

MAY 2024

CHARTING
PATHS FOR
A **GLOBAL**
GOVERNANCE
OF AI

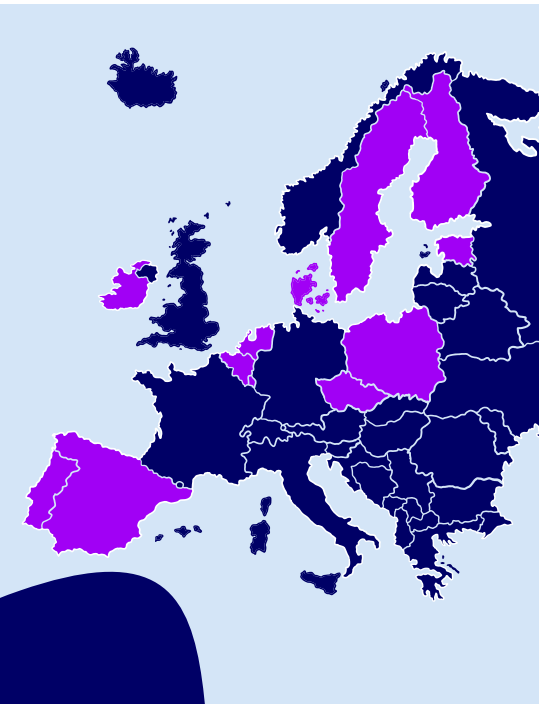
FOREWORD

In the context of the imminent adoption of the AI Act, the world's first comprehensive AI law, on March 19, 2024, the Center for the Governance of Change at IE University gathered leaders from the public and private sectors to discuss recent AI regulatory developments and the potential for the EU and the D9+ countries to lead on global AI governance. One month ahead of the 2024 D9+ Ministerial meeting to be held in Dublin, the Center for the Governance of Change hosted first a private roundtable with ambassadors and deputy chiefs of mission from several D9+ member countries and representatives from the technology industry and then a public panel with the Ambassador of Ireland to Spain and other experts. This policy brief is the result of the debates and discussions held on March 19.

This briefing introduces the objectives of the D9+ alliance of EU countries, which seeks to advance digital policy and foster a unified European market for AI, and addresses the significance and challenges brought by the AI Act recently adopted by the European Parliament, highlighting its risk-based approach and enforcement mechanisms. It also explores the different existing views on AI governance and regulation, emphasizing the dual nature of AI's impact, the importance of human-centric approaches, and the need for cooperation among stakeholders. Lastly, it includes a comparison with the US Executive Order on AI, stressing the EU's potential leadership role in setting global AI standards.



BACKGROUND AND CONTEXT



THE D9+

The D9+ is an informal alliance established in 2016 by Digital Ministers from top-ranked European countries¹ in the DESI (Digital Economy and Society Index) and other like-minded nations interested in exploiting the economic power of digitalization and new technologies through a Digital Single Market. The objective of this group is to be more proactive in developing new ideas on European policy, advance the economic reforms necessary for deep digital integration, and ensure that the voice of digitally mid-sized open economies is heard at the negotiating tables in Brussels.

The D9+, currently chaired by Dara Calleary, Ireland's Minister of State for Trade Promotion, Digital, and Company Regulation, will hold the next Ministerial meeting in Dublin on April 19, 2024.

The key agenda topics to be discussed include:

- 1) establishing effective and coherent digital regulation as the foundation for innovation and growth within the EU,
- 2) ensuring stability and predictability to encourage investment and economic expansion,
- 3) advocating for EU digital values, promoting principles such as data privacy and digital rights, and
- 4) creating favorable conditions for EU Unicorns or high-value digital startups to stimulate innovation and strengthen the EU's digital ecosystem (see Figure 1 below to compare Ireland's objectives² with those established by the previous chair, Belgium).

¹ Denmark, Finland, Sweden, the Netherlands, Luxembourg, Belgium, Spain, Ireland, Estonia, the Czech Republic, Poland, and Portugal.

² More information on Ireland's program for its chairmanship of the D9+ is available at <https://www.gov.ie/en/press-release/4eb41-minister-calleary-announces-programme-for-chairmanship-of-the-d9>



— ONE OF THE MAIN IDEAS THE GROUP HIGHLIGHTED WAS THE IMPORTANCE OF FACILITATING EUROPEAN GLOBAL COMPETITIVENESS WITH A UNIFIED MARKET FOR AI.

