



**Kai Zenner**

---

Presentation on:

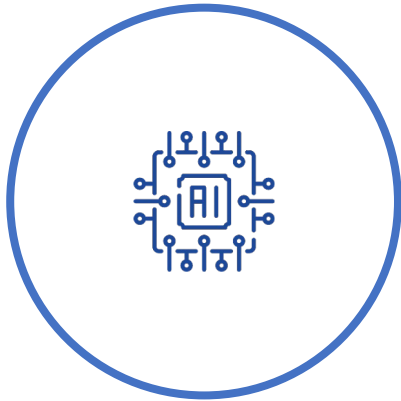
# 'The AI Act and the EU's digital competitiveness'

Who am I?

- ❖ Head of Office and Digital Policy Adviser for MEP Axel Voss (EPP group) in the European Parliament since 2017
- ❖ Focusses on AI, data and the EU's digital transition, while pushing for internal reforms of the European Parliament as well as a return to the Better Regulation agenda.
- ❖ Key files: AI Act, AIDA Resolution, AI Liability Directive, Representative Action Directive, Whistleblower Directive, ePrivacy Regulation, GDPR, Privacy Shield, Eurojust Regulation.

# Outline

---



## Chapter 1: The AI Act

Do we need an AI law? What conceptual choices have been made by the EU Commission? How to assess the final text?



## Chapter 2: The policy cycle

Case study AI Act: how power struggles and a disregard for the Better Regulation agenda are resulting in legislative overlaps as well as enforcement issues.

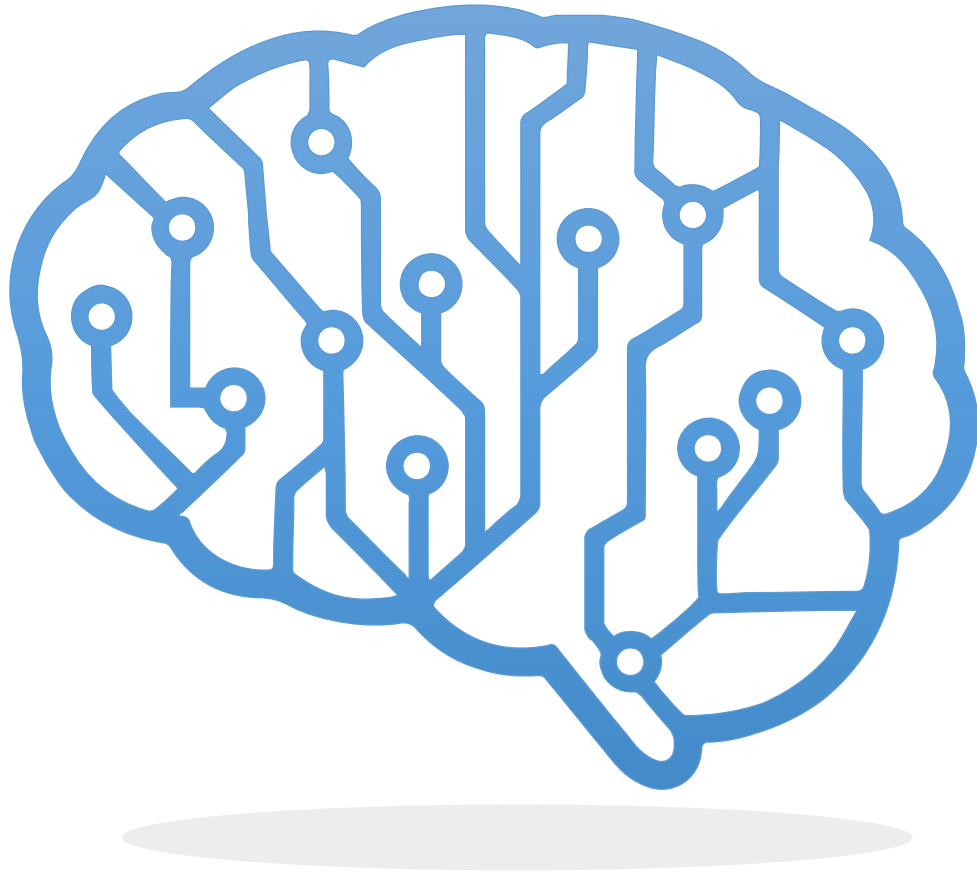


## Chapter 3: Digital competitiveness

What does that mean for the EU's goal to become a global leader in AI? How to describe the status quo? What can be done to make the AI Act work despite all those problems listed before?

# Chapter 1: The AI Act

---



1

AI is an umbrella term that covers a wide range of old and new technologies that often have little more in common than being guided by a given set of human-defined objectives and having some degree of autonomy in their actions.

2

The 1<sup>st</sup> wave of 'symbolic' AI (1950s-90s) was based on rule-based procedures (= algorithm) that were determined by human experts. In the 1990s, the increased availability of data initiated the 2<sup>nd</sup> wave of 'data-driven' AI. Machine or deep-learning approaches enabled the algorithms to improve themselves by training with data and thereby allow them to regularly bypass the expert systems of the 1<sup>st</sup> wave AI.

