

# AI and Legal Regulation: Protection or innovation?

## A comparative approach between US and EU regulation

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### Abstract

Artificial Intelligence is everywhere. It is transforming society as we know it, presenting both significant opportunities and risks. The 2024 AI Act positions the European Union as a regulatory leader, while the U.S. faces a more fragmented landscape of state-level regulations and simultaneous federal deregulations. In this era, where the AI race is on everyone's conversations, excessive regulation may hinder competitiveness, while insufficient oversight risks public safety and ethical behaviour. This study focuses on a comparative legal analysis of the EU and U.S. approaches to AI regulation and their implications in the changing world we live in.

**Keywords:** Artificial Intelligence (AI); AI Regulation; European Union AI Act; U.S. AI Policy; Risk-Based Regulation; Deregulation; Global AI Governance; Brussels Effect; AI Ethics, Comparative Law, Geopolitics of Technology.

### 1. Introduction

From answering simple questions to assisting in medical diagnoses or even creating genuine works of art, it is clear that AI represents the future, and that future has already arrived. The United States and China are competing for global leadership in this domain, and although, for now, the North American country still is

ahead,<sup>1</sup> experts doubt that the Asian open-source system won't end up taking the lead. However, AI potential also poses significant risks. As with any powerful technology, AI requires appropriate regulation to ensure that its deployment respects fundamental rights and public

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<sup>1</sup> Koetsier, John. "Top 10 AI Nations: Global AI Superpowers Ranked In Industry Report." *Forbes*, 2025  
<https://www.forbes.com/sites/johnkoetsier/2025/09/11/top-10-ai-nations-global-ai-superpowers-ranked/>

interest. It is in this context that the European Union comes in, not as a leader in AI or technology, but definitely as the regulatory champion and trendsetter.<sup>2</sup>

Despite the long-standing alliance between the United States and Europe, their views on this issue could not be more different. The EU has positioned itself as a pioneer in comprehensive AI regulation<sup>3</sup> with the *Regulation (EU) 2024/1689 of the European Parliament and of the Council of 13 June 2024* also known as the “AI Act”, while the United States, with the *Executive Order 14179 of January 23, 2025* and “Americas Action Plan” of July 2025 is leaning toward scrapping existing state regulations and championing innovation and development instead.

### 1.1 The creation and consequences of Artificial Intelligence

Artificial Intelligence is the result of collecting and processing massive amounts of data. This data comes from multiple sources such as web pages gathered through web-scraping techniques; external platforms accessed via APIs that provide information on users, transactions, or content; internal corporate systems like CRM and ERP tools; real-time surveys and forms generated by

IoT-connected devices; and public databases from governmental, academic, or international institutions.<sup>4</sup> All of this is then combined with algorithms trained to build mathematical models that can recognize patterns, and are able to make predictions and decisions. The way in which AI is created can lead to biases which, when used in hiring, medicine, finance, construction, manufacturing, art, and so on, can have a huge negative impact if not controlled efficiently.

A notable example occurred in 2018, when Amazon experimented with AI in its hiring process. The system, tested internally by the HR team, showed a bias favoring men for technical roles. Although never deployed publicly, this case highlights the need for caution in implementing AI systems.<sup>5</sup> This has also been observed in China, where the government has developed an AI-based social credit system that evaluates through AI the reliability of citizens and companies through biometric data, affecting access to services, credit, and travel.<sup>6</sup> Beyond biases, AI also enables new forms of manipulation through deepfakes like the fake Pentagon explosion in May 2023 that shook the stock

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<sup>2</sup> Heiber, Jordan G., and Zach Helzer. “How Europe Pays A High Price for Its Overregulation of the Digital Economy.” *U.S. Chamber of Commerce*, 2023.

<https://www.uschamber.com/international/how-europe-pays-a-high-price-for-its-overregulation-of-the-digital-economy>

<sup>3</sup> European Parliament. “EU AI Act: first regulation on artificial intelligence” *European Parliament Topics*. February, 19, 2025.

