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HUMAN-CENTRIC APPROACH
TO ARTIFICIAL INTELLIGENCE

edited by

Marco Filoni, Filippo Maria Giordano, Giorgio Grimaldi



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6. AI AND DEMOCRACY: THE ROLE OF THE EUROPEAN PARLIAMENT IN SHAPING THE EU “AI ACT”

by Raffaella Cinquanta*

Abstract: Il saggio intende evidenziare il ruolo politico svolto dal Parlamento europeo nell’elaborazione del *AI Act* del 2024: l’inquadramento etico e antropocentrico, la focalizzazione sulla regolamentazione dell’impatto dell’IA sulla vita democratica e la salvaguardia della coerenza con i valori fondativi dell’UE. La ricerca segue il dossier legislativo, analizzando i rapporti delle commissioni speciale e interne del PE. L’obiettivo è definire, anche in un confronto con l’approccio del Consiglio, la visione politica alla base dell’azione normativa del PE: la necessità di ripensare il contratto sociale al centro delle democrazie definendo un nuovo modello di governance democratica edificata sulla tecnologia.

Parole chiave: Intelligenza artificiale, AI Act, Processo democratico, Tecnologia umano-centrica, Parlamento europeo.

Abstract: The paper aims at highlighting the political role played by the European Parliament in the drafting of the 2024 EU *AI Act*: placing it in an ethic and human-centred framework, focusing on regulating the impact of AI on democracy and guaranteeing its consistency with EU founding values. The research follows the “procedure file” process, analysing the reports of the EP special and internal committees. The goal

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is to define, also in comparison with the Council's approach, the specific political vision which underpins the EP legislative action: the need to rethink the social contract at the heart of democracies, defining a new model of democratic governance built around technology.

Keywords: Artificial intelligence, AI Act, Democratic process, Human-centred technology, European Parliament.

Introduction

In the framework of the 2030 Digital Decade and in the belief that EU approach to Artificial Intelligence (AI) will define its future, in the first months of 2024 the European Union passed an *Artificial Intelligence Act (AI Act)*, following a Commission's proposal of the 21st of April 2021 and a political deal between the European Parliament (EP) and the Council, negotiated in December 2023. The main purpose of the regulation is to safeguard fundamental rights and democracy by setting up concrete rules and specific actions for the use of AI based on its potential risks and level of impact, thus promoting its excellence, transparency, and accountability. The aspiration is to set a global standard, establishing EU as a world-class center for a human-centric and trustworthy AI (Ulnicane, 2021; Cath *et al.*, 2018; Roberts *et al.*, 2021b; Roberts *et al.*, 2023). Regardless of its actual effectiveness in fulfilling its purpose (Laux *et al.*, 2022; Mügge, 2024), which is not under scrutiny herein, the *Act* is the result of a long and thoroughly debated legislative process, which ended on the 1st of August 2024 when it entered into force. The rationale of the debate has been to strengthen the EU's ability to compete globally by developing AI as a positive force for European society, and to build strategic leadership in high-impact areas such as environment, health, robotics, public sector, home affairs, transport, and

agriculture. However, applying AI to these sectors requires that its use be trustworthy and safe. Hence, the focus on AI-related ethics and risks at different levels and the need to address them legally through an array of complementary, proportionate, and flexible rules, guiding AI developers, operators, and users in those cases not covered by the ongoing national and EU legislations¹. The paper aims at highlighting the role played by the EP in the legal procedure that led to the final approval of the *AI Act*, which arguably consists in underpinning the use of AI to the fundamental values at the basis of European society and in installing its regulatory framework in an ethic and human-centred background, focused on safeguarding democracy and equality. In this regard, it appears worthwhile to recall the connection to the proposals by the Conference on the Future of Europe, the citizen-led series of debates held from April 2021 to May 2022 to share and shape EU's future².

1. The ethical issue: preliminary debate

The need to start an inclusive discussion specifically focused on AI ethics manifests from the very background of the long legislative process, which has led to the *AI Act*³. Following the Declaration of Cooperation signed by 24 EU Member States and

¹ For an overview of the Commission's approach and action see <https://digital-strategy.ec.europa.eu/en/policies/european-approach-artificial-intelligence#:~:text=The%20European%20approach%20to%20AI,people's%20safety%20and%20fundamental%20rights>.

² On the Conference see the archived webpage <https://wayback.archive-it.org/12/090/20230417172132/https://futureu.europa.eu/en>.

³ The Commission's initiative found its background in the conclusions of the European Council of October 2017 on Digital Europe and in the Joint Declaration on the EU's legislative priorities for 2018-2019 calling for the implementation of a Digital Single Market.

