

**Advancing Interventionism through AI Policy:**

**EU Identity Formation in the Digital Decade**

by

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## Table of Contents

|                                                                                          |                    |
|------------------------------------------------------------------------------------------|--------------------|
| 1. Introduction.....                                                                     | 3                  |
| 1.1. Introduction.....                                                                   | 3                  |
| 1.2. State of the art.....                                                               | 3                  |
| 1.3. Academic relevance.....                                                             | 4                  |
| 1.4. Societal and political relevance.....                                               | 5                  |
| 1.5. Research question.....                                                              | 5                  |
| 2. Theoretical Framework.....                                                            | 5                  |
| 2.1. Poststructuralism.....                                                              | 5                  |
| 2.2. Policymaking as an identity formation tool.....                                     | 6                  |
| 2.3. Post-neoliberal industrial policy.....                                              | 6                  |
| 2.4. Innovation as a discourse.....                                                      | 7                  |
| 2.5. The EU as a global political actor.....                                             | 8                  |
| 2.6. Global governance of AI.....                                                        | 9                  |
| 2.7. Traditional, digital, and AI sovereignty.....                                       | 9                  |
| 3. Research Design, Data, and Method.....                                                | 10                 |
| 3.1. Research design.....                                                                | 10                 |
| 3.2. Data selection.....                                                                 | 10                 |
| 3.3. Methodology.....                                                                    | 12                 |
| 3.4. Limitations.....                                                                    | 15                 |
| 4. Analysis and Interpretation.....                                                      | 16                 |
| 4.1. Post-neoliberalism as a frame for agenda-setting.....                               | 16                 |
| 4.2. Post-neoliberalism as a political strategy.....                                     | 19                 |
| 4.3. Post-neoliberalism as a justification for coordination and digital sovereignty..... | 22                 |
| 5. Conclusion and Discussion.....                                                        | 24                 |
| 5.1. Findings.....                                                                       | 24                 |
| 5.2. Implications.....                                                                   | 25                 |
| 5.3. Limitations.....                                                                    | 25                 |
| Bibliography.....                                                                        | 26                 |
| Appendix A. Acronyms and Abbreviations.....                                              | 30                 |
| Appendix B. Tables.....                                                                  | 31                 |
| Appendix C. Sample of Coded Data.....                                                    | 36                 |
| Appendix D. Full Coded Data.....                                                         | See separate list. |

# **1. Introduction**

## ***1.1. Introduction***

Over the course of a three-day ‘marathon’ talk in December 2023, the Council of the European Union (EU) and the European Parliament (“Parliament”) converged for a record-breaking 38 hours to negotiate the proposed regulations comprising the Artificial Intelligence Act (“AI Act”) (Hewson, Franklin, Guimberteau, Bollans, & Clark, 2023). The three-day event further made history by constituting a provisional agreement on the world’s first comprehensive regulation on AI, which the EU defines as “systems that display intelligent behavior by analyzing their environment and taking actions—with some degree of autonomy—to achieve specific goals” (Council of the EU, 2023; High-Level Expert Group on Artificial Intelligence, 2018, p. 1). The origins of the AI Act can be traced, most notably, back to the induction of Ursula von der Leyen as president of the European Commission (“Commission”) on December 1, 2019 (Clifford Chance, 2020, p. 2). As a hallmark of her candidacy for president, von der Leyen (2019, p. 13) set forth an agenda to establish a “coordinated European approach on the human and ethical implications of artificial intelligence” within her first 100 days in office.

AI emerges as a particularly prevalent and attractive policy domain for the EU to exercise intervention, given the rapid development and uptake of AI technology (AIT) seen in recent years (European Commission, 2021, pp. 1-5). Using the definition considered by the Commission, the Organization for Economic Cooperation and Development (OECD) notes that AI systems “operate with varying levels of autonomy” and can “make predictions, recommendations, or decisions influencing real or virtual environments” (European Commission, 2021, p. 2). Provided its capabilities, governments hold interest in leveraging AITs to enhance economic productivity and bring about societal benefits in the areas such as health, transportation, and climate change mitigation (European Commission, 2021). However, the autonomy of AI underscores the need for governments to regulate risks such as discriminatory data, violations of data protection, and threats against fundamental human rights (European Commission, 2021, p. 13).

## ***1.2. State of the art***

The introduction of von der Leyen’s (2019, pp. 13-24) vision of a “Europe fit for the digital age” garnered greater attention on the implications of AIT for European policy. The discussions underscore the ability of policymaking to formulate and strengthen identity. Within the EU context, Menz (2019, as cited in Saurugger & Thatcher, 2022, p. 472) demonstrates the approach of traditional literature, where individual Member States influence the overarching European agenda set forth by EU institutions. This bottom-up perspective is explained by Peter Burgess (2022) as a frame to assess the extent to which Europe project legitimizes itself vis-à-vis the acceptance of Member States. However, a top-down approach offers

complementary nuance. Focusing on the content and dissemination of policy, a top-down approach describes how EU policy shapes Member States and contributes to the overall European identity. Both approaches understand policy as a discursive and normative mechanism for publicly articulating values (Saurugger & Thatcher, 2019; Almeida et al., 2023). As follows, EU policy reflects historically shared notions of European identity.

Relating to perceptions of European identity, the EU is typically seen as a neoliberal institution due to its historical emphasis on free markets and trade liberalization (Verbeek, 2022, pp. 112-114). This perception is grounded in the belief that society thrives best when “individual entrepreneurial freedoms” are liberated through free markets and free trade (Harvey, 2019, as cited in Verbeek, 2022, p. 112). Scholars later identified “embedded neoliberalism” within European monetary integration policy where the EU refrained from intervening to address the adverse consequences of market self-regulation (Magnus Ryner, 2022; van Apeldoorn, 2009, p. 24). However, recent literature suggests a current shift in the EU’s geopolitical approach to global markets, marking a transition away from neoliberalism through industrial policies (McNamara, 2023). The emerging industrial policies are considered post-neoliberal in that they are markedly interventionist, with the EU inserting itself in the market to advance its common values and aspirational goals (McNamara, 2023, pp. 7-8).