<https://www.europarl.europa.eu/topics/en/article/20230601STO93804/eu-ai-act-first-regulation-on-artificial-intelligence>

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<sup>4</sup> Boolea Consultora. “¿De donde provienen los datos para la IA?”, *Boolea Analítica de Datos*. January, 22, 2025. <https://boolea.es/de-donde-proviene-los-datos-para-la-ia-te-presentamos-5-fuentes-claves/>

<sup>5</sup> Dastin, Jeffrey, Jonathan Weber, and Marla Dickerson. “Insight - Amazon scraps secret AI recruiting tool that showed bias against women.” *Reuters*. October, 10, 2018.

<https://www.reuters.com/article/world/insight-amazon-scraps-secret-ai-recruiting-tool-that-showed-bias-against-women-idUSKCN1MK0AG/>

<sup>6</sup> Campbell, Charlie. “How China Is Using Big Data to Create a Social Credit Score.” *Time Magazine*, 2019.

<https://time.com/collection/davos-2019/5502592/china-social-credit-score/>

market, the video of the President of Ukraine Volodymyr Zelenskyy telling Ukrainian troops to surrender, Biden urging New Hampshire not to vote, or Trump being arrested. Such harmful AI-generated content can confuse citizens, undermining their access to accurate information, and interfering with their freedom of expression, the right to make informed political choices, and other fundamental rights. These risks highlight the need for ethical safeguards and effective AI regulation.

## 2. AI Regulation in the EU

The European Union's Artificial Intelligence Regulation, *Regulation (EU) 2024/1689 of the European Parliament and of the Council of 13 June 2024*, known as the AI Act, is the most ambitious and comprehensive attempt to regulate AI in the world. It was approved in 2024 after several years of negotiations, but it is still being implemented nowadays. Its goal is to establish clearer rules before the widespread deployment of AI, ensuring the protection of fundamental rights, and prioritizing safety and ethics over the speed of innovation. The EU seeks to regulate all systems that affect people in the EU, directly or indirectly, meaning its application affects not only inside suppliers, but providers outside the EU that market AI systems and models within the European Union.

The 113 articles regulation follows a risk-based approach that classifies AI systems into four categories: unacceptable risk (prohibited), covered in Article 5; high risk (heavily regulated), starting in the following article; limited risk (transparency obligations), where chatbots are

regulated, beginning in Article 52; and finally minimal risk, which includes systems that are almost unregulated.

This classification is complemented by rules for general-purpose AI models (GPAI),<sup>7</sup> introduced earlier in response to the rise of foundation models like ChatGPT, Gemini, and Claude. These rules require developers to provide transparency to providers seeking to integrate the model into their own AI systems by preparing and keeping updated the model's technical documentation, including training and testing processes and evaluation results. They are also required to publish a detailed summary of the training data used to develop the model and to comply with the *EU Directive 2019/790 of the European Parliament and of the Council of 17 April 2019, on copyright and related rights in the Digital Single Market*, by establishing a policy for copyright, crawling only legally accessible content and respecting rights reservations by not using content flagged by rightsholders through machine-readable protocols.

The AI Act also includes in articles 99, 100, and 101, a set of sanctions to ensure the Act is effectively implemented. Depending on the severity of the violation, companies would have to pay a fine ranging from €7,500

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<sup>7</sup> European Commission. "The General-Purpose AI Code of Practice Shaping Europe's digital future." *Directorate-General for Communications Networks, Content and Technology*, September, 2025. <https://digital-strategy.ec.europa.eu/en/policies/contents-code-gpai>

to €35,000, or 1.5% to 7% of the annual worldwide turnover.<sup>8</sup>

In accordance with Article 288 of the *Treaty on the Functioning of the European Union (TFEU)*, given that the AI Act is a regulation of the European Parliament and the Council, it has general application and is binding to all 27 states. To comply with this new regulation and avoid sanctions, the EU has defined 88 new obligations that all Member States must fulfil. These obligations are divided into four categories: (A) 18 tasks aimed at establishing an AI governance system; (B) 7 items relating to new national legislation or secondary legislation that Member States may introduce or support the Commission in developing; (C) 55 categories of enforcement activities at the national level; and (D) 8 tasks dedicated to carrying out an ex post evaluation of the AI Act.