Norway on 10 April 2018, expressing their will to join in a common European effort to deal with AI-related issues, on the 25th, the Commission presented the Communication *Artificial Intelligence for Europe*. The aim was to activate a coordinated endeavour to make the most of AI potential benefits while tackling its potential risks, channelling AI-related economic, social and ethical issues in a three-pronged plan: boost public and private investment, arrange socio-economic changes⁴ and secure an appropriate ethical and legal framework to tackle AI-related liability or potentially biased decision-making issues. Given that, as in the fields of consumer protection and of the Digital Single Market, «EU's sustainable approach to technologies creates a competitive edge, by embracing change on the basis of the Union's values», the Commission meant to propose, by the end of 2018, ethical guidelines for AI addressing issues such as fairness, safety, security, social inclusion and algorithmic transparency with a focus on AI impact on fundamental rights, privacy, dignity, consumer protection, non-discrimination and data protection, based on the Charter of Fundamental Rights. The use of AI, especially when autonomous decision-making is involved, demands a pondering over the suitability of established rules and civil law on safety and, significantly, liability. In this respect, thus, «the EU can make a difference – and be the champion of an approach to AI that benefits people and society as a whole» (EC, 2018a).

In June, the Commission appointed 52 specialists to the High-Level Expert Group on Artificial Intelligence (AI-HLEG), gathering representatives of academia, business, and civil society

⁴ In the awareness that AI would transform deeply the job world, the Commission recommended Member States to modernise their education, training and labour systems accordingly and on the basis of the European Pillar of Social Rights. The Commission meant to contribute by financing AI-dedicated training courses through the European Social Fund and EU's following multiannual financial framework (2021-2027).

to support the implementation of this plan in two respects⁵. Firstly, the Group would provide recommendations on how to tackle AI-related mid- and long-term challenges feeding into the legislative process to define a next-generation digital strategy, while drafting the above-mentioned ethics guidelines in accordance with the activity of the European Group on Ethics in Science and New Technologies and of the European Union Agency for Fundamental Rights. Secondly, the Group would help the Commission gather a wide community of stakeholders in a “European AI Alliance” to establish an open policy dialogue on AI. The Alliance was launched in June 2018 and regularly engaged approximately 6000 stakeholders in events, public consultations, and online forums⁶.

Shortly after, in December 2018, the Commission tried to involve States in the matter permanently, through a *Coordinated Plan*, to be updated yearly, proposing synergies and joint actions on AI with Member States, Norway and Switzerland in areas of public interest (i.e. healthcare, transport and mobility, security and energy). The goals of the initiative were to maximize investments through partnerships⁷, create large and secure common European data spaces in compliance with the General

⁵ On the AI-HLEG see <https://digital-strategy.ec.europa.eu/en/policies/expert-group-ai>.

⁶ Four European AI Assemblies took place in June 2019, October 2020, September 2021 and November 2023. The Alliance has been operating also after the AI-HLEG mandate closed, sharing best practices and helping AI developers and stakeholders to self-assess their AI systems through the Assessment List for Trustworthy Artificial Intelligence (ALTAI). On the Alliance see <https://digital-strategy.ec.europa.eu/en/policies/european-ai-alliance>.

⁷ Since investment levels for AI in the EU were low and fragmented, the plan foresaw higher synergies to raise at least €20 billion of public and private investments in research and innovation till the end of 2020 and more than €20 billion per year in the following decade. Joint actions would include national AI strategies by mid-2019, a new European AI public-private research and innovation partnership, an AI scale-up fund to support startups and innovators, development and connection of EU world-leading centres for AI (through Digital Innovation Hubs and the launch of a European Innovation Council).

Data Protection Regulation, foster talent, digital skills and life-long learning with a focus on human-centred AI⁸, and build an ethical and trustworthy AI, respecting fundamental rights, to be replicated at global level. A new Commission service, the AI Watch, would help monitor the development of AI in the EU (Van Noordt and Misuraca, 2022) and the implementation of the Coordinated Plan⁹. On 8 April 2019, the AI-HLEG delivered the *Ethics Guidelines for Trustworthy AI*¹⁰ endorsed by the Commission in the Communication *Building trust in human-centric artificial intelligence*. The guidelines established seven key requirements for an AI to be trustworthy: human agency and oversight; technical resiliency and safety; privacy and data governance; transparency; diversity, non-discrimination, and fairness; societal and environmental well-being; accountability. After a piloting phase involving stakeholders, in July 2020, these requirements were translated into the *Assessment List for Trustworthy AI*, a concrete tool to guide developers and deployers in ensuring a risk-free AI. Besides, on the occasion of the first “European AI Alliance” Assembly on 26 June 2019, the AI-HLEG presented the document *Policy and investment recommendations of AI*. In the belief that EU and its Member States were placed in an exceptional position to seize the benefits of a minimum-risk AI, the document provided 33 recommendations to steer trustworthy AI towards sustainability, competitiveness and inclusion to empower and protect human beings, especially by focusing on enhancing data and infrastructure, skills and education, governance and regulation, funding and investment in