To further the agenda of post-neoliberal interventionism, AI serves as an increasingly prevalent domain to investigate European identity. Yet, much of the political literature on AITs focuses on risk analysis and addresses policy content at face value. The focus on content adopts a more positivist epistemological approach, extracting common themes evident in language independently of their discursive roots in power dynamics (Bryman, 2012, pp. 28, 536-538). Through this approach, Schmitt (2022) and Ulnicane, Knight, Leach, Carsten Stahl, and Wanjiku (2022) create a clearer picture on the development of AI policy by identifying frameworks, tracking changes and trends, and predicting impact. These contributions lack consideration of the nuanced ways in which discourse frames policy to support a post-neoliberal economic approach. As a result, current discussion fails to address the less substantive and explicit implications of AI regulation.

### ***1.3. Academic relevance***

The gap in the literature lies in the absence of a discourse analysis (DA) perspective which seeks to address the underlying and implicit power dynamics embedded in AI policy within the EU. While existing studies primarily focus on the development of global governance agendas and regulations for AI, their findings often overlook the nuanced ways in which discourse operates as soft power within policy and shapes institutions’ outward identities. The lens of DA thus supplements our understanding of the construction of AI policy within the EU and facilitates broader discussions on the interplay between

discourse and identity in global governance. Moreover, the perspective of DA offers AI policy as an emerging domain for geopolitical competition that requires further research.

#### ***1.4. Societal and political relevance***

Beyond academia, a discursive focus on policy serves to unveil to citizens how power is diffused through subtle and implicit mechanisms. An analysis grounded in language is particularly relevant, as the findings may shape citizens' normative preferences on how AI and emerging technologies ought to be managed (Ehret, 2022). This is advantageous in the increasingly prevalent policy domain of AI, where the opinions of constituents on its governance continue to develop. Furthermore, identifying the ideological standpoints that shape AI policy critically informs political institutions on how to exert control domestically and globally without explicit or substantive means (Carvalho, 2008). Overall, understanding how discursive power can be embedded within policy helps political institutions better convey and advance their strategic directions. Strengthening political messages through discourse ultimately serves both societal interests and political agendas by shaping public opinion and directions around emerging policy domains like AI.

#### ***1.5. Research question***

To compensate for the missing discussion on discursive power dynamics underpinning contemporary AI governance, I conduct a DA on three policy documents integral to the development of the AI Act and address the question: *How does post-neoliberal discourse construct the European Union as a global leader in AI regulation?*

## **2. Theoretical Framework**

### ***2.1. Poststructuralism***

Supplementing the ongoing academic discussion, this chapter maps and assesses the prevailing theories relevant to EU policy on AI. The first step in understanding policymaking as an identity formation tool requires a broader examination of poststructuralism. Poststructuralism, as conceptualized by Michel Foucault, illuminates how discourse frames our understanding of a particular subject and thereby constitutes its identity as reality. Bryman (2012, p. 528) explains that for Foucault, discourse describes “the way in which a particular set of linguistic categories relating to an object.” Poststructuralism can further be described as an anti-realist and constructionist approach. The anti-realist character of poststructuralism describes the denial of an objective, external reality that stands separate from the values and perspectives of researchers who seek to understand it. Similarly, poststructuralism's constructionist account understands reality as multifaceted, encompassing several versions according to how members of

society perceive the discourse at hand (Bryman, 2012, p. 529). These ideas provide the foundation for Nye's (2008, p. 94) conception of soft power, wherein a political actor uses policy as well as its cultural and normative resources to "obtain the outcomes one wants through attraction rather than coercion or payment."

## ***2.2. Policymaking as an identity formation tool***

Understanding language as a mode of ideological power helps to better understand the wider socio-cultural implications of policy beyond its explicit directives (Bryman, 2012, p. 537). Hebel and Lenz (2016) suggest that EU identity is formulated through in two steps: identity construction and identity operationalization. Whereas identity construction involves the expression of constituent norms in policymaking processes, identity operationalization results from the enactment of regulation (Hebel and Lenz, 2016, as cited in Saurugger & Thatcher, 2019, p. 468). Kaina and Karolewski (as cited in Monsees & Lambach, 2022, p. 381) conceptualize identity formation as a tool for "nation branding," emphasizing the intentional use of cultural narratives.

Similarly, Manners (2002, as cited in Saurugger & Thatcher, 2019, p. 465) introduces the notion of "Normative Power Europe," wherein EU policies ground themselves in common values such as democracy, sustainable development, and human rights. In doing so, the EU shapes conceptions of what is "normal," which grants the EU power via its ability to put forth and institutionalize these principles. For example, by defining the norms of "excellence" and "trust" for AI, the EU can shape the rules and standards that others adhere to (White Paper, 2020). Policymaking thereby helps the EU to promulgate European ideals to Member States and beyond.

Building on the concept of Normative Power Europe, my research analyzes how the EU leverages AI policymaking to construct its identity as a normative leader in AI governance using specific discourses. According to Schmidt (2009, pp. 24, 27), EU identity discourses portray it as a (i) pragmatic, problem-solving institution, (ii) normative, value-based community, (iii) principled, "border-free rights-based post-national union," and (iv) strategic global actor. By focusing on the EU's mobilization of discourse in its AI policy, I examine how this discursive identity construction operationalizes the vision of Normative Power Europe (Saurugger & Thatcher, 2019, p. 467). Schmidt's (2009) theory ultimately extends to EU's AI agenda in that policy serves as an extension of the EU's normative identity and aspirations.

