothing about who operates the compute it distributes, although the Council already set a control condition for AI gigafactory operators in the instrument Article 9 draws on.
B.2	Article 8, new point, and point (c)	Require frontier AI priority projects to demonstrate sovereignty and to run on services recognised at Level 3 or higher.	Article 8(b) is an establishment test that a Union subsidiary of a third-country parent passes, and Article 8(c) says nothing about where pooled computing time runs.
C. Build access conditions for data centre acceleration zones in favour of sovereign actors			
C.1	Article 13, new paragraph; new recital after recital 41	Grant acceleration-zone benefits only to operators that have demonstrated their legal, technical and operational inability to comply with third-country orders of the kind in Article 18(1)(b) and (c).	Faster permits and strategic status go to any operator, including one that cannot guarantee the continuity the sovereignty framework and public demand require; an origin-neutral test resolves the contradiction.

No.	Provisions	Recommendation	Justification
C.2	Article 11, new paragraphs 3 and 4; Article 2, new point; Article 15(1), new point	Give Article 11(2) teeth: a concentration cap on zone capacity per group, a use-it-or-lose-it regime for contracted grid and other resources, a designated authority, a definition of "resources" and Commission monitoring of concentration.	Article 11(2) prohibits speculative reservation but has no authority, benchmark, procedure or remedy, while the Commission itself finds European providers "relegated to residual capacity".
D. Enable sustainability to play a larger role in building sovereign capacity			
D.1	Article 11(1); Article 11, new subparagraph	Replace "Annex II, from (a) to (n)" with sustainability indicators that include clean energy generation (those of Annex III to Delegated Regulation (EU) 2024/1364, as amended), let Member States use any Annex II indicator, and carry over the colocation derogation.	The lettering range excludes the renewable energy indicators, although Article 10(1)(b) asks Member States to consider clean energy generation when designating a zone, and the data is already reported.
D.2	Article 11, new paragraph	State that Member States may maintain or introduce more stringent, non-discriminatory and proportionate sustainability requirements in acceleration zones, notified to the Commission.	Inside a harmonising chapter and without a saving clause, Article 11(1) acts as a ceiling rather than a floor on national sustainability ambition.

Report 4

04 Buy European

No.	Provisions	Recommendation	Justification
A. Mandatory contract terms to support sovereignty			
A.1	New article on mandatory contract terms	Knowledge transfer to the contracting authority in contracts above a financial threshold, with access to the software bill of materials and the list of subcontractors, and training for its staff.	Administrations have lost the capability to oversee the services they buy, and the proposal gives them no right to know how the service works or how its sovereignty is protected.
A.2	New article on mandatory contract terms; Article 30, new paragraph; Article 23(3); Annex II, points 1.1 and 4.1	Exit, portability and reversibility clauses in every public cloud contract, at all assurance levels, on the Data Act model, with a right to terminate and migrate when a service loses its recognition.	The revocation of a recognition only removes the service from the repository: the buyer is not notified and has no exit, although providers are acquired and supply chains change fast.
A.3	New article on mandatory contract terms; Article 41; recital 84	Upstream contribution to the open source projects used to deliver the service, including the patches and updates the buyer pays for, and a binding "open source first" rule.	Providers can rely on projects they never contribute to and charge each administration for the same patch, while the Commission applies "public money, public code" only to itself.
B. A decisive European preference and disciplined procurement – for public and private buyers			
B.1	Article 32(1), 32(2)(d) and new paragraph; recital 67	Let Union added value decide an award: replace "ancillary and not decisive", delete the indicative weighting of 15 points out of 120, and apply the criterion beyond "innovative" services.	A preference the law requires to be non-decisive will never decide an award, and the three other conditions of Article 32(2) already protect the primacy of technical and financial criteria.
B.2	Article 30(4) and new paragraphs 5 and 6; Articles 15(1), 29(2) and 33(3); new recital after recital 64	Discipline the derogations: a reasoned decision notified to the national authority, which replies within 10 working days; "disproportionate cost" assessed over the life of the contract against comparable offers, with no fixed percentage; a fair earlier procedure for the failed-tender ground; limited duration and no renewal without re-verification; annual reporting that feeds risk assessments and capacity monitoring.	The contracting authority decides alone, without notification or publication, on an undefined notion of cost and with no time limit, so the derogations would make the obligation optional.
B.3	New Article 31a; recitals 50 and 64	Extend the purchase obligation to essential entities under Directive (EU) 2022/2555 for the activities identified under Article 29(1), with the same derogations and a transition period.	The public order justification does not stop at ownership: a private hospital or utility presents the same risk as a public one, and exempting it distorts competition between them.


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