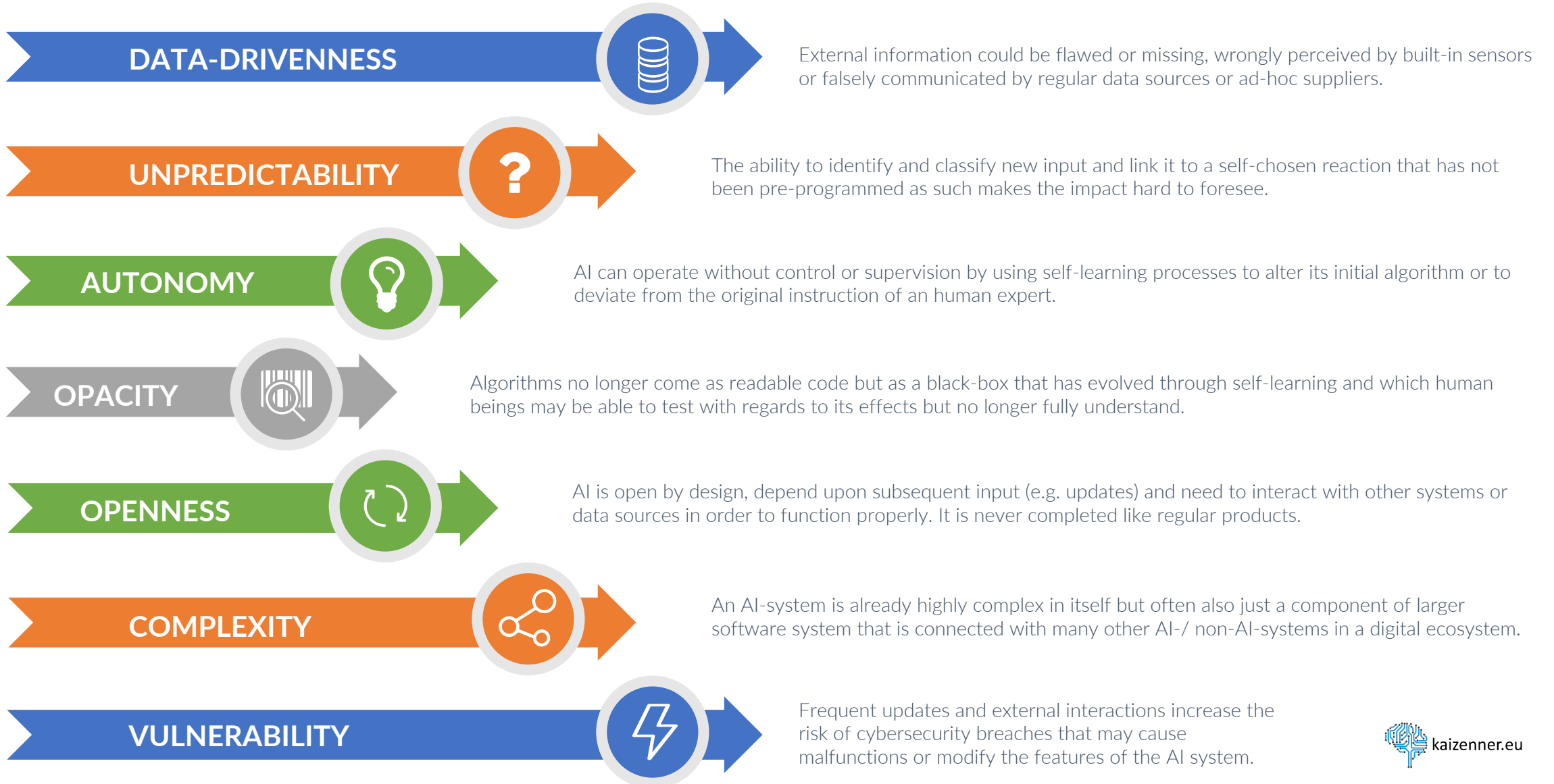
3

Many fears linked to AI are based on TV shows and hypothetical concepts such as artificial superintelligence or singularity. In reality, there are significant doubts as to whether machines will ever be able to break free from human control, considering our technologies and scientific laws.

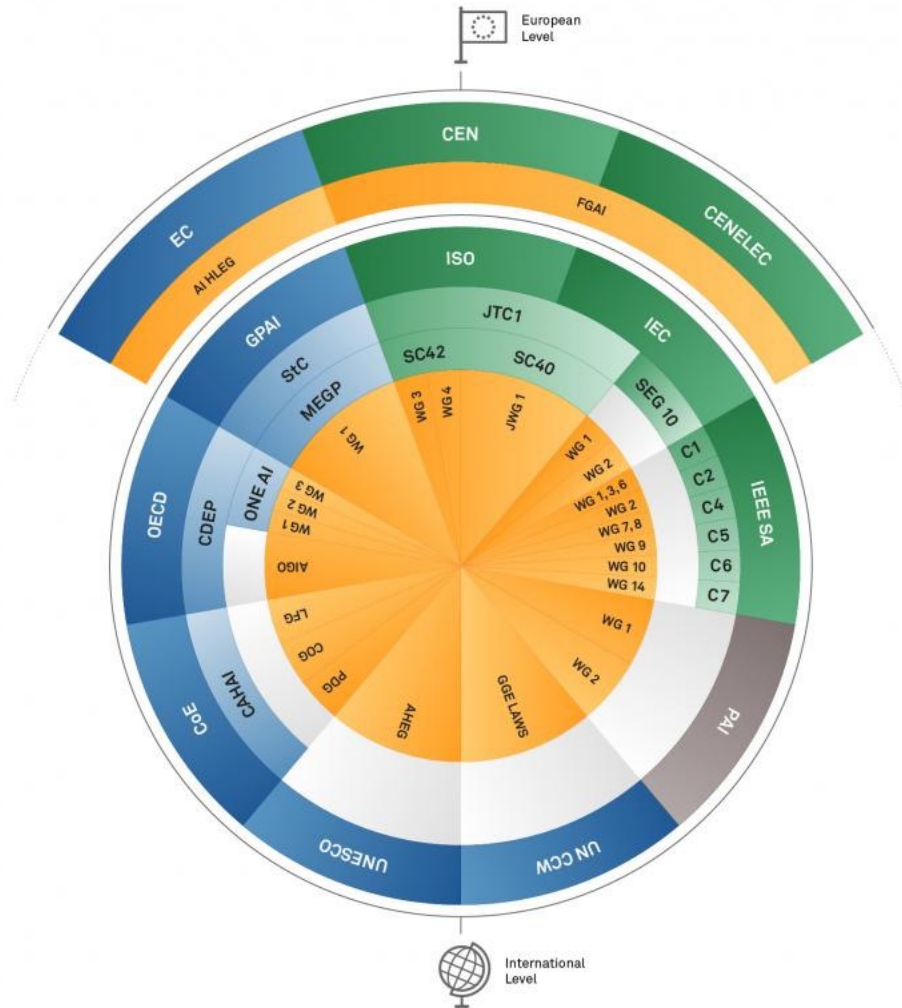
4

As the majority of AI systems that are currently in use do not pose any risk, the public debate should focus more on the enormous potential of AI (from combating global societal challenges such as climate change to enhancing quality of life through personalised medicine).

# New legal gaps?



# International organisations & fora



## Stakeholders Engaged in the Governance of AI Ethics

### Key

- Political Fora
- Standards Developing Organizations (SDOs)
- Not-for-Profit Organization
- Working Groups