## ***2.3. Post-neoliberal industrial policy***

To comprehend strategic discourse within policymaking, I explore its theoretical foundations within neoliberalism and the emerging post-neoliberalism. The discussion therefore requires an explanation of

neoliberalism as both a liberal philosophy and political practice. As a liberal philosophy, neoliberalism assumes that “human well-being can best be advanced by liberating individual entrepreneurial freedoms and skills within an institutional framework” (Harvey, 2005, p. 2, as cited in Verbeek, 2022, p. 112). This foundational belief of neoliberalism aligns with an emphasis on competition and innovation to drive societal progress. The notion that laissez-faire practices—economic policy without state control—best enable human flourishing sparks contentious debate among scholars (Foucault, 2008, p. 132). Primarily, neoliberalism faces criticism for its fierce protection of market forces and rejection of government intervention to mitigate possible negative impacts. Neoliberalism historically directed far-reaching policies aimed at deregulation, privatization, and market liberalization, most popularly throughout the 1980s during Ronald Reagan and Margaret Thatcher’s respective administrations (Best, 2020, pp. 594-597). However, the neoliberal era encountered several crises, including the 2008 global financial crisis and the eurozone crisis, which prompted a reevaluation of the laissez-faire regime and challenged the legitimacy of European governance (Best, 2020, pp. 597-598; McNamara, 2023, pp. 10-12).

In response to these crises, heightened scrutiny against neoliberalism has provoked a new geopolitical approach toward global markets within the EU. McNamara (2023) argues that the EU is strategically pursuing interventionist policies to achieve inclusive and sustainable economic growth, marking a departure from neoliberalism. Di Carlo and Schmitz (2023) attribute this post-neoliberal approach to “industrial policy,” whereby the Commission’s activities target innovation and economic development. Unlike neoliberalism, the EU’s increasingly industrial policy pursues European values and goals while improving economic competitiveness and security (McNamara, 2023, pp. 7-8). Recent efforts to strengthen security demonstrate market intervention as a prominent goal of the EU. Now, the EU is continuing its interventionist shift through AI policy, where discourse emphasizes market growth, value dissemination, and autonomy in a competitive globalized world (McNamara, 2023, pp. 7-8).

#### ***2.4. Innovation as a discourse***

To question in what ways the EU advances post-neoliberalism to convey an identity of leadership in the AI landscape, it is necessary to understand the discourse used to articulate innovation. In relation to industrial policy, Schumpeter (1942, pp. 81-83, as cited in Segercrantz et al., 2016, p. 2) understands innovation as a “form or method of economic change” in which a new economic structure emerges from within through a self-reinforcing circle of “creative destruction”. Schumpeter’s description of innovation inspires the work of Segercrantz, Sveiby, and Berglund (2016), who approach innovation from a management perspective as a discursive landscape where competing discourses assign meanings to innovation. Their approach acknowledges that innovation may be portrayed differently across contexts, with some discourses highlighting the benefits and others stressing the negative impacts (Segercrantz et

al., 2016, p. 2). As follows, Segercrantz et al. (2016) delineate three discourses—acceleration, self-regulation, and faith—that are used to construct the drivers, practices, and effects of innovation.

First, acceleration discourse portrays the speed of innovation as dependent on intra- and extra-organizational drivers, which can either speed up progress or create barriers. This focus on internal and external impacts manifests as language that seeks to maximize contributions to innovation for the sake of global competition (Segercrantz et al., 2016, pp. 8-12). Secondly, self-regulation discourse expresses innovation as a process that requires management. Ideal management entails measurement and regulation, paradoxical to the creativity and impulse that innovation requires (Segercrantz et al., 2016, pp. 12-15). Thirdly, faith discourse assumes a position that the role of innovation always benefits society. This is evident in language expressing that faith drives innovation, motivates further investment in efficient practices, and results in desirable outcomes (Segercrantz et al., 2016, pp. 15-17). Overall, these three discourses provide a framework for identifying the language used in EU policy to convey innovation as a motivator for developing the AI Act, thereby constructing the EU's identity as a competitive and strategic actor through soft power.

## ***2.5. The EU as a global political actor***

Drawing on the theories of poststructuralism, identity formation, and post-neoliberalism, I present a background on the EU as a global political actor. While primarily a regional political body, the EU serves as an international organization to represent and enhance European integration—a mission known as “the European project” (Lütz, Leeg, Otto, & Dreher, 2021; van Apeldoorn, 2009, p. 21). The EU's global role as a significant trading bloc and currency area reflect its origins as an economic union (Lütz et al., 2021). However, the EU has historically struggled to create and establish a cohesive European identity, a struggle compounded by a rise in nationalist populism and a decrease in support for European integration (Smętkowski & Dąbrowski, 2019, p. 713). This challenges the EU's legitimacy both regionally over its jurisdiction and globally as a normative power that disseminates European values (Manners, 2002, as cited in Saurugger & Thatcher, 2019, p. 465).

Underscoring value dissemination as a form of soft power, Manners's (2002, as cited in Saurugger & Thatcher, 2022, p. 465) concept of Normative Power Europe illuminates how the EU's identity and behavior are governed by a set of common values which are spread through the rhetoric of its leaders (Meunier & Nicolaidis, 2006, as cited in Saurugger & Thatcher, 2022, p. 465). However, Markos (2020) reveals through a critical perspective how value dissemination reinforces unequal power relations and constructs the EU's identity through a colonial lens of Western superiority. This colonial nature of value dissemination thereby connects to post-neoliberalism in that market intervention serves both economic and normative purposes (McNamara, 2023, pp. 7-8). Consequently, contemporary threats

against the European project underscore the prevalence of understanding how the EU navigates policymaking to maintain its cohesion and normative influence in global affairs.

## ***2.6. Global governance of AI***

Prior to delving into the language of policy documents associated with the AI Act, it is important to contextualize related developments in AI governance. Nikolinakos (2022, p. 211) does this for the case of the EU, explicating the creation of the 2020 White Paper on AI in relation to von der Leyen's (2019, p. 13) pledge to develop "a coordinated European approach on the human and ethical implications of artificial intelligence". However, broadening the scope to an international level, macro-level trends can be delineated and further illuminate key policy frames for AI governance. The most notable trend underscores the advancement of AITs. Due to its rapid development, Ulnicane et al. (2022, p. 47) explain that public concern has been drawn to AI to address its unconventional impact on the political system, labor market, and welfare state.