Figure 1: Comparison Objectives D9+ Belgium and Ireland

Belgium’s agenda topics (2023)	Ireland’s agenda topics (2024)
Advancing Innovation and Fostering Cooperation	Effective and coherent digital regulation as a foundation for innovation and growth in the EU
Cyber Security and Resilience to 2030	Stability and predictability in fostering investment and growth
Unlocking the Digital Single Market	The D9+ as advocates for EU digital values
Achieving a Dynamic and Innovative Digital Infrastructure	Creating the conditions for EU Unicorns
Ensuring European Digital Resilience Competitiveness and Autonomy	

Moreover, the D9+ group will explore the opportunities and challenges behind the implementation of digital regulation with a special focus on AI governance. While Poland chaired the D9+, the alliance issued a **unanimous statement** on AI development.³ One of the main ideas the group highlighted was the importance of facilitating European global competitiveness with a **unified market for AI**. This collective strategy not only seeks to promote AI initiatives but also aims to enhance Europe’s position, particularly of the D9+ member states, in the global arena.

Amidst rapid advancement in AI, the D9+ recognizes the paramount importance of safeguarding citizens’ fundamental rights. Therefore, the group supports the adoption of a **risk-based approach** in crafting a new framework for AI development, ensuring that ethical considerations and human rights remain at the forefront of AI implementation. Additionally, there’s a strong focus on constructing a **trustworthy ecosystem** for AI, extending from the initial design phase to implementation. This entails the integration of flexible and agile solutions that prioritize transparency, accountability, and reliability, ultimately fostering confidence and trust in AI technologies.

³ Government of Poland: ‘Artificial Intelligence Development—common position of the D9+ Group’ (<https://www.gov.pl/web/digitalization/artificial-intelligence-development--common-position-of-the-d9-group>).



The April 2024 Ministerial meeting will also serve as a good opportunity to address the recent adoption of the AI Act. The Regulation on Artificial Intelligence, initially proposed by the European Commission on April 21, 2021, has undergone extensive revisions and corrections over the past three years. The European Parliament officially passed the AI Act on March 13, 2024. This regulation is the primary legal framework that sets out harmonized rules for the development, market distribution, and use of artificial intelligence in the European Union.

OVERVIEW OF THE AI ACT

The AI Act is the first comprehensive regulation to ensure the **safety of AI systems**⁴ on the EU market and provide legal certainty for investments and innovation in AI while minimizing associated risks to consumers as well as compliance costs for providers. In line with the D9+ common position, the regulation follows a risk-based approach to AI regulation. The risk categorization ranges from unacceptable to minimal or no risk.

Instances of **unacceptable risk**, such as predictive policing and sensitive biometric categorization, underscore the potential for harm and ethical concerns inherent in certain AI implementations and are, as a result, forbidden. **High-risk** systems, including AI scoring of exams, CV sorting, and credit scoring, is the most discussed category out of the four, followed by **limited-risk** systems such as chatbots or emotion recognition systems. Finally, **minimal to no risk** systems, including spam filters or video games with AI, require no specific regulation.

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There are specific horizontal obligations that any **General-Purpose Artificial Intelligence** (GPAI) must meet regardless of their risk categorization, including providing technical documentation and usage instructions, complying with copyright directives, and publishing a summary of the training data used. However, GP AIs that present a 'systemic risk', regardless of whether they are open or closed-source, require

4 Defined in line with the OECD's definition of an AI system as a machine-based system that, for explicit or implicit objectives, infers, from the input it receives, how to generate outputs such as predictions, content, recommendations, or decisions that can influence physical or virtual environments (learn more at <https://oecd.ai/en/ai-principles>).

close monitoring. This entails conducting model assessments, adversarial testing, tracking and reporting serious incidents, and ensuring robust cybersecurity protections.

What distinguishes this legislation from other international efforts to govern AI is that, whereas the UN Principles for the Ethical Use of Artificial Intelligence, the G7 Hiroshima Process on AI, or the US Executive Order (see Figure 2 below) on AI focus on identifying threats and defining ethical codes of conduct in the realm of AI, the EU AI Act stands out for its legislative approach and **enforcement** mechanisms. In other words, its capacity to apply **penalties**—based on the type of AI system, size of the company, and severity of the infringement.

Figure 2: Comparison of EU AI Act with US Executive Order on AI

 Similarities	 Differences
Both prioritize high-risk AI systems.	EU AI Act obligations apply in 2026 or later; US Executive Order is effective immediately.
Both emphasize transparency and labeling requirements.	US Executive Order has a broader scope, including social considerations (e.g. civil rights, worker protection); the EU AI Act is more technically oriented.
Both promote development of AI standards and sandboxes.	EU AI Act is legislative with detailed requirements; US Executive Order is directive without legislative obligations.
Both demonstrate a shared interest in global cooperation.	EU AI Act includes an enforcement regime with penalties; US Executive Order lacks specific enforcement provisions.