- Stiftung
- Neue
- Verantwortung

# International organisations & fora


---


## Values-based principles

 Inclusive growth, sustainable development and well-being >


 Human-centred values and fairness >

 Transparency and explainability >

 Robustness, security and safety >


 Accountability >


## Recommendations for policy makers

 Investing in AI R&D >

 Fostering a digital ecosystem for AI >

 Providing an enabling policy environment for AI >

 Building human capacity and preparing for labour market transition >

 International co-operation for trustworthy AI >

# A special type of Product Safety law

---

## New Legislative Framework (NLF)

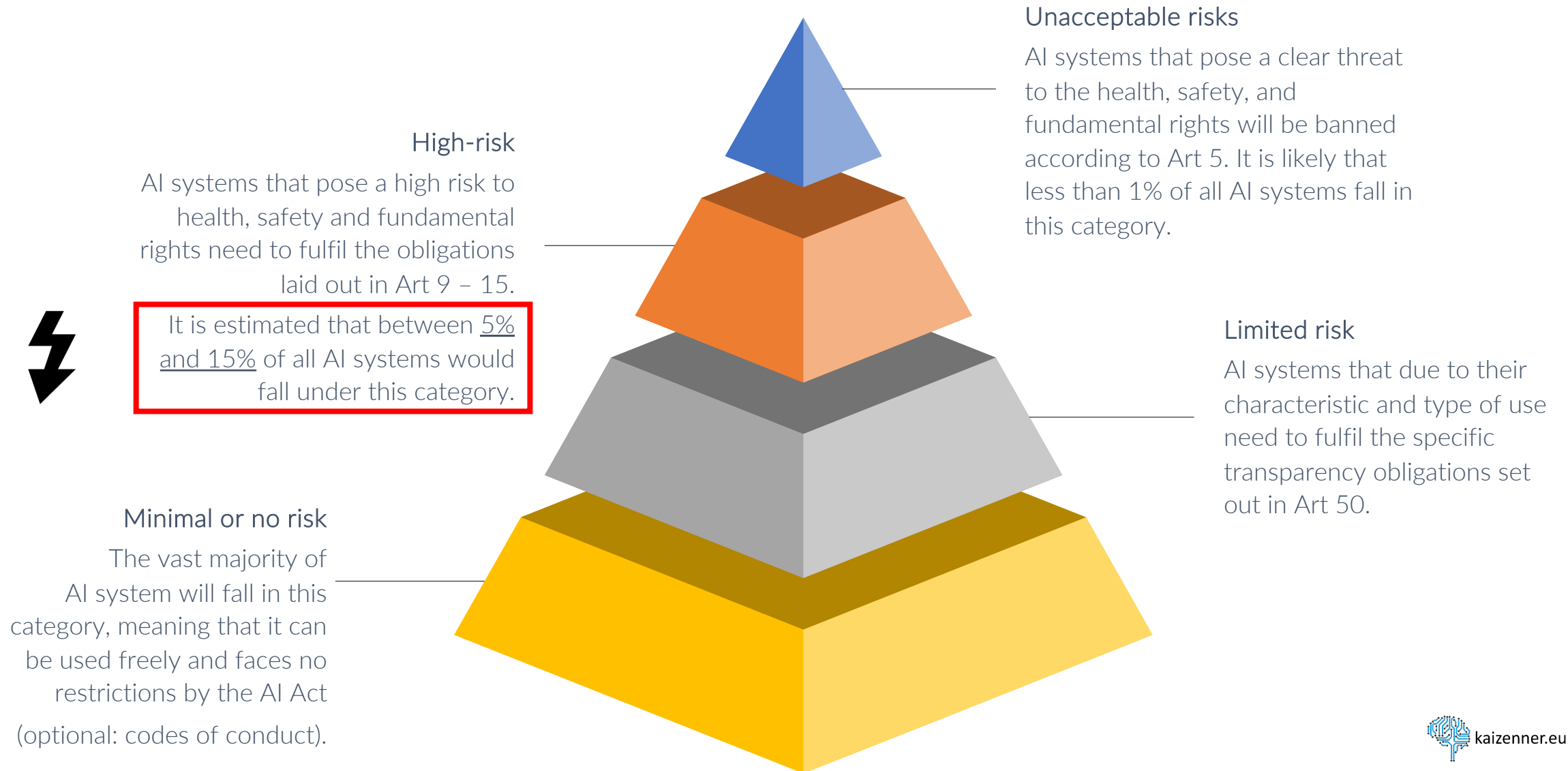
## Fundamental Rights Protection



- Common framework for products based on 23 EU laws (i.e. Toy Safety, Radio Equipment, MDR)
- Set of principles for CE marking, accreditation of notified bodies, and conformity assessments.
- Rules for market surveillance and the enforcement of conformity to ensure that products sold on the Internal Market of the EU market are safe.

- The EU AI Act not only protects 'health' and 'safety' like normal NLF laws do but also protects 'fundamental rights' as enshrined in the EU Charta.
- As a result, providers / deployers of high-risk AI-systems are obliged to include fundamental rights considerations in risk assessments and other areas.
- There is a lack of experience in NLF for this topic, in particular with regard to technical standards.

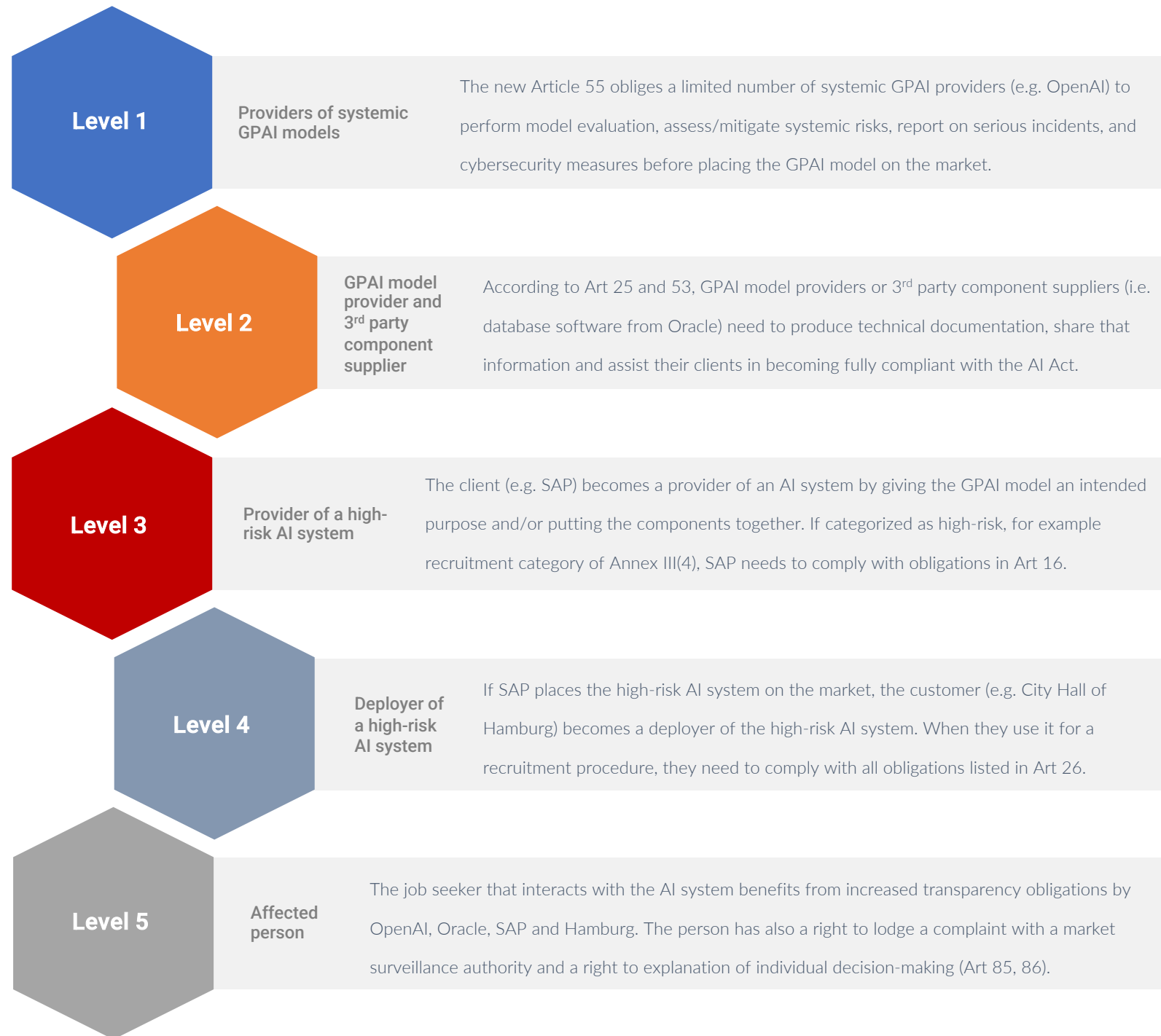
# The risk-based approach



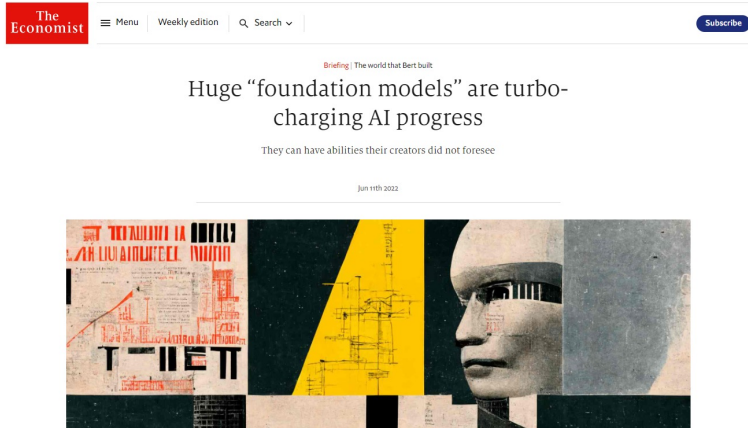


# Responsibilities along the AI value chain

Why a holistic approach with shared responsibilities is much better than the original Commission focus on the downstream provider and deployer

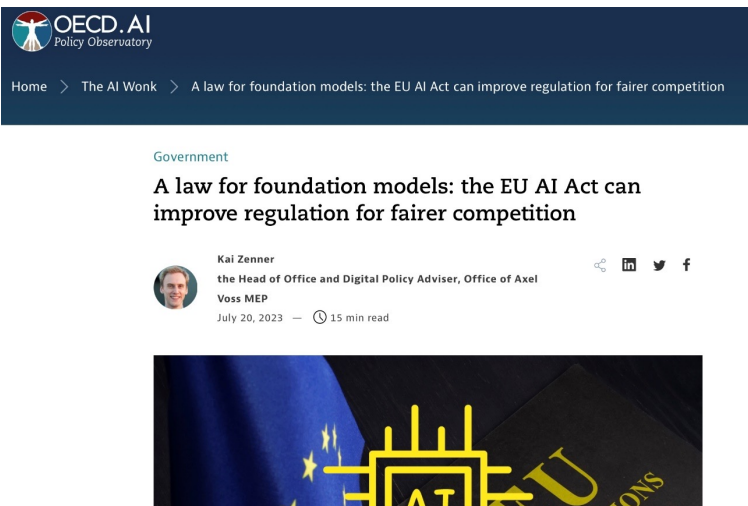


# Systemic GPAI models



GPAI models (foundation models) are an essential building block that is used by many downstream providers to develop their specific AI systems. Compared to an AI system that has an intended purpose, GPAI models are undetermined like a kind of digital plasticine. They are useable in many sectors and applicable to countless (mostly low-risk) use cases (i.e. >1300 documented use cases of GPT 3.5).

