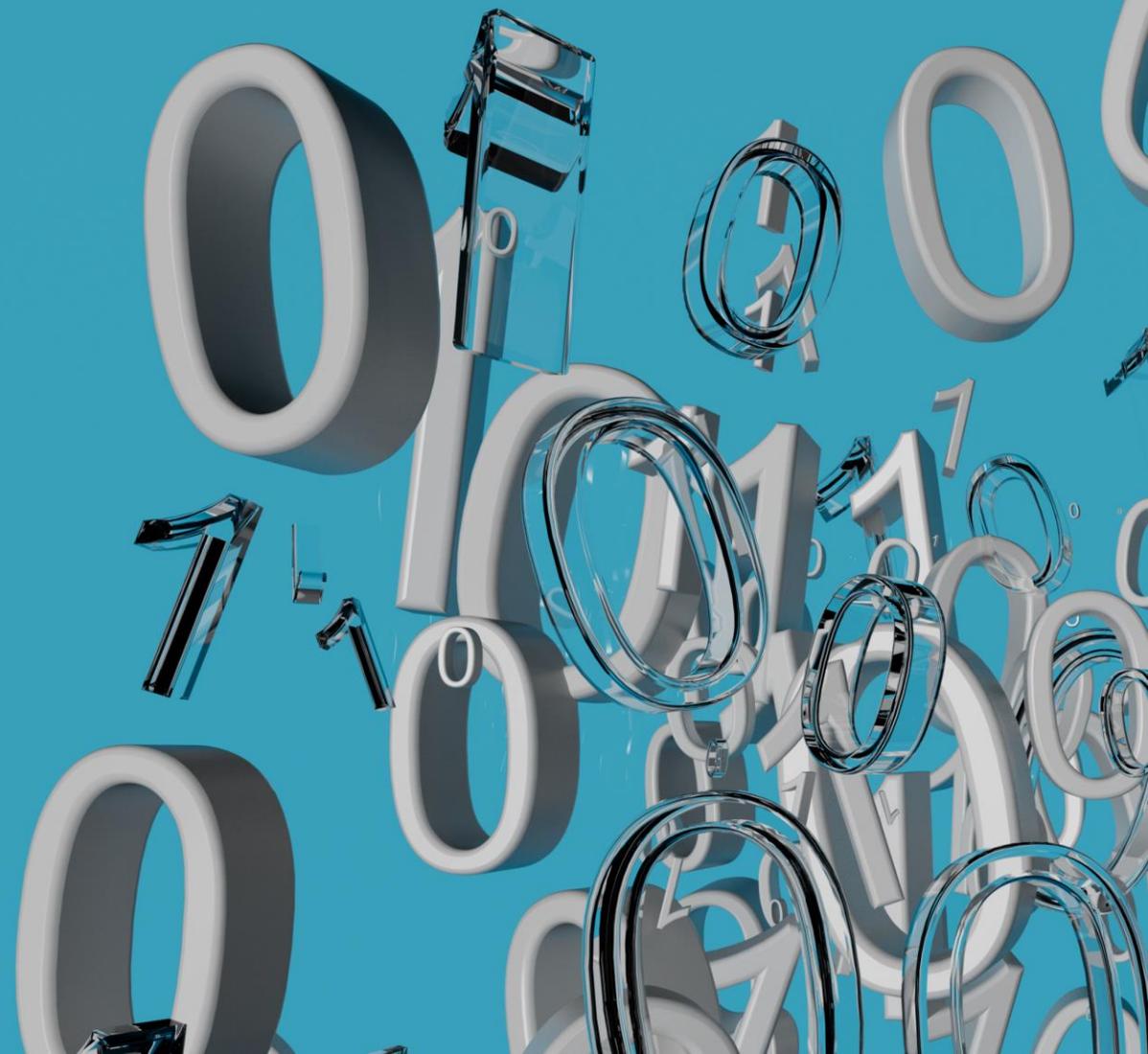


The AI Liability Directive

The missing piece?