⁸ In this regard it is worth mentioning that the plan highlighted the importance to include educational programmes of disciplines not directly related to AI, such as law.

⁹ See https://ai-watch.ec.europa.eu/index_en.

¹⁰ The document followed the publication of the first draft in December 2018, which was debated in an open consultation and in meetings with representatives from Member States.

the areas of society at large, private and public sectors, research and academia. Finally, building on the work of the AI-HLEG, on 19 February 2020, the Commission released a *White paper on AI: a European approach to excellence and trust*¹¹, built around two main subjects. Firstly, it dealt with the policy framework to align measures at European, national, and regional levels, based on the partnership between private and public sectors, in order to create an “ecosystem of excellence” starting in research and innovation and accelerating the adoption of AI-based solutions also by small and medium-sized enterprises. Secondly, the paper sets the key elements of a regulatory framework for AI to create an “ecosystem of trust”, conceived as a policy objective in itself, through the compliance with EU rules and a human-centric approach respectful of EU values and citizens’ rights¹². Therefore, in the preliminary discussion launched by the Commission, it would seem that the ethical and human-centred matter, dealing mainly with the privacy issue, was debated on an equal footing with the economic and competitiveness goals.

2. The impact of AI on democracy: the role of the European Parliament

It can be argued that the EP would take responsibility for granting complete prominence to the former as a precondition for

¹¹ The *White Paper* was accompanied by a *Report on the safety and liability implications of Artificial Intelligence, the Internet of Things and robotics*, and by two topic-related communications: *Shaping Europe’s digital future* and *A European Strategy for Data*.

¹² The *White Paper* was discussed in a public consultation till June, receiving over 1215 contributions (including 400 position papers) through the online tools of the European AI Alliance (see <https://digital-strategy.ec.europa.eu/en/library/white-paper-artificial-intelligence-public-consultation-towards-european-approach-excellence-and>).

the latter. And that in doing so, it injected the AI ethical issue with a more ideal trait – envisaging a kind of technology serving humanity and pursuing the common good – and with a more long-term political approach, focused on AI impact on democratic life and military purposes (Nardocci, 2024; Roberts *et al.*, 2021a). In September 2020, the 33 members of the Special Committee on AI in a Digital Age (AIDA) of the EP started their work, which lasted till March 2022¹³. The EP entered the AI-policy debate stressing the need for Europe to speak with one voice through a «human-centric» and «holistic approach for a common, long-term position that highlights the EU’s key values and objectives relating to AI in the digital age that ensures that the digital transition is (...) consistent with the Charter of Fundamental Rights» (EP, Special Committee on Artificial Intelligence in the Digital Age, 2022b). The European legislature had been dealing with AI- and digital-related democratic issue since 2017, with a series of resolutions on civil law, civil liability, intellectual property and ethical aspects of AI, robotics and related technologies, and, most significantly, approved guidelines on the use of AI for military purposes and in the health and justice sectors. The AIDA was appointed in June with the mandate to assess the impact and challenges of AI on the EU economy and society and present the EP with a strategic plan defining EU medium- and long-term objectives¹⁴. As a part of its

¹³ See <https://www.europarl.europa.eu/committees/en/archives/9/aida/home/welcome-words> and the *Activity Report following AIDA Mandate 2020-2022*.

¹⁴ In 28 meetings and 11 public hearings the AIDA, chaired by the Romanian Dragoş Tudorache of the Renew Europe Group, dealt with the following topics: AI in health and combatting pandemics; AI and the Green Deal; AI Diplomacy and Governance in a Global Setting; AI, Cybersecurity and Defence; AI and Competitiveness; AI and the Future of Democracy; AI and the Labour Market; AI in agriculture and food security; AI and financial services; AI and the Data Strategy; AI and Transport; and lastly, AI and Bias. The issues were debated with a broad range of AI experts and stakeholders and the results were published in a series of AIDA working papers. In addition, AIDA met several times with the Commission’s Executive Vice-President Margrethe Vestager and the