Since the AI Act has a risk-based approach and focuses on specific high-risk intended purposes, the law is conceptually not designed to cover GPAI models. As a result, the upstream GPAI providers – often large US tech companies – would be completely freed from facing regulatory burden. The existing market concentration would probably be further increased. Moreover, EU companies as simple customers would not have enough information / assistance to fulfil the AI Act obligation and would face heavy fines via Art 99. Sufficient documentation therefore seems key to make compliance work.



For a very small number of systemic (cutting-edge) GPAI models even more obligation seem necessary. Their models have become so powerful and will occupy such a dominant role in the AI value chain that a special set of rules is required. Providers of such systemic GPAI models should be forced to align their models – as much as technical feasible at this early development stage – with the AI Act obligations for systems. Three elements stand out (a) risk identification, (b) model testing to minimize societal harm, and (c) cybersecurity measures. This extra layer would guarantee that systemic GPAI models are safe and comprehensible enough for downstream providers to integrate them in AI systems or deploy them in GPAI systems.

# Systemic GPAI models

---

## Article 3 Definitions

(63) 'general-purpose AI model' means an AI model, including where such an AI model is trained with a large amount of data using self-supervision at scale, that displays significant generality and is capable of competently performing a wide range of distinct tasks regardless of the way the model is placed on the market and that can be integrated into a variety of downstream systems or applications, except AI models that are used for research, development or prototyping activities before they are released on the market;

(65) 'systemic risk' means a risk that is specific to the high-impact capabilities of general- purpose AI models, having a significant impact on the Union market due to their reach, or due to actual or reasonably foreseeable negative effects on public health, safety, public security, fundamental rights, or the society as a whole, that can be propagated at scale across the value chain;

## Article 51

### Classification of general purpose AI models as general purpose AI models with systemic risk

2. A general-purpose AI model shall be presumed to have high impact capabilities pursuant to paragraph 1, point (a), when the cumulative amount of computation used for its training measured in FLOPs is greater than  $10^{25}$ .

➤ [More criteria for the designation of systemic GPAI models in ANNEX IXc](#)

Models	Developers	Country
Jurassic-2	AI21 Labs	Israel
Claude	Anthropic	US
Ernie 3.0 Titan	Baidu	China
Cohere Command	cohere	Canada
PaLM 2	Google	US
Chinchilla	Google DeepMind	US / UK
LLaMa	Meta	US
VIMA	Nvidia	US
GPT-4	Microsoft/OpenAI	US
Kosmos-1	Microsoft Research Asia	China
Stable Diffusion XL	stability.ai	UK

➤ *When I wrote my OECD article in 2023, the following GPAI models would have probably be designated as 'systemic'.*

# AI Act: the pros & cons

---

International alignment (i.e. OECD AI definition).



Evolving AI systems do not fit in NLF ecosystem.

Principles that take context of use into account (Art 8).



Horizontal scope leads to legal overlaps / gov. chaos.

Burden sharing along the AI value chain (Art 25, 51 ff).



Vague legal text (i.e. Art 3) and unclear procedures.

Presumption of conformity via tech. standards (Art 40).



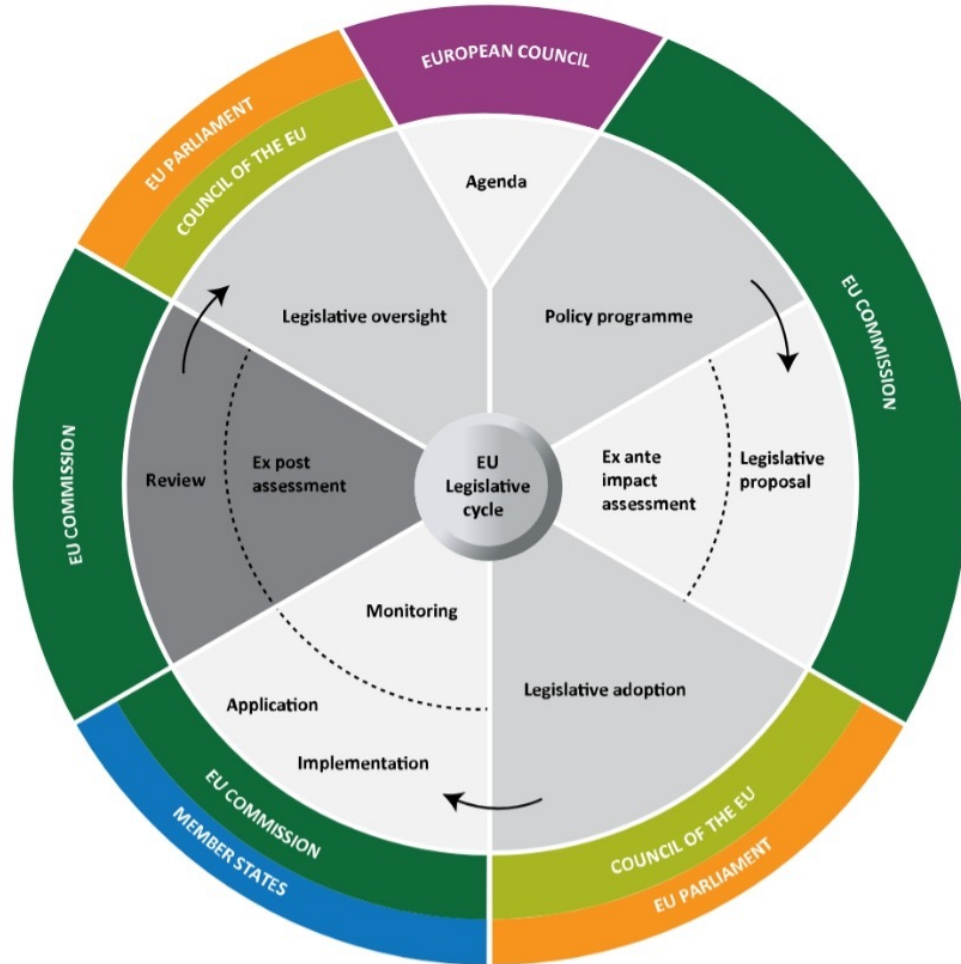
Prohibitions (Art 5) + high-risk cases are blurry (Annex 3)

Future-proof and cooperative law (i.e. DA/IA, RSB, GL)



Issues with training & access to h/q datasets unsolved.