Munich

22 May 2025



The European Way on AI



Ethical and trustworthy

AI Act is based on a high-level framework of general principles that promotes a coherent human-centric European approach to ethical and trustworthy AI, fully in line with the EU Charter of Fundamental Rights as well as the values on which the Union is founded.



Risk-based approach

The regulatory intervention depends on the type of risk incurred by the use of the AI system. The AI Act therefore concentrates on certain prohibited uses cases as well as on truly high-risk AI systems. For all remaining AI systems on the Internal Market self-regulation is sufficient.



Safety and liability

Certain elements of 2nd wave AI systems such as opacity or autonomy make it necessary to rethink the existing product safety and liability rules in order to guarantee that new risks are adequately addressed without hampering innovation in AI.



International cooperation

The regulatory approach of the EU is aligned with concepts, terminologies and standards that were introduced by international organizations. Creating a European approach to AI does not mean that the access to the Internal Market for non-European actors and their AI systems is restricted. They have complete and equal access as long as they are not at odds with European values and principles.

Why should there be an AI Liability law?

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Liability law?

- 1 No regulatory burden: A purely ex-post liability framework that introduces no new legal obligations for companies.
- 2 Covers AI-specific risks (e.g. bias, opacity, hallucinations) not addressed by existing ex-post regimes such as the PLD.
- 3 Full Harmonisation of EU liability laws would reduce legal uncertainty, litigation costs, and court overload.
- 4 Protects SMEs from disproportionate liability and market imbalances, in particular the shifting of the liability risk downstream.
- 5 Promotes innovation, safety, and fair competition. The AILD could have added €498.3bn to the EU economy by 2030.

The Voss Report that was not meant to be

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- 1 Upgrade the AILD into a Regulation (AILR) for a genuine harmonisation of liability rules across the Internal Market.
- 2 Align the AILR fully with the AI Act, PLD, and GPSR in terms of definitions but also concepts (e.g. strict liability for Art 5 AI Act).
- 3 Introduce a joint & several liability regime that applies along the AI value chain and makes sure that all actors share a fair burden.
- 4 Protect SMEs with presumption of equal share, SME support clauses, and a prohibition of unfair contractual terms.
- 5 Close AI liability gaps not addressed by the PLD (e.g. discrimination, deepfakes, hallucinations, data/IP violations).

The 2024 Draghi Report

The 2024 Draghi Report



Post AI Act: a growing gap towards global leaders?

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EU companies hesitate to invest in and to develop AI as they find the field too risky and complain that the escalating legal uncertainty does not allow them to plan ahead. Most EU companies became deployers that buy an AI end product from US Tech cooperations.



AI systems proved to be too dynamic for a NLF law. Frequent substantial modifications, new risk categories, and more than one intended purpose are forcing companies to regularly perform conformity assessments and review if they still fulfil the high-risk obligations.



Even though third-party conformity assessments are not mandatory for most high-risk AI systems, companies do not feel confident and draw back on expensive certification and third-party auditing. Big 4 accounting firm as well as law firms are the big winners of the AI Act.



Neither the EU nor Member States manage to build up a sufficiently working governance system. The lack of talent and investments can be named as key reasons but also the ongoing power struggles between new and existing mechanisms is problematic.

How a coherent AI Strategy should look like ...

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4. Ecosystem of excellence

Develop more AI talent and make better use of the excellent AI research community within the EU.