work, the AIDA convened an Interparliamentary Committee meeting on 8 November 2021 with national parliaments, in order to discuss the future regulatory models, exchange information, and best practices¹⁵. The AIDA report, presented on 5 April 2022 by German rapporteur Axel Voss (Group of the European People's Party)¹⁶ and considered an «urgent call to action», was debated by the EP plenary on 3 May 2022 and adopted as a Resolution on AI in the digital age¹⁷. As for the impact and challenges of AI, AIDA had balanced its benefits towards risks in six case studies: health, the Green Deal, external policy and the security dimension, competitiveness, labour market, and the future of democracy. Thus, it was showed that EU still didn't meet any of the preconditions that «enable innovation to fully capture the potential of AI and other emerging technologies» due to a series of deficiencies in terms of digital single market: access and sharing of high-quality data, harmonized rules and standards, high regulatory burden, funding, research, skills and infrastructure (EP, Special Committee on Artificial Intelligence in the Digital Age, 2022b). In tackling this problem, the EP Resolution is consequential under more than one respect. First of all, it cautioned that if the EU does not «act swiftly and courageously, it will end up having to follow rules and standards set by others», often by non-democratic actors. Therefore, the Resolution called for a strong political commitment and a «more forward-leaning

Commissioner Thierry Breton, the French Council Presidency, the German Bundestag Study Commission on Artificial Intelligence. It also organized thematic workshops with the U.S. National Security Commission on Artificial Intelligence, the OECD, and experts on AI in various areas of application.

¹⁵ See: <https://www.europarl.europa.eu/relnatparl/en/aida-icm-on-artificial-intelligence-and-/products-details/20211007CPU37281>.

¹⁶The report was adopted by the AIDA on 22 March 2022, with 25 votes in favour, 2 against and 6 abstentions. Procedure file at [https://oeil.secure.europarl.europa.eu/oeil/popups/ficheprocedure.do?lang=en&reference=2020/2266\(INI\)](https://oeil.secure.europarl.europa.eu/oeil/popups/ficheprocedure.do?lang=en&reference=2020/2266(INI))

¹⁷ The Resolution was adopted by 495 votes to 34, with 102 abstentions.

mindset», still lacking at that time, to create a «European way» in the digitalised world, based on a human-centric approach, ethical principles, the concept of the social market economy and aiming for «AI to effectively become an instrument that serves people and society and pursues the common good and general interest». Thus, it presented a roadmap engaging the Commission, Member States and the EP itself to elaborate a clear legal framework in the form of regulations that should be «flexible, principle-based, technology-neutral, future-proof and proportionate (...) to the type of individual and/or societal risk incurred by the use of an AI system». In this regard, the EP indeed underlined the distinction, which will be acknowledged by the *AI Act*, between “high-risk” AI (requiring additional legislative strict safeguards) and “low-risk” AI (requiring transparency for users). As for the ethical and legal questions, the Resolution emphasized, more than any other institutional document released up till then, AI threatens fundamental rights, in particular from military developments such as lethal autonomous weapons systems, and democracy-detrimental applications such as mass surveillance and citizens profiling. Conversely, it suggested to prioritise policy options which, if supported by a proper infrastructure, education, and training, could unlock AI’s potential in the areas of health, environment, climate change, capital and labour productivity, sustainable growth, and job creation. Finally, in line with the Commission’s *White Paper* but with a major focus on EU citizens’ awareness and responsibility, the report underlined the necessity for public services to achieve an “ecosystem of excellence”, providing citizens with digital and AI skills at all stages of education and employment, and “ecosystem of trust”, with awareness-raising campaigns aiming at promoting AI democratisation and by using AI in e-governance and e-health (EP, 2022).

3. Council and Parliament: two different visions

Sometime before the approval of the EP Resolution, namely on 21 April 2021, the Commission had released the Communication *Fostering a European approach to AI*, including a review of the 2018 Coordinated Plan and summarizing all inputs and recommendations received so far: the attention to the double-faced main AI feature (opportunities and risks), the focus on an European way to trustworthiness and the subsequent perspective of a global leadership in a human-centred AI development. Simultaneously, the legislative process was officially started through the *Proposal for a Regulation laying down harmonised rules on artificial intelligence*, the future *AI Act*¹⁸, as a part of a broader interrelated legal initiative for a trustworthy AI, including an AI Liability Directive¹⁹ and a revision of sectoral safety legislation²⁰. In particular, the *AI Act* dealt with prohibited AI practices, high-risk AI systems, transparency obligations, measures supporting innovation, governance, implementation, and codes of conduct. Still, economic- and ethics-related provisions appear to be considered at the same level of priority and importance. As far as the Council is concerned, between November 2021 and September 2022, the Presidency proposed a series of compromised texts which would merge on 6 December 2022 in a common position, a “general approach” adopted as the basis for the negotiations with the EP under the ordinary legislative

¹⁸ The proposal was discussed in September by the European AI Alliance (see <https://futurium.ec.europa.eu/en/european-ai-alliance/document/event-report-high-level-conference-ai-ambition-action>).