Given the substantial burden this regulation places on both states and companies, the new law does not apply immediately. Article 113 establishes that twenty-four months after its entry into force (August 2, 2026) the AI Act will become applicable, thus allowing providers sufficient time to ensure compliance with the required standards. Nonetheless, the Act establishes three special transition periods for certain categories of provisions: Chapters I and II must apply six months after entry into force; Chapters III and VII must apply after twelve months; and, after thirty-six months, Annex I, Article 6(1),

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<sup>8</sup> European Parliament and Council. "Regulation - EU - 2024/1689." *EUR-Lex*, June 13, 2024. <https://eur-lex.europa.eu/eli/reg/2024/1689/oj/eng>

together with the corresponding obligations, must be fully implemented.<sup>9</sup>

Despite this staggered implementation, several challenges have arisen, such as delays in designating national authorities, the lack of harmonised standards, unexpected compliance costs, and insufficient guidance tools. As a consequence, companies facing difficulties in meeting their obligations on time have requested grace periods. In response, on 19 November 2025, the European Commission introduced the *Digital Omnibus on AI Regulation Proposal* to ease adaptation by amending and updating the EU AI Act. Beyond simply extending deadlines and increasing support, it introduces a significant shift in responsibility. The task of promoting AI literacy now moves from private companies to the Commission and Member States of the EU. The amendments also focus on tightening data protection, streamlining the registration process, and moving toward a more centralized control system.

The AI Act shows the EU's determination to lead in AI regulation, but its implementation challenges reveal the gap between regulatory ambition and practical feasibility, showing that citizen protection imposes a considerable burden on companies.

### 3. US Regulation

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<sup>9</sup> European Commission (AI Office) "The AI Act: Responsibilities of the EU Member States." *EU Artificial Intelligence Act*. 22 Aug, 2024. <https://artificialintelligenceact.eu/responsibilities-of-member-states/>

In The United States, there is no comprehensive federal AI regulation; instead, AI rules vary by state, with some having none and others, like California, having more than 18 bills.<sup>10</sup> In 2023, former President Biden signed the *Executive Order 14110: Safe, Secure, and Trustworthy Development and Use of Artificial Intelligence*, representing the most ambitious US effort to date to establish oversight on AI development.

This executive order sought to impose reporting and safety obligations on AI developers. Companies operating in the US were required to test their models to identify national security risks, disclose training methodologies, and share safety evaluation results with the government. Additionally, the order set standards for government use of AI and promoted principles of fairness and transparency.

Nevertheless, since President Trump took office in January 2025, U.S. policy has changed drastically. Just days after taking office, Trump revoked Biden's *Executive Order 14110*, eliminating the reporting and oversight requirements, and signed the *Executive Order 14179: Removing Barriers to American Leadership in Artificial Intelligence*. This new deregulation-focused order represents a philosophy completely opposite to Europe's: instead of imposing preventive restrictions, it seeks to remove government obstacles and bureaucracy that could hinder innovation and development of AI systems.

The regulation emphasizes an "industry-driven governance" model, positioning the private sector as the main driver of AI development. It relies on market forces, corporate self-regulation, and existing civil liability mechanisms to provide sufficient safeguards without proactive government oversight.

The order, consisting of only six relatively brief sections, establishes in Section 4 the implementation of an AI action plan within 180 days. In July 2025, the Trump administration published "*Winning the Race: America's AI Action Plan*", a 24-page document detailing the U.S. position in the AI leadership race. The plan is structured around three pillars.