# Chapter 2: The policy cycle



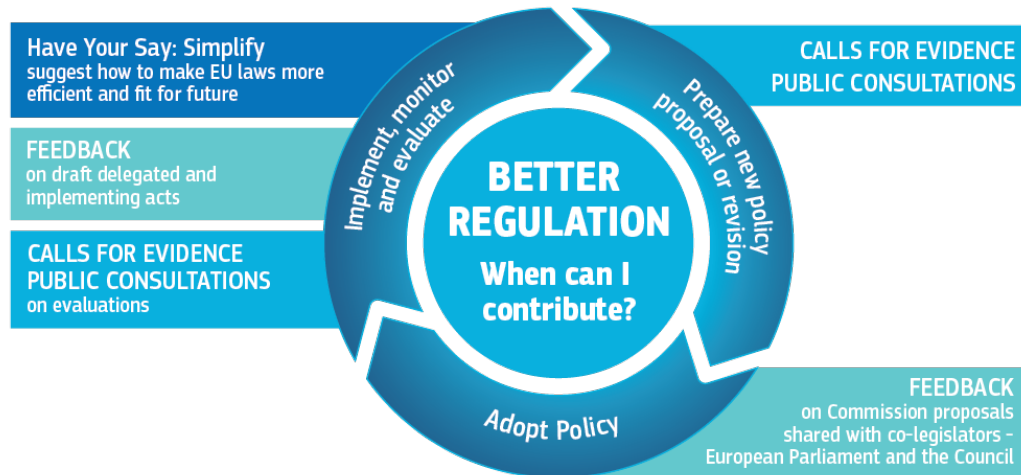
## Main steps

1. Political guidelines and annual work programs
2. Inception Impact assessment + public consultation
3. Legislative drafting + Regulatory Scrutiny Board
4. Interservice consultation + adoption by the College
5. Finalisation of the General Approach in the Council as well as of the position of the European Parliament
6. Inter-institutional negotiations (Trilogue)
7. Publication in the Official Journal of the EU
8. Implementation & enforcement of the new law
9. Ex-post assessment & review of the law

# Better Regulation agenda

---

## Consultation



## Quality control

- Integrated Better Regulation Guidelines for the policy making by EU Institutions.
- Regulatory Scrutiny Board that checks the Commission's proposal as well as the IA.
- Obligation to conduct a new Impact Assessment by the Council or Parliament in case of substantial amendments.

# The European Commission



#vdLCommission



“The European Commission has a Secretariat-General consisting of 33 directorates-general, which develop, manage and implement EU policy, law and funding.

In addition, there are also 20 special departments (services and agencies), which deal with ad hoc or horizontal issues.”

A New Push for European Democracy





# The Council of the EU

	Agriculture and Fisheries	Competitiveness	Transport, telecommunications and energy	Education, youth, culture and sport	Employment, social policy, health and consumer affairs	Environment	Economic and financial affairs	Justice and home affairs	General affairs	Foreign affairs
Configurations	AGRI	COMPET	TTE	EYCS	EPSCO	ENV	ECOFIN	JHA	GAC	FAC
Preparatory committees	Committee of Permanent Representatives (Coreper I)						Committee of Permanent Representatives II (Coreper II)			
	Special Committee on Agriculture (SCA)						Political and Security Committee (PSC)			
Working parties	21	13	7	5	5	2	13	18	20	34

- **Responsible for the EU AI Act:** Working Party on Telecommunications and Information Society consisting of 27 attachés of the different Member States.

# The European Parliament

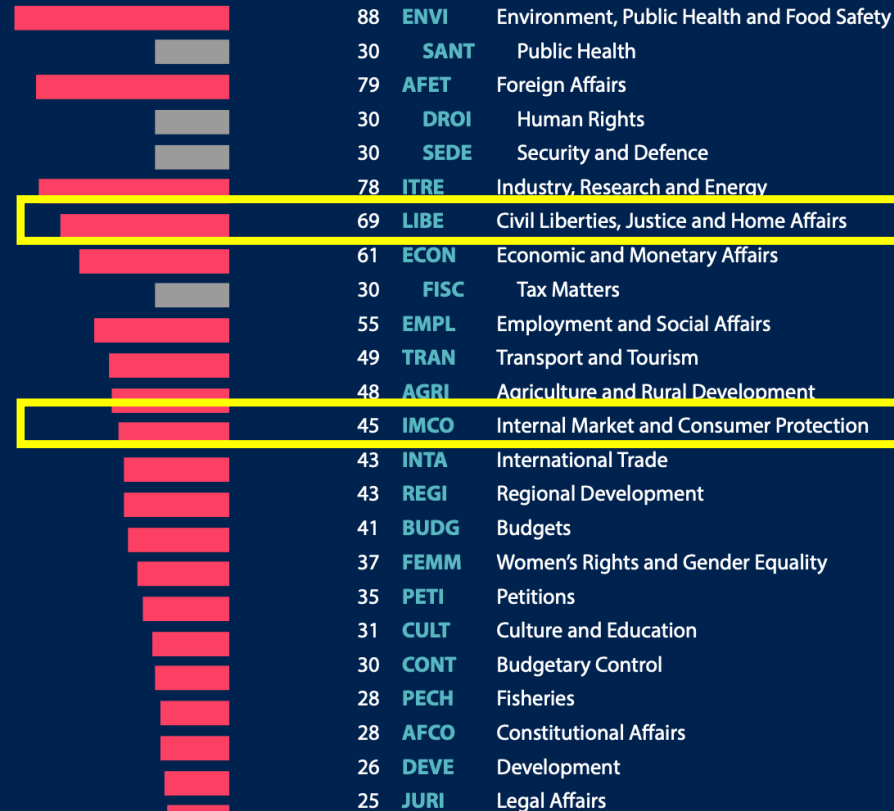
## Parliamentary committees

Selected date: 9th term - Feb 2024

The graph represents the parliamentary committees at a given point in time. It shows the number of MEPs in each of the committees, as well as the name and code of the committee.

Each of the standing committees and sub-committees in the EP covers a different policy area. They draw up reports for consideration in the plenary – on both legislative and non-legislative matters – and hold the executive to account.

By clicking on the committee name (or code), you will be redirected to the main page of the committee, where you can find other important information, such as the work in progress, press statements, video recordings from previous meetings, and schedule for the next meeting, publications, and supporting analysis.



- **Responsible for the EU AI Act:** two lead committees (Rule 58: IMCO, LIBE), three associated committees (Rule 57: JURI, ITRE, CULT), and two opinion giving committees (Rule 56: ENVI, TRAN).

# Result: legislative overlaps

---

Already in the summer of 2021, we have received more and more feedback from researchers, legal experts as well as the AI community that indicated that the AI Act will contradict, interfere or overlap with existing and upcoming laws. Some of the most prominent examples that have been mentioned are:

- **GDPR** (Art 5(4), 6(4), 13(2f), 14(2g), 15(1h), 22, 32, 33, 34, 35)
- **ePrivacy** (use of communication data for training of translation systems, record keeping obligation)
- **P2B** (Art 5)
- **DSA** (Art 4(1e), 5(1), 5(3), 6, 22, 23)
- **Platform Work Directive** (Art 6, 7, 8, 9)
- **NIS 2** (notifications with regards to security breach)
- **Machine Regulation** (definitions and criteria for AI)
- **Sector specific laws** (transport/connected cars, MDR/IVDR, insurances, finance, employment)

**Table 1: Overview of EU Legislations in the Digital Sector**

Applicable law	Published in the Official Journal of the European Union
In negotiation	Proposal by the European Commission entered the legislative process.
Planned initiative	Mentioned by the European Commission as potential legislative initiative