¹⁹ The proposal was advanced on 28 September 2022, with the goal to equip the internal market with rules on non-contractual civil liability regarding AI systems. It is relevant to underline that the proposal followed a legislative own-initiative resolution adopted by the EP in October 2020.

²⁰ The *Proposal for a Regulation on general product safety* was advanced on 30 June 2021, subject to a public consultation and adopted on 10 May 2023.

procedure²¹. Compared to the EP's democratic and ideal approach, the most relevant amendments by the Council can be traced in the definitions and the scopes of the regulation. Namely, it narrowed down the definition of AI to those systems developed through machine learning and knowledge-based approaches. It added an «horizontal layer» in the high-risk AI classification, to «ensure that AI systems that are not likely to cause serious fundamental rights violations or other significant risks are not captured», while adjusting the requirements so that they «are more technically feasible and less burdensome for stakeholders to comply with». Most significantly, an «explicit reference» was made to exclude “national security, defence, and military purposes from the scope of the AI Act», with several changes to provisions relating to the use of AI for law enforcement purposes (Council of the European Union, 2022). Therefore, the Council's position is rather plainly based on the political will to defend national sovereignty (symbolised by the security, defence, and military exemption) and economic interests (noticeable in the loosening of the requirements for stakeholders and enterprises). As far as the EP is concerned, discussions were led under a joint committee procedure by the Committee on Internal Market and Consumer Protection (rapporteur: Brando Benifei, Group of the Progressive Alliance of Socialists and Democrats, Italy) and the Committee on Civil Liberties, Justice and Home Affairs (rapporteur: Dragoş Tudorache, Renew Europe Group, chair of the AIDA, Romania)²². As proof of the extent of the impact of AI, the following Committees were also

²¹ As for the advisory institutions involved in the legislative process, the European Economic and Social Committee gave its opinion on 22 September 2021, the European Committee of the Regions on 2 December 2021, the European Central Bank on 29 December 2021. The European Data Protection Board and the European Data Protection Supervisor issued a joint opinion on 18 June 2021.

²² See the procedure file at [https://oeil.secure.europarl.europa.eu/oeil/popups/ficheprocedure.do?reference=2021/0106\(COD\)&l=en](https://oeil.secure.europarl.europa.eu/oeil/popups/ficheprocedure.do?reference=2021/0106(COD)&l=en).

associated with the legislative work with shared and/or exclusive competences: Environment, Public Health and Food Safety, Industry, Research and Energy, Transport and Tourism, Culture and Education, Legal Affairs²³. The Report drafted by the two co-rapporteurs was adopted by the Joint Committee on 22 May 2023 and, consistently with the AIDA Resolution, displays a clear, democracy-oriented political approach. As specified in the explanatory statement, the goal of the *AI Act* should be «to ensure both the protection of health, safety, fundamental rights, and Union values and, at the same time, the uptake of AI throughout the Union», a more integrated digital single market, and a legislative environment suited for entrepreneurship and innovation. This explains why, contrary to the Council, the EP Committees believed that «no AI system should be excluded ex-ante, either from the definition of artificial intelligence or by carving out exceptions for particular types of AI systems» and added to the list of forbidden practices the «predictive policing (...) in breach of the key principle of presumption of innocence». It also explains why the list of high-risk AI was expanded with systems who «have the potential, by influencing a large number of citizens of the Union, to impact the very functioning of our democracy», such as those used by candidates or parties to influence and count votes in local, national, or European elections, and with potentially-deceptive systems like «deepfakes impersonating real persons and editorial content written by AI». Besides, the report emphasised the responsibilities of AI users, urging them to play a more active role «in protecting the health, safety, and fundamental rights of EU citizens and EU values», by appointing «competent persons responsible for the human oversight of high-risk AI». As far as public authorities were concerned, the report stressed the

²³ Opinions in https://www.europarl.europa.eu/doceo/document/A-9-2023-0188_EN.html.

