The Draft EU AI Regulation 10 Key Points

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#1 - Not a Surprise

- Chancellor Merkel called for AI regulation comparable to the GDPR (2019)

- President Von der Leyen said AI regulation would be a First 100 Day priority

- White Paper signaled EC work on comprehensive regulatory approach

- European Parliament adopted resolutions urging strong regulation of AI

- European Council also underscored "urgency" to safeguard fundamental rights

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#2 - Comprehensive

- "Harmonised rules concerning the placing on the market, putting into service and use of high-risk AI systems in the Union. (Article 1)

- "Harmonised transparency rules for AI systems intended to interact with natural persons and AI systems used to generate or manipulate image, audio or video content." (Article 1)

- "High level of protection of health and safety and the fundamental rights and freedoms of persons (Article 1)

- "Brussels Effect" is likely - "ratcheting up" of global standards

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#3 - Prohibitions on AI

"Prohibited Artificial Intelligence Practices." Art. 4 (a priority)

(a) Manipulating behavior, opinions, and decisions

(b) Exploitation of vulnerability

(c) Mass surveillance (location, communications, meta data)

(d) Social scoring (China) [no exceptions; also "group privacy" provision]

- (Exceptions for public authorities, with legal authority and safeguards)

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#4 - Regulating AI to Promote Good AI and Avoid Evil AI

Good AI

- Streamline manufacturing
- Farming more productive
- Model climate change
- Make energy grid more efficient
- Chess programs (!!)
- (No Personal Data, Digital Free Flows with Trust)

Evil ("High risk") AI

- Credit determinations
- Scanning CVs
- Asylum applications
- Judicial decisions
- Infringement in fundamental rights
- (More can be added by Commission and EAIB)

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#5 - Requirements for High-Risk AI

- Compliance with Requirements *prior to deployment* (Article 7)

- Require Quality Data Sets (Article 8) (ongoing evaluation of ML)

- Require Detailed Transparency (Article 10)

- Require Human Oversight (Article 11)

- Require Robustness, Accuracy, and Security (Article 12)

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#6 - Structure Reveals Priorities

I. General Provisions (Arts. 1-3)

II. Prohibited AI Practices (Art. 4)

III. High-risk AI systems (Arts. 5-40, 4 chapters)

IV. Transparency Obligations for Certain Other AI Systems (Art. 41)

V. Remote Biometric ID Systems (Arts. 42-43)

VI. Measures in Support of Innovation (Arts. 44-46)

VII. Governance [EAIB] (Arts. 47-51)

VIII. EU Database for high-risk AI Systems (Arts. 52-53)

IX. Monitoring (Arts. 54-60)

X. Codes of Conduct (Art. 61) - XI. Confidentiality and Penalties (Art. 62), XII. Delegated Acts (Art. 64), XIII. Final Provisions (Arts. 65-69)

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#7 - Assessment by Others

- NGOs - "No clear prohibition on mass surveillance" - EDRi, AccessNow

- Experts - "As important as the GDPR" but also "vague"

- Green MEPS - "Good start, but need prohibition on mass surveillance and characteristic (gender, race) identification"

- US Tech - "Europe's strategy won't be successful, as it is simply not big enough to compete. Europe will need to partner with the United States." - Eric Schmidt

- Advocates to prohibit LAWS - "This Regulation does not apply to AI systems exclusively used for the operation of weapons or other military purposes." (Art. 2.4)

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#8 Next Steps

- April 21 - formal introduction by Commissioner Vestager

- Review by Parliament and Council

- Trilogue to incorporate amendments

- "4,000 amendments" scenario

- Adoption - GDPR or e-Privacy?

#9 - Related Developments

- Council of Europe AI Treaty could formally globalize European Values

- UNESCO Ethics Framework will engage Global South

- OECD AI Principles / G20 Guidelines will remain as "soft law"

- OECD/G20 (non-binding) Principles now less significant (occurred also with privacy in 1980)

- US is lagging - no coherent strategy, battle with China

#10 - CAIDP Assessment

- Draft EU AI Regulation is **<u>Very Good</u>**

- *How do we make this determination?*

  - Assess against CAIDP Findings in AISCI-2020

  - Assess against CAIDP Recommendations in AISCI-2020

CAIDP Assessment: Findings

- The OECD/G20 AI Principles have Framed the Global Debate over AI policy *[EU AI Reg]*

- Governments have Both National Ambitions and Collaborative Goals. *[EU members]*

- AI Safeguards Build on Data Protection Law. *[Both coverage and enforcement]*

- Facial Surveillance as an AI "Red Line." *[Article 4]*

- Concern About Autonomous Weapons Remains. *[LAWS excluded]*

- NGOs are Powerful Advocates for the Public. *[Strong regulatory approach to AI]*

- AI Policy is in the Early Days, but the Pace is Accelerating. *[Introduction of EU AI Reg]*

CAIDP Assessment: Recommendations

➡ Establish national policies for AI that implement democratic values *[Yes]*

➡ Ensure public participation in AI policymaking and also create robust mechanisms for independent oversight of AI systems *[Yes]*

➡ Guarantee fairness, accountability, and transparency in all AI systems *[Yes]*

● Commit to these principles in the development, procurement, and implementation of AI systems for public services *[No, for law enforcement]*

➡ Halt the use of facial recognition for mass surveillance *[Yes]*

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The EU AI Regulation by The Numbers

The Text:

- 92 Recitals

- 69 Articles

- 13 Titles

- 8 Annexes

Word count:

- "Transparency" - 12

- "Fairness" - 2

- "Accuracy" - 15

- "Privacy" - 8

- "Natural person" - 68

- "Algorithm" - 7

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