EUROPEAN AND GLOBAL AI GOVERNANCE: KEY TAKEAWAYS FROM THE MARCH 19 DISCUSSIONS

AI GOVERNANCE AND REGULATION

Disruptive and Democratic: AI as a Double-Edged Sword

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AI represents a double-edged sword. As one of the March 19 participants stated, AI is not a technology inherently for good or bad; hence, from the design stage to implementation, its effects depend on us. On the one hand, AI has the potential to be highly **disruptive**. In a year marked by an extraordinary number of elections worldwide, with over 41 per cent of the global population participating, the dangers of election interference are heightened. This is due to the widespread dissemination of disinformation, the emergence of deepfakes, the use of AI-powered bots, and the subsequent polarization of societies.

On the other hand, despite its challenges, the potential benefits that AI could facilitate serve as a source of optimism and positivity. Indeed, the transformative and revolutionary quality of AI can also be directed to counter its own misuses. As observed, the **democratic** power of emerging technologies, particularly complex AI systems, holds great promise to protect democracies against attacks and to make democratic processes more effective and participatory. However, this will only be accomplished with an appropriate human-centric regulatory framework that manages to balance innovation and security.

Human-Centric: Balancing Rights and Innovation

Participants stressed the importance of protecting human values and rights in the development and deployment of AI technologies, advocating for **human-centric** approaches to establish strong and solid AI regulatory frameworks able to advance its opportunities while addressing its risks. Besides the focus on humanist values, a great sense of concern was expressed regarding the significance of **ensuring human rights**,



democracy, and ethical considerations in AI development and deployment, while encouraging economic growth and innovation. Regulating AI should not come at the expense of losing the race for technological advancement. On the contrary, as many speakers expressed, a comprehensive human-centric regulation can be the driver of responsible innovation. As one participant argued, the danger lies in regulating too much yet not so well.

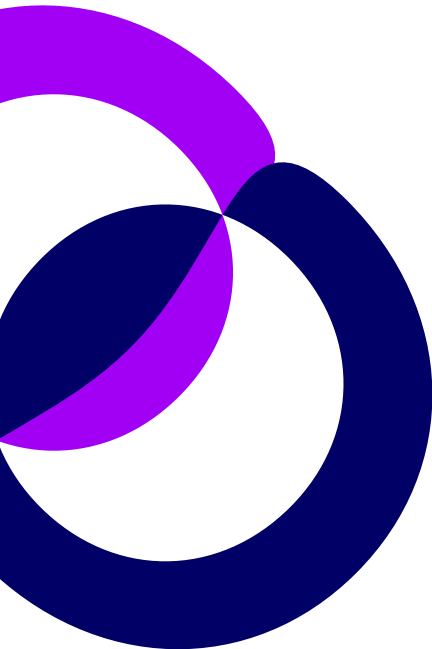
For investment and businesses to thrive, regulation must transmit both **certainty and flexibility**. Even if, initially, coupling these ideas may appear counterintuitive, not only are they compatible, but they are also fundamental for attracting and retaining talent. Regulation must be robust enough to ensure effective enforcement while being able to adapt to rapid technological advancement. During the meeting, one notable example of achieving such equilibrium was highlighted: Estonia, which started to regulate AI in 2019. Since the release of generative AI, this country formulated a new data strategy and action plan, crafting an approach to AI governance designed to be flexible, adaptable, and responsible.

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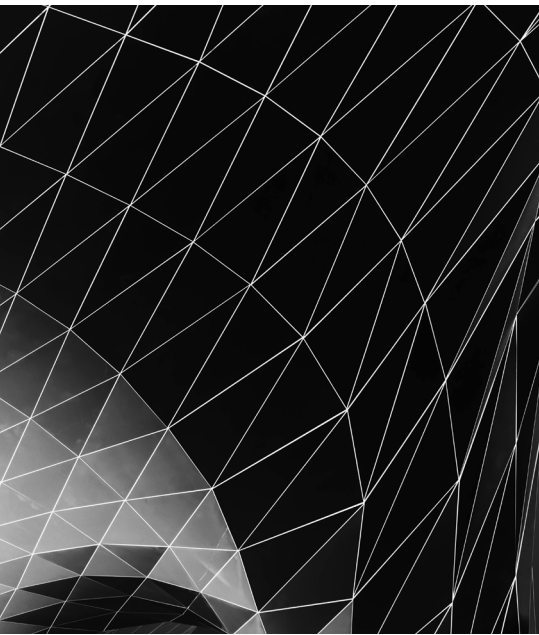
Harmony and Collaboration: Centralization for Effective Regulation

Furthermore, most participants expressed concerns regarding the potential impact on innovation of implementing decentralized regulation. The fragmentation of governance into multiple ministries and agencies can disrupt regulation and thwart innovation. Governance must be organized and clear in order to transmit trust between those governing and those being governed. According to many speakers, when confidence in the coherence and clarity of the regulatory institutions is hindered, so is economic growth. Stability and predictability can be facilitated by a unitary and **centralized regulatory body**.