Research & Innovation	Industrial Policy	Connectivity	Data & Privacy	IPR	Cybersecurity	Law Enforcement	Trust & Safety	E-commerce & Consumer Protection	Competition	Media	Finance
Digital Europe Programme Regulation, (EU) 2021/694	Recovery and Resilience Facility Regulation, (EU) 2021/241	Frequency Bands Directive, (EC) 1357/2012	European Statistics, (EC) 2009/222, 2023/0231(COD)	Database Directive, (EC) 1996/9	Regulation for a Cybersecurity Act, (EU) 2019/881, 2023/0108(COD)	Law Enforcement Directive, (EU) 2016/680	Product Liability Directive (PLD), (EC) 1855/2018, 2022/0202(COD)	Unfair Contract Terms Directive (UCTD), (EC) 1993/913	EC Merger regulation, (EC) 2004/395, update soon	Satellite and Cable I Directive, (EC) 1993/683	Common VAT system, (EC) 2006/112, 2022/0470(CNS)
Horizon Europe Regulation, (EU) 2021/685, (EU) 2021/764	InvestEU Programme Regulation, (EU) 2021/6523	Radio Spectrum Decision, (EC) 2002/678	General Data Protection Regulation (GDPR), (EU) 2016/679	Community Design Directive, (EC) 2020/206, 2022/0331(COD)	Regulation to establish a European Cybersecurity Competence Centre, (EU) 2021/682	Directive on combating fraud and counterfeiting of non-cash means of payment, (EU) 2019/713	Toys Regulation, (EU) 2009/48, 2023/0290(COD)	Price Indication Directive, (EC) 1999/6	Technology Transfer Block Exemption, (EC) 2014/7316	Information Society Directive, (EC) 2000/789	Administrative cooperation in the field of taxation, (EU) 2011/116
Regulation on a pilot regime distributors' ledger tech. market, (EU) 2022/868	Connecting Europe Facility Regulation, (EU) 2021/1165	Broadband Cost Reduction Directive, (EU) 2014/611, 2023/0048(COD)	Regulation to protect personal data processed by EU institutions, bodies, offices and agencies, (EU) 2018/1726	Enforcement Directive (IPR), (EC) 2004/48	NIS 2 Directive, (EU) 2022/2556	Regulation on interoperability between EU information systems in the field of borders and visa, (EU) 2019/817	European Standardisation Regulation, (EU) 2012/1026	E-commerce Directive, (EC) 2000/31	Company Law Directive, (EU) 2017/1132, 2023/0035(COD)	Audio-visual Media Services Directive (AVMSD), (EU) 2010/13	Payment Services Directive 2 (PSD2), (EU) 2015/2366, 2023/0209(COD)
	Regulation on High Performance Computing - Joint Undertaking, (EU) 2021/1173	Open Internet Access Regulation, (EU) 2016/2120	Regulation on the free flow of non-personal data, (EU) 2018/1807	Directive on the protection of trade secrets, (EU) 2016/943	Information Security Regulation, 2022/0084(COD)	Regulation on terrorist content online, (EU) 2021/1784	eIDAS Regulation, (EU) 2014/910, 2021/0138(COD)	Unfair Commercial Practices Directive (UCPD), (EC) 2005/29	Market Surveillance Regulation, (EU) 2019/1020	Portability Regulation, (EU) 2017/1128	Digital Operational Resilience Act (DORA Regulation), (EU) 2022/2654
	Regulation on Joint Undertakings under Horizon Europe, (EU) 2021/6095, 2022/0031(INI)	European Electronic Communications Code Directive (EECC), (EU) 2018/1972	Open Data Directive (PSI), (EU) 2019/1024	Design Directive, 2022/0321(COD)	Cybersecurity Regulation, 2022/0056(COD)	Temporary CSAM Regulation, (EU) 2021/1232, 2022/0165(COD)	Radio Equipment Directive (RED), (EU) 2014/53	Directive on Consumer Rights (CRD), (EU) 2011/83, 2022/0147(COD)	P2B Regulation, (EU) 2019/1160	Satellite and Cable II Directive, (EU) 2010/3789	Crypto-assets Regulation (MiCA), (EU) 2023/1114
	Decision on a path to the Digital Decade, (EU) 2022/2481	au-top-level domain Regulation, (EU) 2019/617	Data Governance Act (DGA Regulation), (EU) 2022/2888	Compulsory licensing of patents, 2023/0129(COD)	Cyber Resilience Act, 2022/0272(COD)	E-evidence Regulation, (EU) 2022/1843	Regulation for a Single Digital Gateway, (EU) 2018/1724	e-invoicing Directive, (EU) 2014/55	Single Market Programme, (EU) 2014/680	Copyright Directive, (EU) 2019/790	Financial Data Access Regulation, 2023/0206(COD)
	European Chips Act (Regulation), (EU) 2022/1761	Roaming Regulation, (EU) 2022/612	ePrivacy Regulation, 2017/0003(COD)	Standard essential patents, 2023/0133(COD)	Cyber Solidarity Act (Regulation), 2023/0109(COD)	Directive on combating violence against women, 2022/0086(COD)	General Product Safety Regulation, (EU) 2023/2888	Geo-Blocking Regulation, (EU) 2018/202	Vertical Block Exemption Regulation (VBER), (EU) 2022/2728	European Media Freedom Act, 2022/0271(COD)	Payment Services Regulation, 2023/0211(COD)
	European critical raw materials act (Regulation), 2023/0073(COD)	Regulation on the Union Secure Connectivity Programme, (EU) 2022/3588	European Data Act (Regulation), 2022/0047(COD)			Digitalization of travel documents	Machinery Regulation, (EU) 2023/1230	Regulation on cooperation for the enforcement of consumer protection laws, (EU) 2017/2384	Digital Market Act (DMA Regulation), (EU) 2022/1926	Remuneration of musicians from third countries for recorded music played in the EU	Digital euro, 2023/00212(COD)
	Net Zero Industry Act, 2023/0081(COD)	New radio spectrum policy programme (RSPP 2.0)	European Health Data Space (Regulation), 2022/0140(COD)				AI Act (Regulation), 2021/0186(COD)	Digital content Directive, (EU) 2019/770	Regulation on distortive foreign subsidies, (EU) 2022/2560		Regulation on combating late payment, 2023/0323(COD)
	Establishing the Strategic Technologies for Europe Platform (STEP), 2023/0198(COD)	Digital Networks Act	Regulation on data collection for short-term rental, 2022/0356(COD)				Eco-design Regulation, 2022/0086(COD)	Directive on certain aspects concerning contracts for the sale of goods, (EU) 2019/771	Horizontal Block Exemption Regulations (HBER), (EU) 2023/1068, (EU) 2023/1067		
	EU Space Law		Interoperable Europe Act, 2022/00379(COD)				AI Liability Directive, 2022/0303(COD)	Digital Services Act (DSA Regulation), (EU) 2022/2065	Platform Work Directive, 2021/0414(COD)		
	Initiative to open up European supercomputer capacity to AI start-ups		Harmonization of GDPR enforcement, 2023/0202(COD)					Political Advertising Regulation, 2021/0381(COD)	Single Market Emergency Instrument (SMEI), 2022/0278(COD)		
			Access to vehicle data, functions and resources					Right to repair Directive, 2023/0083(COD)			
			Green Data-hall					Multimodal digital mobility services (MDMS)			
								Consumer protection: strengthened enforcement cooperation			

In November 2023, there were in total 116 EU laws for the digital sector:

- 77 legislative files have entered into force (adopted laws).
- 29 proposal are currently being discussed.
- 10 additional initiatives are planned.

# Result: governance chaos

---

## National level

---

National Competent Authorities

National Supervisory Authorities

Notifying Authority

Market Surveillance Authority

## European level

---

Commission / AI Office

AI Board

Expert Groups

EDPS

We received similar feedback with regard to the governance structure and enforcement mechanisms. Researchers, legal experts as well as the AI community pointed out that:

- Power struggles between new EU AI Act players and the existing EU agencies and bodies that have so far regulated and enforced on AI in their sector (i.e. financial services or health products) are very likely to occur.
- Member States will designate different bodies as NCAs with different perspectives on AI, which will lead to different interpretations and enforcement activities (despite Art 81).
- The national systems are further complicated by the involvement of national public authorities supervising Union law protection fundamental rights as well as sectorial governance structures.