- **Pillar I: Accelerate AI Innovation.** This section, apart from eliminating regulations that hinder innovation, among other measures, revises the National Institute of Standard and Technology risk framework to remove references to ideological biases or social agendas, and misinformation, and promotes open-source models (as the ones used by China) through the NAIRR program.<sup>11</sup> It also promotes the creation of regulatory sandboxes and AI Centers of Excellence (CoE) to accelerate adoption in key sectors, and the establishment of a federal hub to monitor labor market disruptions and coordinate

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<sup>10</sup> Rubin, Michael H., Andrew Gass, Ghaith Mahmood, Sy Damle, and Fiona M. Maclean. "California Assumes Role as Lead US Regulator of AI." *Latham & Watkins LLP*. October 15, 2025. <https://www.lw.com/en/insights/california-assumes-role-as-lead-us-regulator-of-ai>

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<sup>11</sup> National Science Foundation. n.d. "National Artificial Intelligence Research Resource Pilot." *NAIRR Pilot*. <https://nairrpilot.org/>

rapid retraining programs for workers displaced by AI adoption.

- **Pillar II: Build American AI Infrastructure.**

This pillar introduces exclusions to the National Environmental Policy Act to make data-center permits faster, prioritizes reliable energy integration and supports new generation technologies such as enhanced geothermal and nuclear fusion. It eliminates ideological requirements from the CHIPS program for semiconductor manufacturing, creates technical standards for high-security military data centers, and establishes the AI-ISAC (Information Sharing and Analysis Center) to share information on AI-specific cybersecurity threats.

- **Pillar III: Lead International AI Diplomacy and Security.**

It establishes a Department of Commerce program to facilitate export of U.S. AI technology to allies, and strengthen coordination against Chinese influence. With this third pillar, the Trump's administration promotes the implementation of export controls on semiconductor equipment, and the examination by the Department of Commerce's AI safety unit (CAISI) of advanced AI models, to ensure they cannot be misused to create threats.

In short, this plan focuses on reducing bureaucracy and burdensome regulations by reviewing and repealing rules,

directives, and other administrative orders that unnecessarily hinder AI development. The plan aims to ensure the protection of freedom of speech, facilitate AI adoption in both businesses and government, strengthen cybersecurity for critical infrastructure, promote safe AI technologies and applications, and enhance federal ability to respond to AI-related incidents. Measures are proposed, yet these work as support mechanisms rather than obstacles for businesses.

Alongside this plan, the Trump administration also issued three new executive orders to: (1) Promote the Export of the American AI Technology Stack, (2) Accelerate Federal Permitting of Data Center Infrastructure, and (3) Prevent Woke AI in the Federal Government.

*3.1 The Fragmented Landscape*

However, while the government deregulates, states are actively legislating on AI, creating a fragmented regulatory environment that harms and confuses businesses.

Colorado made, in 2024, the first comprehensive AI law,<sup>12</sup> the *Senate Bill 24-205*, focusing on high-risk systems, transparency, and anti-discrimination measures. Although it was less comprehensive than Europe's AI Act, it could inspire other states and provide a regulatory framework in the absence of federal rules.

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<sup>12</sup> Levi, Stuart D., Ken D. Kumayama, William E. Ridgway, and Mana Ghaemmaghani. "Colorado's Landmark AI Act: What Companies Need To Know | Insights." Skadden. June 24, 2024. <https://www.skadden.com/insights/publications/2024/06/colorados-landmark-ai-act>.

California followed with the *Senate Bill 53*, known as Transparency in Frontier AI Act (TFAIA) and is currently the state with the most extensive AI regulation.

Other states have decided on sector-specific rules: Utah has introduced a requirement to disclose the use of generative AI, while New York and Florida are working to regulate hiring algorithms and protect consumers.

The rise of deepfakes has also boosted a legislative wave. After the Taylor Swift case, in which images allegedly showing her naked were spread, more than 25 states passed laws against non-consensual deepfake pornography.<sup>13</sup>

The result is a fragmented landscape across the US that complicates compliance for companies operating in multiple states. While it encourages local experimentation, it also raises costs which ultimately benefits large corporations capable of navigating multiple sets of rules, harming small businesses and new ventures.