Ulnicane et al. (2022) build a theory upon international trends in AI to distinguish how policy frames AI governance as (i) an unprecedented emerging technology, (ii) a globally coordinated effort of competition and collaboration, as well as (iii) a package of opportunities, risks, and responsibilities. Normative work on how AI regulation ought to be framed offers an interesting starting point to consider the value-driven nature of policy frameworks (Almeida et al., 2023). Overall, my research considers the established policy frames in global AI governance as contextual indicators to understand the strategic angle from which the EU approaches AI regulation.

## ***2.7. Traditional, digital, and AI sovereignty***

Finally, discussions on global AI governance point to the prevalence of the emerging principle of state "digital sovereignty" (DS) (Robles-Carrillo, 2023). DS is derived from the foundational concept of sovereignty, prompting a need to distinguish between the traditional understanding and its newer dimension. Traditionally, sovereignty describes the "expression of the identity of the State" as boundaries for inclusion and exclusion, which provides the foundation upon which international law rests (Robles-Carrillo, 2023, pp. 675, 681). However, emerging technologies extend this understanding of sovereignty. DS on the state level serves as a complementary dimension of sovereignty and does not seek to replace the traditional concept. It rather explains how state identities can be reinforced by means of controlling digital physical layers, code layers, and information layers. Through these controls, DS policies ultimately aim to grow a state's digital economy and better protect and control its population (Mügge, 2024, p. 1; Robles-Carrillo, 2023, p. 677).

Building upon DS, Mügge (2024) introduces the notion of “AI sovereignty.” The Commission exemplifies AI sovereignty in its description of the European strategy for a digitalized economy as one of solidarity, prosperity, sustainability, focused on the security and resilience of digital ecosystems for empowerment within both public and private life (European Commission, 2021a, p. 2, as cited in Mügge, 2024, p. 2). Although Mügge notes that EU institutions do not explicitly use the term in their AI policy, he observes that policy instead embeds the central tenets of AI sovereignty within its content. Consequently, political actions directed at AITs become obscured by their implicitly held motivations for DS at large (Mügge, 2024, p. 2). He then characterizes AI sovereignty within the EU as (i) strongly jurisdictional, pitting defined territories against each another, (ii) pro-competition, striving for greater economic competitiveness compared to other major powers in AIT, and (iii) Eurocentric, considering European citizens as the primary beneficiaries (Mügge, 2024, p. 3). By integrating this conceptualization of EU AI sovereignty into my coding framework, I can uncover and classify the power dynamics underlying language addressing security and control.

### **3. Research Design, Data, and Method**

#### ***3.1. Research design***

To conduct this research, I employ a single case study design and focus on the temporal scope of the von der Leyen administration, commencing on December 1, 2019, and continuing through 2024. A single case study best facilitates a close, intensive examination of text using qualitative research methods (Bryman, 2012, p. 71). Although I more broadly seek to analyze the language used in EU AI policy, the design remains a “single” case study in that the scope focuses on developments in the AI Act pursued since Ursula von der Leyen took office as President of the Commission in 2019 (Clifford Chance, 2020, p. 2). A political institution such as the EU can arguably be best described by its current leadership due to each administration’s unique agenda, thereby justifying an analysis of AI policy under von der Leyen’s direction. Ultimately, the limited timeframe allows for a targeted address of how the EU employs post-neoliberal discourse to establish its identity within the global AI landscape.

#### ***3.2. Data selection***

In answering the focal question, “*How does post-neoliberal discourse construct the European Union as a global leader in AI regulation?*”, I look at three different EU policy documents authored by its own institutions or direct representatives. This decision allows for a focused investigation into how the EU shapes its collective identity by embedding post-neoliberal ideologies within its AI policy. In chronological order, I analyze the “White Paper on Artificial Intelligence – A European approach to excellence and trust” (“White Paper”), the “Impact Assessment of the Regulation on Artificial

Intelligence” (“Impact Assessment”), and the “Artificial Intelligence Act: Opening statements” from the Parliament debate on March 12, 2024 (“Opening Statements”). It is important to note that time constraints limit my analysis of the Impact Assessment to include only Chapter 3: “Why should the EU act?”, Chapter 4: “Objectives: What is to be achieved?”, Chapter 6: “What are the impacts of the policy options?” (with a focus on the EU’s preferred regulatory framework), and Chapter 8: “Preferred option”. These chapters were selected because their content is particularly relevant to my research question, with the EU addressing its choices and direction in AI policymaking.

**Table 1**

*Dataset and justification of selection*

| <b>Policy</b>                                                                                          | <b>Relevance</b>                                                                                                                                                                                                                                                                              | <b>Date published</b> | <b>Source</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
|--------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| “White Paper on Artificial Intelligence - A European approach to excellence and trust”                 | The White Paper is the von der Leyen administration’s first official policy document outlining preferred options for an anticipated regulatory framework for AI to advance a coordinated European approach.                                                                                   | 19 Feb. 2020          | <a href="https://commission.europa.eu/publications/white-paper-artificial-intelligence-european-approach-excellence-and-trust_en">https://commission.europa.eu/publications/white-paper-artificial-intelligence-european-approach-excellence-and-trust_en</a>                                                                                                                                                                                                         |
| “Impact Assessment of the Regulation on Artificial Intelligence”<br>( <i>Chapters 3, 4, 6, and 8</i> ) | The Impact Assessment accompanies the Commission’s proposal for a regulatory framework on AI. It is the EU’s first endorsement of mandatory requirements for high-risk AI applications and co-regulation for lower risk applications through codes of conduct.                                | 21 Apr. 2021          | <a href="https://digital-strategy.ec.europa.eu/en/library/impact-assessment-regulation-artificial-intelligence">https://digital-strategy.ec.europa.eu/en/library/impact-assessment-regulation-artificial-intelligence</a>                                                                                                                                                                                                                                             |
| “Artificial Intelligence Act: Opening statements”                                                      | The Opening Statements introduced Parliament’s final debate on March 12 before the passage of the AI Act. The statements comprise of short speeches given by rapporteurs, commissioners, and representatives of Parliamentary committees, who reflect views of both Member States and the EU. | 12 Mar. 2024          | <a href="https://multimedia.europarl.europa.eu/en/video/artificial-intelligence-act-opening-statements-by-brando-benifei-sd-it-and-dragos-tudorache-renew-ro-rapporteurs-and-thierry-breton-commissioner-for-internal-market_I254281">https://multimedia.europarl.europa.eu/en/video/artificial-intelligence-act-opening-statements-by-brando-benifei-sd-it-and-dragos-tudorache-renew-ro-rapporteurs-and-thierry-breton-commissioner-for-internal-market_I254281</a> |