**Table 2: Overview of EU Enforcement Mechanisms and Agencies in the Digital sector**

Explanation							
1	EU Institution	3	Decentralised agency	5	Independent body	7	Network of Member States
2	Executive agency	4	Governing board	6	Advisory body	8	European Standardisation Organisations

Research & Innovation	Industrial Policy	Connectivity	Data & Privacy	IPR	Cybersecurity	Law Enforcement	Trust & Safety	E-Commerce & Consumer Protection	Competition	Media	Finance
1 European Commission (DG CNCT): Unit D.1 [EU] 2021/684, [EU] 2021/695	1 European Commission (DG DEFS): Unit B.1 [EU] 2023/588	3 Body of European Regulators for Electronic Communications (BEREC) [EU] 2015/2120, [EU] 2018/1172	3 European Health Data Space Board (EHDS) [2022/0140(COD)]	2 European Union Intellectual Property Office (EUIPO) [EU] No. 386/2012, [EU] 2017/1001, 2022/0391(COD), 2022/0332(COD), 2023/0129(COD), 2023/0133(COD)	1 cert-eu [2022/0085(COD)]	2 Europol [EU] 2016/784	6 European Artificial Intelligence Board [2021/0106(COD)]	1 European Commission (DG JUST): Unit B.3 (Consumer Enforcement and Redress)	1 European Commission (DG CNCT): Unit F.2 & F.3 [EU] 2022/2065, [EU] 2022/1925	6 European Regulators Group for Audiovisual Media Services (ERGA), potentially replaced by European Board for Media Services, [2014/462, [EU] 2010/13, 022/027(COD)]	1 European Central Bank (ECB) [EU] 2015/2366, 2023/0212(COD)]
2 European Research Council Executive Agency (ERCEA) [EU] 2021/694, [EU] 2021/695, [EU] 2021/723	2 European Union Agency for the Space Programme (EUSPA) [EU] 2023/588, [EU] 2021/696	6 Interoperable Europe Board [2022/0379(COD)]	4 European Data Protection Board (EDPB) [EU] 2016/679	5 European Patent Organization	3 European Cybersecurity Competence Centre (ECCC) [EU] 2021/887	2 Eurojust [EU] 2018/1727	6 Gateway coordination group [EU] 2018/1724	7 Consumer Protection Cooperation Network (CPC) [EU] 2017/2394	1 European Commission (DG COMP)		3 European Securities and Markets Authority (ESMA) [EU] 2022/2554, [EU] 2023/1114
2 European Innovation Council & SMEs Executive Agency (EISMEA) [EU] 2021/694, [EU] 2021/695, [EU] 2021/723	4 European Chips Infrastructure Consortium (ECIC) [2022/0032(COD)]	5 eu Multistakeholder Advisory Group [EU] 2019/517	4 European Data Protection Supervisor (EDPS) [EU] 2018/1726	5 Compulsory licences advisory body [2023/0129(COD)]	3 EU Agency for Cybersecurity (ENISA) [EU] 2019/881	2 European Public Prosecutor's Office (EPPO) [EU] 2017/1939	5 European Committee for Standardization (CEN) [EU] 2012/1025	1 Consumer Safety Network [EU] 2023/988	1 European Commission (DG GROW): Unit A.4 [2022/0278(COD)]		5 European Banking Authority (EBA) [EU] 2015/2366, [EU] 2022/2554, [EU] 2023/1114, 2023/0205(COD)]
2 European Research Executive Agency (REA) [EU] 2021/694, [EU] 2021/695, [EU] 2021/723	4 "Governing Board of Chips Joint Undertaking (Chips JU) 2022/0032(INLE)"	6 Governing Board of Smart Networks and Services Joint Undertaking (SNS JU) [EU] 2021/2085	6 European Data Innovation Board (EDIB) [EU] 2022/868	6 European Observatory on Infringements of IPR [EU] 386/2012	3 European Defence Agency (EDA) [EU] 2019/881	2 Frontex [EU] 2019/1896	8 European Committee for Electrotechnical Standardization (CENELEC) [EU] 2012/1025		6 European Board of Digital Services [EU] 2022/2065		5 European Insurance and Occupational Pensions Authority (EIOPA) [EU] 2022/2554, 2023/0205(COD)]
4 European Institute of Innovation & Technology (EIT) [EU] 2021/694, [EU] 2021/695, [EU] 2021/723	4 Governing Board of European High-Performance Computing Joint Undertaking (EuroHPC JU) [EU] 2021/1173				4 European Cyber Shield [2023/0199(COD)]	2 eu-LISA [EU] 2018/1726	5 European Telecommunications Standards Institute (ETSI) [EU] 2012/1025		6 High-Level Group on DMA [EU] 2022/1925		
	4 European Digital Infrastructure Consortium (EDIC) [EU] 2022/2481				6 European Cybersecurity Certification Group (ECCG) [EU] 2019/881	2 EU Fundamental Rights Agency (FRA) [EC] No. 168/2007			7 European Competition Network (ECN)		
	5 European Space Agency (ESA) [EU] 2023/588				6 Interinstitutional Cybersecurity Board (ICB) [2022/0085(COD)]	2 European Anti-Fraud Office [1999/252/EC]			7 Union Product Compliance Network, [EU] 2019/1020		
	6 European Semiconductor Board [2022/0032(COD)]				6 Interinstitutional Information Security Coordination group [2022/0084(COD)]						
	6 European Critical Raw Materials Board [2023/0079(COD)]				6 NIS cooperation group [EU] 2022/2555						
	7 European network of competence centers in semiconductors [2022/0032(COD)]				7 Network of National Coordination Centres [EU] 2021/887						
					7 EU Cybersecurity Reserve [2023/0199(COD)]						

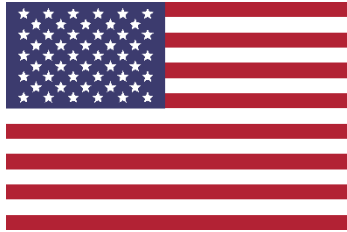
In November 2023, there were in total 65 governance mechanisms on EU level.

# Chapter 3: Digital competitiveness

---

## USA

---



The US government applies with the Executive Order a sector-specific approach. Moreover, it promotes private sector innovation, in particular by the US tech giants and their top universities.

As global AI leader, the US hosts the vast majority of leading AI firms, is predominant in VC, R&D spending and AI talent, and has an excellent digital infrastructure as well as a coherent and unified digital market.

## CHINA

---



The Chinese regime considers AI as the key factor in the global tech race. It developed several long-term plans to become the leader in AI and to overtake the US in terms of military supremacy.

It adopted an Automated Decision-Making law but focusses on investments. While five years ago, China was significantly lagging behind in all AI markers, it quickly caught up and could soon become the dominant force in the field of AI.

## EU

---



The EU wants to bring AI in line with its core values and democratic principles. Moreover, it hopes to achieve another GDPR-like 'Brussels effect' by setting global standards on AI.

However, especially after Brexit, the EU fell behind the US and China in virtually every category and loses even further ground despite the current AI measures on EU and Member State level.

# The ambition: Establish a third way on AI

---





# The risk: an increasing AI gap

---



EU companies hesitate to invest 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.