Overall, there was a consensus on the need for urging **cooperation** between different stakeholders, including governments, businesses, academia, and international bodies, to effectively address the challenges posed by AI. In fact, representatives of both public and private institutions highlighted the value of building public-private partnerships to foster better



governance, innovation, and compliance. For example, drawing inspiration from Spain's AI initiatives, AI regulation should use sandboxes to test regulatory frameworks and allow for mutual learning between regulators and the regulated. This approach aims to mitigate the risk of governance fragmentation and, consequently, safeguard the integrity of the European Digital Single market.



AI ACT AND GLOBAL GOVERNANCE

Certainty, Flexibility, and Cooperation

Regarding the **AI Act**, March 19 participants coincided on several key points, including its importance in providing regulatory **certainty** for businesses and its role in safeguarding the integrity of the Digital Single market. They also acknowledged the AI Act's ambition to become a **flexible** and agile regulation that, once implemented, should manage to keep pace with rapid technological advancements and adapt to ever-changing conditions. As one speaker declared, the AI Act must be seen as a journey, not a destination. Furthermore, the regulation recognizes the significance of **public-private partnerships**. It was noted that academia plays a pivotal role in testing and implementing regulations, with an emphasis on its objective and neutral voice in coordinating cooperation.

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THE AI ACT REPRESENTS
AN OPPORTUNITY TO
FOSTER DIALOGUE AND
COLLABORATION.

It is crucial to recognize the need for the AI Act to encourage European cooperation. The AI Act represents an opportunity to foster dialogue and collaboration between EU member states and, particularly, among D9+ countries. Under this scenario, efforts to foster synergies such as the D9+ initiative, currently working towards the digitalization of its members' economies through the development of a Digital Single Market, hold great potential for guaranteeing an efficient transition and application of the AI Act.

Overregulation and Fragmentation

There were also areas of differing perspectives. One of the concerns expressed is the potential negative effect that **overregulation** may have on innovation. Hence, emphasis was placed on the need to strike a balance between enforcing regulation and fostering innovation. Some speakers highlighted

the importance of addressing the potential regulatory **fragmentation** in too many ineffective bodies, which could delay processes and hinder innovation, inevitably resulting in a comparative disadvantage in the context of the technological race. Concerns were also raised about the rapid advancement of AI **outpacing** regulatory frameworks, and the importance of ensuring access and awareness among new generations. Overall, while there was broad support for the AI Act as a milestone achievement, there were varying opinions on its implementation and the challenges and opportunities it presents for the future of AI governance.

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THE AI ACT'S
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In the opinion of the March 19 participants, the AI Act largely represents a crucial breakthrough in AI governance that could potentially become a benchmark, increasing the EU's potential to lead global AI regulation and values. For many, the AI Act is viewed as an opportunity for the EU to demonstrate leadership in digital values and rights, advocating for fairness, transparency, accountability, and a human-centric approach. As noted, the AI Act's unprecedented high standards can serve as a model for setting international standards on AI governance. Yet, this global conversation on AI regulation must be inclusive of diverse actors. In this sense, leading the AI regulatory race should not be at the expense of leaving regions—notably the Global South—out of the conversation.



FINAL REMARKS

In conclusion, the imminent adoption of the AI Act marks a significant landmark in the global governance of AI. The discussions held on March 19 by leaders from the public and private sectors, particularly within the context of the D9+ alliance, underscore the importance of cooperation in effectively addressing the challenges posed by AI. The AI Act is recognized for its potential to provide regulatory certainty for businesses and safeguard the Digital Single Market, while also acknowledging the need for flexibility and adaptation to rapid technological advancements.

However, there are concerns regarding the potential negative impact of overregulation on innovation and the risk of regulatory fragmentation. It is imperative that implementation efforts prioritize cooperation among countries and ensure inclusivity to avoid leaving regions out of the conversation on AI governance.

Despite these challenges, the AI Act represents a crucial breakthrough in AI governance and an opportunity for the EU to demonstrate global leadership in digital values and rights.

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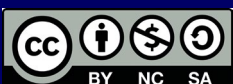
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For more information on the AI4Democracy initiative, visit:

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