3. Digital green infrastructure

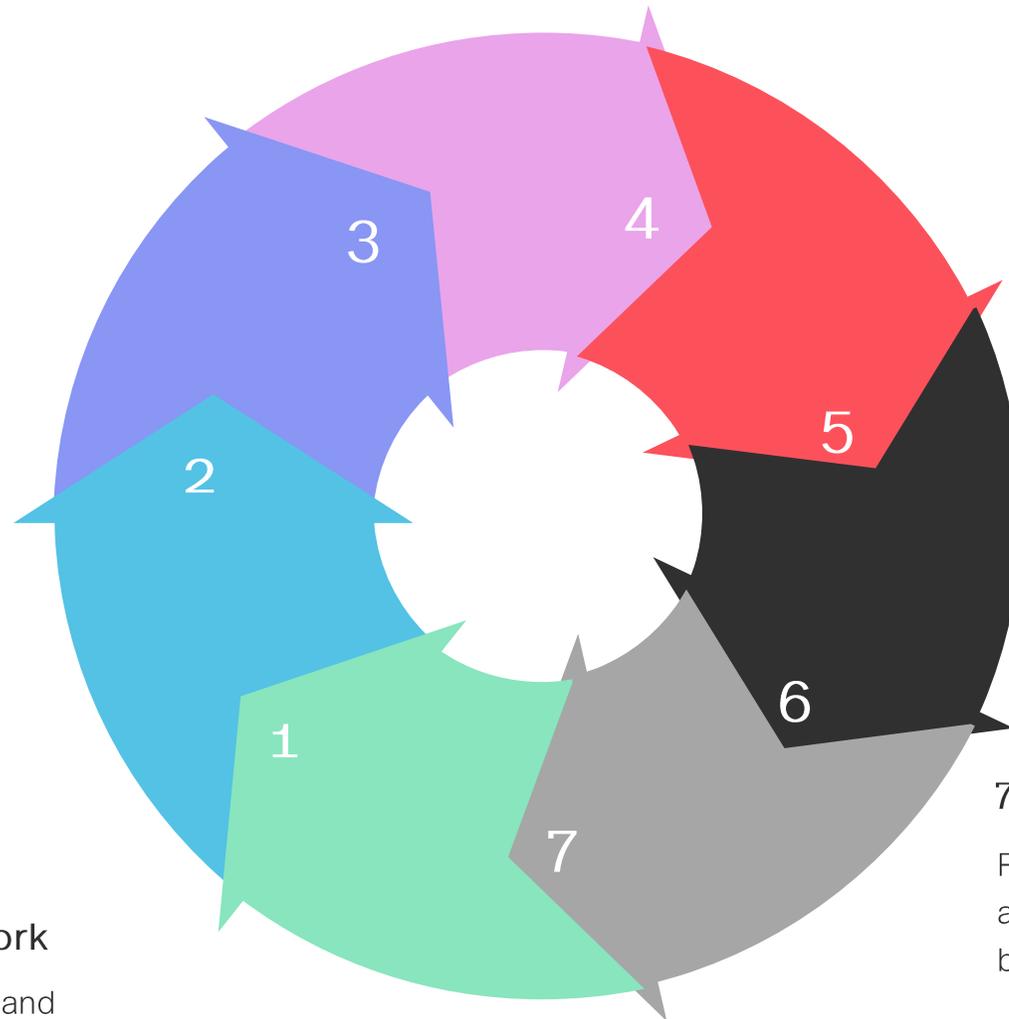
Improve connectivity and invest in better computing power. Build up a sustainable and reliable digital infrastructure.

2. Complete the DSM

Streamline the national AI Strategies. Remove market barriers. Establish a genuine level playing field.

1. Favourable regulatory framework

Improve EU law making, governance and enforcement. Establish a coherent legal framework for AI. Solve the EU data challenge.



5. Ecosystem of trust

Inform and empower EU citizens. Establish a reliable and secure e-governance and e-health system.

6. Industry strategy

Increase the strategic planning and investments in AI. Better support SMEs and start ups. Form an alliance with like minded partners on the international stage.

7. Security and military deterrence

Find the right balance for using AI in law enforcement and the military. Counter cybersecurity threats by building up an effective cyber defence structure.

... how the European Commission reacts!

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