need to increase «democratic oversight, public scrutiny, and accountability, alongside more transparency towards the public on the use of AI systems in sensitive areas impacting upon people’s lives». The political approach, calling for institutional accountability, is noticeable also in the provision regarding the governance and enforcement of the regulation. On one side, the role of the AI Board, the advisory body composed of representatives from each Member State, was enhanced in ensuring the uniform application of the Regulation, in providing recommendations to the Commission, and in acting as a forum for national supervisory authorities. On the other hand, a new enforcement mechanism by the Commission was proposed, to be triggered in cases amounting to infringements of at least three Member States, modelled on the Market Surveillance and Compliance Regulation. Furthermore, the Committees stressed the need to strengthen the involvement of stakeholders and civil society organizations in the provisions of the Regulation and, to «ensure that individuals are properly empowered when the use of an AI system infringes on their rights, but also in order to contribute to building trust in AI systems and their widespread use», added a dedicated chapter on «remedies for both natural and legal persons» (EP, Committee on the Internal Market and Consumer Protection, Committee on Civil Liberties, Justice and Home Affairs, 2023). On 14 June 2023 the EP, ahead of talks with EU Member States on the final shape of the Regulation, amended the *AI Act* in the view that its purpose should be «to promote the uptake of human centric and trustworthy artificial intelligence and to ensure a high level of protection of health, safety, fundamental rights, democracy and rule of law and the environment from harmful effects of artificial intelligence systems in the Union while supporting innovation and improving the functioning of the internal market»²⁴. To this end, the EP

²⁴ The amendments were approved by 499 votes to 28 with 93 abstentions.

proposed amendments aiming at ensuring that all operators covered by the Regulation should develop and use AI following the general principles defined in the AI-HLEG *Ethics Guidelines*. Under this respect, quite relevant is the amendment regarding the promotion of «a sufficient level» of AI literacy, referring to skills, knowledge and understanding that allows providers, users and affected persons «to make an informed deployment of AI systems, as well as to gain awareness about the opportunities and risks of AI and possible harm it can cause and thereby promote its democratic control». As for the prohibition of AI practices, the EP's effort to protect democratic rights is blatant. The list was indeed expanded to include intrusive and discriminatory uses of AI such as: systems that use subliminal techniques or deliberately manipulative or deceptive techniques; systems that exploit the possible vulnerabilities of a given person or group of persons with the aim of substantially distorting their behaviour by «appreciably impairing the person's ability to make an informed decision»; biometric categorisation systems based on sensitive or protected attributes; “real-time”/“post” remote biometric identification systems (except for the prosecution of serious crimes and only after judicial authorisation); systems used for social rating or predictive policing, emotion recognition systems in law enforcement, border management, the workplace, and educational institutions; creation of facial recognition databases violating human rights and the right to privacy. Particularly significant is the following amendment, which will be transposed in the *AI Act*: «The use of AI systems in migration, asylum and border control management should in no circumstances be used by Member States or Union institutions, agencies or bodies as a means to circumvent their international obligations (...) nor (...) infringe on the principle of non-refoulement, or deny safe and effective legal

avenues into the territory of the Union, including the right to international protection».

As for high-risk AI, the amendments focused on equality and non-discrimination. The list was expanded with systems intended to be used: as security components in the management of critical digital infrastructures; to assess the appropriate level of education of an individual «materially» influencing «the level of education and vocational training from which that individual will benefit or to which he or she will have access»; to «monitor and detect prohibited behaviour in students during tests»; to make or substantially influence decisions «on the eligibility of natural persons for health and life insurance»; to «evaluate and classify emergency calls from individuals» and, most of all, «to influence the outcome of an election or referendum or the voting behaviour of natural persons in the exercise of their vote». The EP also introduced obligations (transparency requirements and safeguards against illegal content) for general purpose AI (GPAI), which should always disclose its AI-generated content. From an institutional point of view, the EP proposed to establish an AI Office with legal personality and acting «in full independence», cooperating with Member States, national supervisory authorities, the Commission, and other EU institutions on the implementation and application of the *Act*. It also introduced the right to complain about AI systems with a national supervisory authority in case of regulation infringement (EP, 2023).