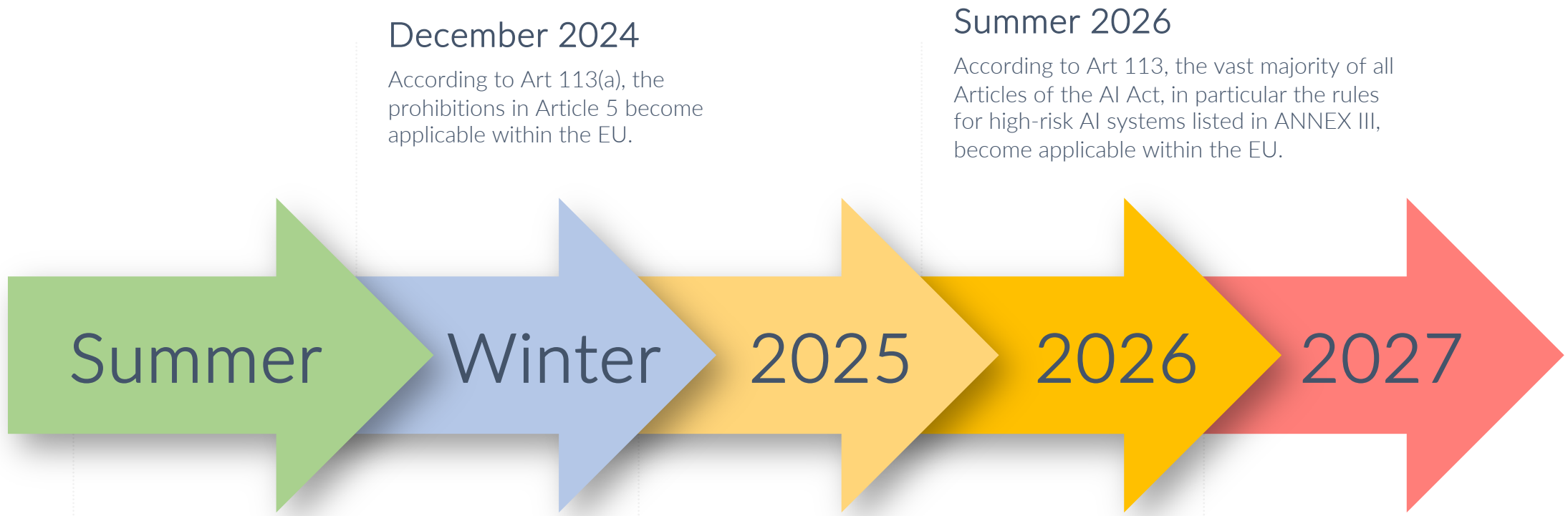
Even though third-party conformity assessments are not mandatory for most high-risk AI systems, companies do not feel confident and draw back on expensive certification and third-party auditing. Big 4 accounting firm as well as law firms are the big winners of the AI Act.



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.

# The clock is ticking

---



## December 2024

According to Art 113(a), the prohibitions in Article 5 become applicable within the EU.

## Summer 2026

According to Art 113, the vast majority of all Articles of the AI Act, in particular the rules for high-risk AI systems listed in ANNEX III, become applicable within the EU.

## May - August 2024

The EU AI Act is published in the Official Journal of the EU and enters into force after 20 days.

## Summer 2025

According to Art 113(b), the GPAI provisions in Art 51 ff become applicable within the EU.

## Summer 2027

According to Art 113(c), the provisions for high-risk AI systems listed in ANNEX I become applicable within the EU.

# Stakeholders: call to action!

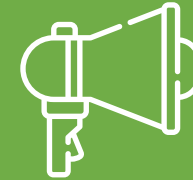
## Engage in Standardization Bodies

Help CEN/CENELEC to develop horizontal as well as vertical harmonized technical standards in time.



## Join Regulatory Sandboxes

Enter in a close dialogue with national authorities, make the AI Act compliance easier and benefit both from regulatory learning.



## Share your expertise

The Commission relies on your input for guidelines (Art 96), the code of practice (Art 56), and DA/IAs. You could also join the Scientific Panel (Art 68) or Advisory Forum (Art 67).

## Identify & motivate AI talent

European and national governance bodies need to attract AI experts but those persons can often earn much more in large Tech companies.

# Politics: a comprehensive AI strategy

## 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

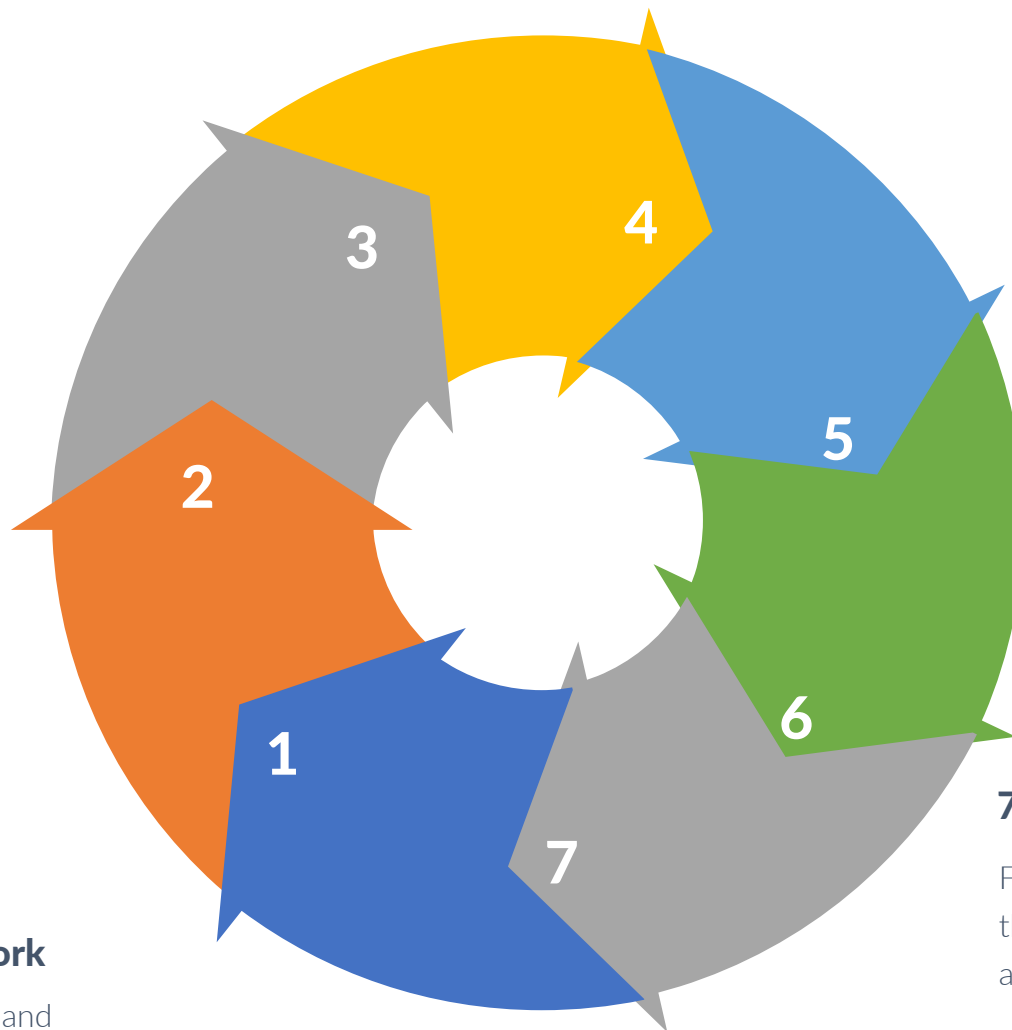
Improve connectivity and invest in better computing power. Build up a sustainable and reliable digital infrastructure.

## 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.

# Let's keep in touch!

---



+32 228 45302



[kai.zenner@ep.europa.eu](mailto:kai.zenner@ep.europa.eu)



[linkedin.com/in/kzenner](https://www.linkedin.com/in/kzenner)



[@ZennerBXL](https://twitter.com/ZennerBXL)

*... and don't forget to check my blog*