#### 4. The Regulatory Dilemma

Society faces one of the most complex challenges in history both from an ethical and legislative perspective. The regulation of AI will have economic and geopolitical consequences that will shape the global balance of power as we know it. However, this regulatory task is extraordinarily complicated as AI scope and ultimate capabilities remain unknown. AI is a technology that is still constantly

evolving, hindering lawmakers from establishing efficient frameworks.

Europe has introduced the first comprehensive regulatory framework for artificial intelligence globally, setting a precedent for other regions. While certain aspects may lack technical specificity due to the fast pace of technological evolution, this does not diminish its importance as a precedent.

However, Europe's historical role as a global regulatory trendsetter, reflected in what is known as the "Brussels Effect", is increasingly challenged,<sup>14</sup> and the AI Act may not have the global effect expected by its legislators. Europe's lack of geopolitical power in terms of AI reduces its ability to export standards. China ignores European regulatory preferences, the United States under Trump explicitly rejects them, and emerging markets often adopt the leading market standards, Chinese and North American. The risk is that Europe has invested enormous political capital in the AI Act only to find that the world is taking different paths. And, the reality is that the current AI race is being decided between the United States and China, with Europe falling behind, leading in none of the six AI metric categories (the US leads in four, China in two).

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<sup>13</sup> Public Citizen. "Tracker: State Legislation on Intimate Deepfakes." *Citizen.org*, October 20, 2025. <https://www.citizen.org/article/tracker-intimate-deepfakes-state-legislation/>

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<sup>14</sup> Bologna, Anda. "Burying the Brussels Effect? AI Act Inspires Few Copycats." *Center for European Policy Analysis*. April 23, 2025. <https://cepa.org/article/burying-the-brussels-effect-ai-act-inspires-few-copycats/>

This outcome reflects a broader reality demonstrated by the United States' deregulatory approach: Any time bureaucracy steps in, it creates additional compliance work and decreases productivity. Europe's heavy regulatory framework adds significant upfront costs and administrative burdens for companies, undermining the Brussels Effect, as countries tend to follow the less restrictive, faster-moving regulatory models.

For decades, Silicon Valley operated under a regime of minimal government intervention, allowing rapid innovation that produced globally dominant technology companies: Google, Meta, Amazon, and Apple. Nevertheless, this perspective can be perceived as naïve. Social media platforms that were initially operated with minimal oversight faced severe criticism for amplifying misinformation, facilitating election interference, and causing mental health harm.<sup>15 16</sup> A similar phenomenon happened in the Gig industry which started as an unregulated industry only to later face criticism over labor precarity, worker misclassification, and lack of employment protections. Therefore, relying on companies to self-regulate effectively while maximizing profits at the expense of public safety is unrealistic.

Countries now face a fundamental dilemma: excessive regulation could limit the development of AI, allowing other geopolitical actors with fewer legal restrictions, such as China, a competitive advantage in the technological race. This could have political, economic and military implications in the long run, potentially altering the global order.

Yet, insufficient regulation of AI represents an existential threat to citizens rights and to humanity as a whole, that no country can afford to ignore. A state's leadership in artificial intelligence is meaningless if it fails to protect the fundamental rights and security of its citizens.

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<sup>15</sup> Sholademi, N. D. B., & Omowon, N. A. "Understanding electoral violence in the United States: The role of social media." *World Journal of Advanced Research and Reviews*, 24(3), 777-793. (October 28, 2024) <https://doi.org/10.30574/wjarr.2024.24.3.3749>

<sup>16</sup> Bounds, Dawn. 2024. "Social media's impact on our mental health and tips to use it safely | Cultivating Health." *UC Davis Health*. <https://health.ucdavis.edu/blog/cultivating-health/social-medias-impact-our-mental-health-and-tips-to-use-it-safely/2024/05>

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