### 3.3. Methodology

Different conceptions of the role of discursive power divide the application of poststructuralism in research methodology into two factions: DA and critical discourse analysis (CDA). While DA employs poststructuralism to identify how a subject is normatively produced through language, CDA adopts a critical perspective and focuses on how linguistic manipulation reinforces dynamics of authority (Kramer, 2019, p. 236; Bryman, 2012, p. 536). Poststructuralism thereby inspires my research to conduct a language-centric exploration of data in the form of a DA to unveil how discourse shapes knowledge on AI policy in the EU (Kramer, 2019, p. 238).

Rather than conducting a CDA, I employ a DA due to the reason that my analysis does not critically address the underlying power relations, ideologies, or social inequalities (Fairclough, 2010; Carvalho, 2008, pp. 169-170). This is primarily because it is difficult to identify such power, ideologies, and inequalities in legal texts such as the selected data. Furthermore, a simple DA still allows for a nuanced investigation of how language constructs social realities and situates texts within their relevant sociocultural contexts (Carvalho, 2008, pp. 163-164). This aspect of DA enables me to address the post-neoliberal ideologies of the EU that underpin its AI policy which aim to construct the EU as a global leader in AI regulation. To distinguish such manifestations of discursive power within the data, I consider the following discursive elements in my analysis:

**Table 2**

*Textual considerations derived from Carvalho (2008)*

| Consideration            | Description                                                 |
|--------------------------|-------------------------------------------------------------|
| Mode of presentation     | How the information is presented, formatted, and stylized.  |
| Topics and subtopics     | The main themes and subthemes discussed.                    |
| Organization of content  | How the content is ordered and structured.                  |
| Language of presentation | The specific language, vocabulary, and terminology used.    |
| Rhetorical strategies    | The techniques used to convey the message.                  |
| Political contexts       | The political happenings that are simultaneously occurring. |

I begin with an open-ended reading and engage in “evolutionary coding”. Mayring (2002, p. 120, as cited in Schneider, 2012) describes evolutionary coding as a cyclical process through which theoretical considerations inform the data and conversely, themes apparent in the data shape the theoretical framework. Subsequently, coding categories emerge from informed considerations of both the relevant

theory and data. Through evolutionary coding, a preliminary read allowed me to identify sensitizing concepts related to neoliberalism within my data and formulate coding categories accordingly. Using Fairclough’s understanding of how language constructs social realities, I recognize the following sensitizing concepts as cues to post-neoliberalism within EU policy on AI:

**Table 3** (continued on next page)

*Coding categories*

| Category                                                                                                                  | Explanation                                                                                                                                                                                                                                                                             | Example                                                                                                                                                                                                                                                                                                                                                                     |
|---------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Leadership in AI production, management, and governance<br><i>As detailed in Lütz et al. (2021)</i>                       | Speech positioning the EU in a positive light against global competitors, highlighting existing work on AI development and governance.<br><br>This demonstrates the EU’s current leadership in AI, constructing its identity as a capable and exemplary actor in the AI landscape.      | “This is it colleagues, we deliver The EU delivered. No ifs, no buts, no later. These are the rules” (Opening Statements, 2024, p. 3).<br><br>“It is a historic debate which is being held here ( ... ) to lead to tomorrow’s vote, a vote which will make it possible for us ( ... ) to develop the first regulation on AI in the world” (Opening Statements, 2024, p. 7). |
| Color code:<br>Dark blue                                                                                                  |                                                                                                                                                                                                                                                                                         |                                                                                                                                                                                                                                                                                                                                                                             |
| Ethical considerations<br><i>As detailed in Manners (2002, as cited in Saurugger &amp; Thatcher, 2019)</i>                | Speech discussing the normative implications of AI, including its risks and benefits, while emphasizing fundamental rights.<br><br>This aims to mitigate risks and disseminate European values, reinforcing the EU’s identity as a protector of Europeans and a global normative power. | “The Commission is convinced that international cooperation on AI matters must be based on an approach that promotes the respect of fundamental rights, including human dignity, pluralism, inclusion, non-discrimination and protection of privacy and personal data and it will strive to export its values across the world” (White Paper, 2020, p. 9).                  |
| Color code:<br>Light blue                                                                                                 |                                                                                                                                                                                                                                                                                         |                                                                                                                                                                                                                                                                                                                                                                             |
| AI as an attractive, innovative, and competitive technology and landscape<br><i>As detailed in Ulnicane et al. (2022)</i> | Speech highlighting the unprecedented, impactful, and competitive nature of AI.<br><br>This promotes the EU’s goal of accelerating the uptake of AI, constructing its identity as an innovative and economically competitive actor.                                                     | “Currently, in the European Union the share of companies use AI at a scale is 16% lower than in the US, where growth continues. There is thus ample scope to accelerate the uptake of AI in the EU. Faster uptake by companies would yield significant economic benefits” (Impact Assessment, 2021, p. 64).                                                                 |
| Color code:<br>Dark pink                                                                                                  |                                                                                                                                                                                                                                                                                         |                                                                                                                                                                                                                                                                                                                                                                             |