4. AI and the Conference on the Future of Europe

To better outline the political vision which underpinned the EP legislative action it is significant to point out a possible democratic influence that pushed the Assembly to face the issue

on the assumption that the AI-related challenges were forcing institutions and citizens to rethink the social contract at the heart of democracies, and therefore to define a new model of democratic governance built around technology. Besides the studies on AI provided by the European Parliament Research Service (EPRS), overall focusing on AI economic and social impact and, more importantly, on democracy-related issue²⁵, it appears of particular relevance the peculiar experiment in supranational participatory democracy that was the Conference in the Future of Europe (Moccia, 2021; Cinquanta 2022). Held from April 2021 to May 2022, its final report lists a series of proposals to reform the EU according to citizens' vision of its future. Significantly, the topic of AI was discussed in the Citizens' Panel dedicated to "European democracy/Values and rights, rule of law, security". On one hand, it was regarded as a security question: citizens recommended that EU institutions should «play a stronger role» and «protect individuals, organizations and institutions against new threats coming from cybersecurity breaches and the use of AI for criminal purposes. (...) because these threats are a serious national and European security concern. We recommend this because Europe should be a true innovator in this field». On the other hand, a beneficial use of AI was related to identity and educational developments: «We recommend that existing and emerging translation technologies such as artificial intelligence are further developed, improved and made more accessible so as to reduce language barriers and strengthen common identity and democracy in the European Union».

In the final report, the Conference stated that Europe should become a «world leader and standard setter in digital transformation and charter a European way to build an ethical, human-centred, transparent and safe digital society». Therefore,

²⁵ See the website <https://epthinktank.eu/?s=artificial+intelligence>.

Europe needs «to be ambitious in its approach» and fully use the opportunities offered by digitalisation, while at the same time managing its risks and challenges through «a possible future Charter of Digital Rights». As for the specific impact of AI on society and economy, the Conference prompted Europe to become a world leader in «guaranteeing human oversight of all processes involving artificial intelligence in work environments while fully utilizing the potential of trustworthy and responsible use of artificial intelligence, setting safeguards and standards that ensure transparency, interoperability, generate trust, enhance ease of use and avoiding any discriminatory or biased algorithms» (Conference on the future of Europe, 2022).

5. The negotiations and the approval of the AI Act

After the EP amendments, the interinstitutional negotiations began. The first four political trilogues, held on the same 14 June 2023, then on 18 July 2023, 2-3 October 2023 and 24 October 2023, agreed on the “less controversial parts” of the Commission’s proposal and found a compromise on the mechanism for classification of high-risk AI systems. In the fifth and final trilogue, held on 6-8 December 2023, the co-legislators closed the negotiations with a compromise on the most controversial political issues, such as the regulation of GPAI models and systems, their governance, as well as the prohibitions, especially the much-debated law enforcement block. Meanwhile, in compliance to the forthcoming regulations, in January 2024, the Commission launched a package of measures to support European

startups and SMEs in the development of trustworthy AI²⁶. It established the European AI Office as a part of the administrative structure of the DG for Communication Networks, Content and Technology²⁷.

As for the most politically marked aspects of the EP amendments, the compromise text seems to take some step back, namely – and quite significantly – in the matter of national sovereignty and interest. Firstly, the text did include the statement that, besides improving the functioning of the internal market and supporting innovation, the goal of the *AI Act* is «to ensure a high level of protection of health, safety and fundamental rights enshrined in the Charter, which includes democracy, rule of law and environmental protection». But all subsequent references to the risks addressed by the Regulation included only risks to health, safety, and fundamental rights, in accordance with the Council’s mandate. Secondly, and most noticeably, the compromise text made it clear that the Regulation excluded national security. As for the forbidden AI practices, the compromised list included the prohibition of real-time biometric identification by law enforcement authorities in publicly accessible spaces, «but with some notable and clearly defined exceptions (...) now subject to a range of safeguards, including monitoring and oversight measures and limited reporting obligations at EU level». Other prohibitions were accepted in a limited form: untargeted scraping of facial images for the purpose of a creating or expanding facial recognition databases, emotion recognition but only at the workplace and in educational institutions (and with exceptions for safety and medical reasons), biometric categorization based on

²⁶ All documents available at <https://digital-strategy.ec.europa.eu/en/news/commission-launches-ai-innovation-package-support-artificial-intelligence-startups-and-smes>.

²⁷ See <https://digital-strategy.ec.europa.eu/en/policies/ai-office>.

certain specific beliefs or characteristics²⁸, and, significantly, predictive policing which assess or predict the risk to commit a criminal offence based solely on the profiling of a natural person or on assessing their personality traits and characteristics. Besides, the compromise agreement preserved all the exceptions for law enforcement authorities added by Council (i.e. derogation from conformity assessment²⁹, possibility to start testing of high-risk AI systems without prior authorisation), while the obligation for some deployers to conduct a fundamental rights impact assessment was lightened in order to make it easier to comply with. As for GPAI, defined as «AI systems based on GPAI models that can serve a variety of purposes», the compromise introduced horizontal obligations, such as updating and making available technical documentation to the AI Office and national competent authorities, and some additional requirements for models with systemic risks (model evaluation, risk assessments, risk mitigation measures, cybersecurity protection, reporting serious incidents to the AI Office and national competent authorities) to be achieved through codes of practice developed by the industry with the participation of the Member States, through the AI Board. As for governance, the compromise stated that while the market surveillance system on the