|                                                                                                      |                                                                                                                                                                                                                                                                                                   |                                                                                                                                                                                                                                                        |
|------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Forward-thinking criticisms<br><i>As detailed in McNamara (2023)</i>                                 | Speech anticipating future work necessary for continued AI development and regulation, acknowledging areas for improvement.<br><br>This encourages change and action to address the risks of AI and maintain competitiveness, constructing the EU's identity as a proactive and self-aware actor. | "I think it's only just starting. We need to respond more quickly than we usually do and adapt to problems and new developments" (Opening Statements, 2024, p. 6).                                                                                     |
| Color code:<br>Light pink                                                                            |                                                                                                                                                                                                                                                                                                   |                                                                                                                                                                                                                                                        |
| Negotiations, partnerships, and alignment<br><i>As detailed in Smętkowski &amp; Dąbrowski (2019)</i> | Speech emphasizing the necessity of cooperation amongst numerous public and private actors.<br><br>This aims to prevent fragmentation of the single market, reinforcing the EU's identity as a coordinating authority capable of cultivating trustworthy AI.                                      | "Stakeholders – consumer organization and social partners, businesses, researchers, and civil society organisations – should be consulted on the implementation and the further development of the [governance] framework" (White Paper, 2020, p. 25). |
| Color code:<br>Dark green                                                                            |                                                                                                                                                                                                                                                                                                   |                                                                                                                                                                                                                                                        |
| Modern notions of sovereignty<br><i>As detailed in Robles-Carrillo (2023) and Mügge (2024)</i>       | Speech on reducing dependencies and increasing resilience in the AI sector.<br><br>This aims to protect the EU's autonomy and assert its authority in the AI landscape, constructing its identity as a sovereign and self-determined actor.                                                       | "...Member States' unilateral action to address that problem [businesses and citizens' distrust in AI] ( ... ) threatens the Union's digital sovereignty" (Impact Assessment, 2021, p. 36).                                                            |
| Color code:<br>Light green                                                                           |                                                                                                                                                                                                                                                                                                   |                                                                                                                                                                                                                                                        |

Dividing the six identified codes into thematic clusters, I then delineate three dimensions that explain the different uses of post-neoliberal discourse in EU AI policy:

**Table 4***Coding dimensions*

|                                                                                                           |                                                                           |
|-----------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------|
| <b>Dimension 1:</b> <i>Post-neoliberalism as a frame for agenda-setting</i>                               |                                                                           |
| (i)                                                                                                       | Leadership in AI production, management, and governance                   |
| (ii)                                                                                                      | Ethical considerations                                                    |
| <b>Dimension 2:</b> <i>Post-neoliberalism as a political strategy</i>                                     |                                                                           |
| (iii)                                                                                                     | AI as an attractive, innovative, and competitive technology and landscape |
| (iv)                                                                                                      | Forward-thinking criticisms                                               |
| <b>Dimension 3:</b> <i>Post-neoliberalism as a justification for coordination and digital sovereignty</i> |                                                                           |
| (v)                                                                                                       | Negotiations, partnerships, and alignment                                 |
| (vi)                                                                                                      | Modern notions of sovereignty                                             |

First, I relate the categories of ‘leadership in AI production, governance, and management’ and ‘ethical considerations’ to the wider dimension of how post-neoliberalism is used as a device for agenda-setting in AI regulation. The relation to agenda-setting emerges in textual examples of leadership in that they discursively iterate the EU’s capabilities in the digital and AI realm; ethics, on the other hand, articulate the values that guide policymaking in the hopes of spreading western, democratic principles worldwide. Secondly, ‘AI as an attractive, innovative, and competitive technology and landscape’ and ‘forward-thinking criticisms’ illustrate how post-neoliberalism is used as a political strategy. These two categories combined demonstrate the strategic demands of post-neoliberalism by assessing the opportunities presented by AI to best exploit its known and anticipated opportunities. Lastly, through the categories of ‘negotiations, partnerships, and alignment’ and ‘modern notions of sovereignty’, post-neoliberalism emerges as a justification for coordination and DS. In this dimension, text reflects the fine line of post-neoliberalism, where the EU seeks coordination to enhance market growth yet fears dependency on foreign actors.

The delineated dimensions ultimately facilitate a comprehensive analysis of how the EU embeds power within its AI policy to reshape its identity into a post-neoliberal political institution. My analysis therefore structures the discussion around these three dimensions, organizing the coding dimensions and categories accordingly.

### **3.4. Limitations**

Before analysis, it is essential to note the constraints of the chosen design and methodology. First, the design of a single case study employed in this research inhibits the generalizability of the findings. Given

the data's exclusive relation to EU policy on AI, my results cannot readily extend to other political institutions, organizations, entities, or policy domains. Concerning the methodology, DA has inherent limitations. As a descriptive methodology, it cannot explain the degree to which discourse impacts socio-cultural change; my research seeks to solely describe how the EU uses post-neoliberal discourse to portray itself as a global leader (Fairclough, 2010, pp. 30-56). DA is further limited by its sensitivity to positionality whereby the researcher's own perspective influences the research. To demonstrate self-reflexivity, I acknowledge that my non-EU nationality and interest in political economy might affect my ability to engage with critical perspectives on EU identity beyond those focused on economic power. Furthermore, I compensate for a lack of generalizability by ensuring high internal validity. I do this by employing peer-reviewed theories to support my claims in addition to performing multiple close readings of my dataset to identify and resolve coding discrepancies.

## **4. Analysis and Interpretation**

### ***4.1. Post-neoliberalism as a frame for agenda-setting***

Throughout the data, the EU employs post-neoliberal discourse as a device to set the agenda for its leadership ambitions in the AI landscape. This aligns with von der Leyen's stated goal to transform Europe into a "global leader in innovation in the data economy and its applications" (White Paper, 2020, p. 2). The EU aligns its AI policy with this agenda in two ways. First, it portrays Europe as a capable actor with existing projects steadily advancing the EU's desired leadership status. Frequent references to prior initiatives such as investing in testing and experimentation facilities and the Coordinated Plan on AI emphasize that the EU is already taking concrete steps to bolster its digital prowess. By highlighting these ongoing efforts, the discourse underscores the EU's strengths and adaptability, adjusting its AI agenda to capitalize on areas where it can leverage existing capabilities. Secondly, EU AI policy heavily underscores ethical considerations and the desire to instill European values into global AI governance. Principles like privacy, security, and human rights considerations provide the foundation for the EU's agenda on AI development and regulation. This ethical framing not only seeks to protect European citizens, but also positions the EU to export its democratic values worldwide through constructing its identity as the leader of "trustworthy AI."