²⁸ As for real-time remote biometric identification systems in publicly accessible spaces for the purposes of law enforcement, the compromise text reinserts and increases the exemptions proposed by the Commission: their use is prohibited «unless and in as far as such use is strictly necessary for one of the following objectives: (i) the targeted search for specific victims of abduction, trafficking in human beings or sexual exploitation of human beings, as well as searching for missing persons; (ii) the prevention of a genuine threat of a terrorist attack; (iii) the localisation or identification of a person suspected of having committed a criminal offence, for the purposes of conducting a criminal investigation, prosecution or executing a criminal penalty for offences, (...) punishable in the Member State concerned by a custodial sentence or a detention order for a maximum period of at least four years» (Council of the European Union, 2024).

²⁹ However, the Council pointed out that «to secure this concession, it has been necessary to re-introduce in the text the wording regarding the control of the authorisation process by the Commission» (Council of the European Union, 2024).

national level would apply to AI systems, the new rules for GPAI provided for a more centralised oversight and enforcement. Thus, the list of tasks of the AI Board was extended to «give the Member States a stronger coordination role». Besides, two new advisory bodies were established: a scientific panel of independent experts for technical advice to the AI Office and market surveillance authorities (Member States could call upon experts to support their market surveillance activities) and an advisory forum made up of a balanced selection of stakeholders to provide input to the Commission and to the AI Board. Member States were also allowed to appoint at least one notifying authority and at least one market surveillance authority as national competent authorities (Council of the European Union, 2024)³⁰. Once the agreement was reached, the final legislative steps followed. On 13 March 2024, by 523 votes to 46, with 49 abstentions, the EP adopted the compromise text at first reading and therefore, under the ordinary legislative procedure, on 21 May 2024 the Council approved the EP position and the *Act* itself, which was signed on 13 June 2024 and entered into force on the 1st of August. It applies only to areas within EU law and provides exemptions for systems used exclusively for military, defence, or national security and for research purposes.

Conclusion

Despite the “reductions” due to the interinstitutional compromise, the EP’s influence on the Regulation is quite prominent. The use of a real-time remote biometric identification system for the purposes of law enforcement in publicly accessible spaces is now authorised only if the relevant authority has

³⁰ The consulted compromise text expresses the point of view of the Council’s Presidency.

completed a fundamental rights impact assessment. Besides, its use remains limited to what is strictly necessary both temporally and geographically. But most of all, «no decision producing an adverse legal effect on a person should be taken based solely on the output of the remote biometric identification system» (Regulation EU 2024/1689). The regulation also lays down clear obligations for high-risk AI systems, due to their significant potential harm to health, safety, fundamental rights, environment, democracy and the rule of law: they must assess and reduce risks, maintain use logs, be transparent and accurate, and ensure human oversight. For a high-risk AI system to be deployed by entities providing public services, its fundamental rights impact needs to be assessed. Besides, high-risk AI systems, as well as certain users of a high-risk AI system that are public entities, need to be registered in the relevant EU database, while users of an emotion recognition system must inform natural persons when they are being exposed to such a system. Finally, citizens can submit complaints about AI systems and receive explanations about decisions based on high-risk AI systems that affect their rights. GPAI systems, and the models such as ChatGPT they are based on, must meet transparency requirements, including compliance with EU copyright law. At the same time, artificial or manipulated images, audio, or video content (“deep fakes”) must be clearly labelled as such. It seems, therefore, proper to state that the current EU regulation on AI has absorbed, although not entirely embraced, the “political” and “ideal” approach adopted by the EP in the legislative process. Although in some cases, it is in a softened form, the core of democracy-focused amendments proposed by the European assembly has indeed been incorporated, especially as far as the scope of the Act is concerned. As for the reductions safeguarding national sovereignty, security, and interests, they can be ascribed to the intergovernmental legislative

and institutional structure of the EU, and therefore they couldn't be either avoided or opposed. If the risk-based approach – the higher the risk to cause harm to society, the stricter the rules – is the major contribution of the Commission to this EU legal milestone, it can be argued that the human-centric, fundamental rights-protecting, democracy-safeguarding purpose, which surely represents the *AI Act* most innovative feature, stems from the EP legislative action.

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