Synthesizing these two narratives, the EU's language constructs an agenda that leverages the current geopolitical competition in the digital and AI domain to advance its value-driven aims. Post-neoliberal discourse enables this harmonization of economic and normative goals, whereby market leadership helps promulgate the EU's vision of ethical, "human-centric" AI governance. Moreover, the White Paper's cultivation of an "ecosystem" of excellence and trust is a particularly evocative choice of vocabulary (White Paper, 2020, pp. 5, 9). The ecosystem metaphor suggests that excellent and

trustworthy AI is reinforced through the complex interaction between regulatory, technological, and social dimensions. In this way, the EU's post-neoliberal agenda seeks to establish itself as a global leader by promulgating a responsible and value-driven regulatory framework in a holistic manner.

Understanding the dynamic between the EU's exemplary and normative aims for AI governance, a trend emerges in the way the data discursively links leadership and ethics. The codes of 'leadership in AI production, management, and governance' and 'ethical considerations' often appear in relation to one another, with ethical principles positioned as prerequisites for the development and uptake of AI. For example, the White Paper (2020, pp. 9-10) supports a regulatory framework for AI premised on "an ecosystem of trust" because it "would build trust among consumers and businesses in AI, and therefore speed up the uptake of technology." Similarly, the paper expresses concern that "legal uncertainty may therefore reduce overall levels of safety and undermine the competitiveness of European companies" (White Paper, 2020, p. 12). By foregrounding trust and legal certainty ahead of market competition, the discourse suggests an order of operations for the EU policy, whereby ethical principles serve as necessary precursors for economic benefits.

More explicitly, the Impact Assessment (2021, p. 65) asserts that greater user trust will "lead to a corresponding increase in the demand by AI using companies", and strengthened legal certainty will "make it easier for AI supplier to develop new attractive products which users and consumers appreciate and purchase." This quote underscores a causal relationship, where trust and legal certainty affect the strength of market performance. The way trust and legal certainty are framed exemplifies the EU's use of post-neoliberal discourse, where market-based rationales of competition and economic growth are justified through ethical concerns and interventionist proposals. In positioning ethical oversight as the catalyst for AI innovation, the EU advances a post-neoliberal identity that promotes human-centric interventionism as both ethically and economically advantageous.

Furthermore, the ethical considerations focused on protecting European citizens echo Mügge's (2024, p. 3) characterization of AI sovereignty within the EU as Eurocentric. The Commission iterates this sentiment verbatim in both the White Paper and Impact Assessment, claiming that "a solid European regulatory framework for trustworthy AI" will "protect all European citizens" (White Paper, 2020, p. 10; Impact Assessment, 2021, p. 32). This statement supports Mügge's argument in that it emphasizes Europeans as the main beneficiaries of AI regulation. In the Opening Statements to the March 12 debate on the AI Act, representatives of the European Parliament expressed similar sentiments. Rapporteur Brando Benifei from Italy stated in his speech that the EU's work on the AI Act is "putting Europe at the very forefront" of AI legislation, concluding that Parliament is united by its mission to "put the human being at the very center of the development of artificial intelligence" (Opening Statements, 2024, p. 2). By emphasizing both Europe and human beings in AI regulation, the EU exemplifies its post-neoliberal

interventionist policies as being human-centric and Eurocentric. The EU thereby employs soft power to set its AI agenda, safeguarding European values and prioritizing domestic security to construct an identity as an ethical leader and garner support for its regulatory model.

Examining the mode of presentation, particularly text stylization, both the Impact Assessment and White Paper utilize boldface to highlight the key information understood by the author. Bold text outside of section titles serves as an indicator by underscoring the essential information in each document. The Impact Assessment leans more heavily into this technique throughout, whereas only the introduction of the White Paper uses boldface. Therefore, a compilation of the bolded excerpts offers a clear overview of the EU's agenda-setting through ethical leadership:

**Table 5**

*Boldface text in Dimension 1: Post-neoliberalism as a frame for agenda-setting*

#### **WHITE PAPER (2020)**

“Europe can combine its technological and industrial strengths with a high-quality digital infrastructure and a regulatory framework based on its fundamental values to **become a global leader in innovation in the data economy and its applications** as set out in the European data strategy. On that basis, it can develop an AI ecosystem that brings the benefits of the technology to the whole of European society and economy” (p. 2).

#### **IMPACT ASSESSMENT (2021)**

“As a result from the comparison of the options, **the preferred option is option 3+, a regulatory framework for high-risk AI applications with the possibility for all non-high-risk AI applications to follow a code of conduct**” (p. 85).

“Regarding **high-risk AI systems which are safety components of products**, the regulatory framework will integrate the enforcement of the new requirements into the existing sectoral safety legislation so as to minimise additional burdens” (p. 86).

“The future changes to the liability rules will take into account the elements of the horizontal framework with a view to designing the most effective and proportionate solutions with regard to liability **for damages/harm caused by AI systems** as well as ensuring effective **compensation of victims**” (p. 88).

By employing these discursive techniques of bolding and foregrounding within AI policy, the EU constructs its agenda around European values which serve as the ethical guidelines for AI regulation. This

appears evident in the bolded quotes' considerations of bringing "the benefits of [AI] to the whole of European society and economy", "a code of conduct", "safety components", "damages/harm", and "compensation of victims" (White Paper, 2020, p. 2; Impact Assessment, 2021, pp. 85, 86, 88). These emphases frame the EU's agenda for AI regulation as ethically concerned with the protection of European society, while simultaneously driven by economic objectives. This framing further supports the EU's post-neoliberal agenda, balancing market powers with domestically protectionist intervention. Ultimately, the boldface text represents the EU's use of post-neoliberal discourse as a form of soft power, enabling the EU to shape norms for AI governance and attract support for its regulatory approach by advertising it as both ethically and economically advantageous.

#### ***4.2. Post-neoliberalism as a political strategy***

In considering post-neoliberal discourse as a political strategy, the EU assesses the attractiveness of AI by weighing its benefits and risks. In doing so, the EU assesses what change is needed to ensure the effective enforcement of legislation and remain competitive over time. This dimension appears against the first dimension's codes, where the EU's existing efforts to lead in the digital domain follow with a critical consideration of the legislation's versatility. In one quote, the White Paper (2020, p. 13) claims that existing EU legislation essentially remains "fully applicable irrespective of the involvement of AI", yet questions "whether it can be enforced adequately to address the risks that AI systems create, or where adjustments are needed to specific legal instruments." In a later section, the Commission writes that "whilst EU data protection legislation already contain certain rules" for informing citizens when they are interacting with an AI system, additional requirements may be necessary to achieve the desired objectives (White Paper, 2020, p. 20).

Both quotes first highlight the existing capabilities and achievements the EU before providing constructive criticism. Combining elements of post-neoliberalism as an agenda and political strategy, the EU asserts its leadership yet identifies areas of weakness to improve its competitive position over time. This approach invokes post-neoliberalism as a strategy of active state intervention to maintain market competition in emerging technologies. By acknowledging possible legal adjustments to be made, the EU positions itself as a proactive regulator and enabler of innovation. Subsequently, the EU employs post-neoliberalism to review and adapt its strategy for AI governance, constructing itself as a global leader that balances technological progress with citizen protection.

Perhaps most critical to displays of the EU employing post-neoliberal discourse as a political strategy is the Impact Assessment. Serving as a comprehensive document to evaluate the proposed European legal framework for AI, the Impact Assessment largely focuses on the economic and political implications of coordinating regulation. In the section titled, "Why should the EU act?", the Commission

justifies harmonizing Europe’s response to AI by first citing the EU’s aim to eliminate “obstacles to the free movement of goods or services” as well as “distortions of competition” (Impact Assessment, 2021, p. 31). The emphasis on improving the function of the internal market underscores both an economic and political opportunity, with AI serving as a new domain to expand and strengthen the EU single market strategy.

Further justifying a coordinated approach, the Commission posits that failure to act at the EU level will negatively affect the competitiveness of European companies and the economy at large (Impact Assessment, 2021, p. 31). This argument employs ideas of European prosperity as a strategic instrument. By underscoring the potential competitive gains alongside the unattractive costs of inaction, the Commission frames its proposed legal framework as a win-win situation. The EU thereby leverages economic arguments and the promise of collective prosperity to construct a thorough defense of a post-neoliberal interventionist strategy for AI governance. This use of soft power enables the EU to shape the narrative around AI regulation in hopes of positively influencing Member States’ and citizens’ opinions, ultimately framing the EU as a unified force in the global AI landscape.

Revisiting the use of boldface, the White Paper does not bold text directly related to the EU’s evaluation of AI and improvements to facilitate its uptake. However, the Impact Assessment significantly underscores post-neoliberal thinking in the following quotes:

**Table 6** (continued on next page)

*Boldface text in Dimension 2: Post-neoliberalism as a political strategy*

#### IMPACT ASSESSMENT (2021)

“( ... ) **Current EU law does not effectively ensure protection for safety and fundamental rights risks specific to AI systems, as shown in the problem definition**” (p. 35).

“( ... ) Under current EU law, **competent authorities do not have sufficient powers**, resources and/or procedural frameworks in place to effectively ensure and monitor compliance of AI systems with fundamental rights and safety legislation” (p. 35).

“As a consequence, **it may become impossible to verify compliance with existing EU law ( ... )**” (p. 35).

“( ... ) Current EU legislation does provide certain requirements related to safety and protection of fundamental rights that apply to new technologies, including AI systems. However, those **requirements are not specific to AI systems, they lack legal certainty or standards on how to be implemented and are not consistently imposed on different actors across the value chain**” (p. 36).

“( ... ) In the absence of an EU legislation on AI that addresses the new specific risks to safety and digital rights, **businesses and citizens distrust the technology** ( ... )” (p. 36).

“( ... ) **If the Commission does not take action, Member States would be likely to legislate against the risks of artificial intelligence**” (p. 65).

In the above-mentioned quotes, the Commission underscores the current limitations of EU law and speculates the implications of failing to address such limitations. The Commission’s recognition of limitations in current EU law appears evident with the use of language such as “do not have”, “lack”, and “not consistently”, all of which have negative connotations (Impact Assessment, 2021, pp. 35-36). Critical self-evaluation is further displayed in the Opening Statements. On behalf of the European Parliament’s Committee on Legal Affairs (JURI), Axel Voss discerns that the EU is “not really leading the pack.” He elaborates on this sentiment by spending the remainder of his time listing actions that Parliament must take to ensure the success of the AI Act (Opening Statements, 2024, p. 6). In stressing areas for improvement, the EU considers how its strategy for AI ought to adapt to secure long-term, sustainable competitiveness. This acknowledgement of weaknesses and solution-oriented approach to AI governance employs self-critical rhetoric to position the EU as an adaptive and legitimate leader.

Additionally, the Commission predicts adverse outcomes of failing to act by leading with “as a consequence ( ... )”, “in the absence of an EU legislation on AI that addresses the new specific risks to safety and digital rights ( ... )”, and “if the Commission does not take action ( ... )” (Impact Assessment, 2021, pp. 35, 36, 65). In using these phrases, the Commission assumes a direct correlation between inaction and negative outcomes. This two-fold discourse comprising a critical self-evaluation and predictive risk analysis ultimately guides the EU’s political strategy for AI which identifies legal intervention as a necessary step. By framing inaction as detrimental and intervention as crucial for economic and societal prosperity, the EU utilizes discursive power to justify its regulatory approach and construct its identity as a protector of European interests.

Alternatively, representatives of Parliament accredit the opportunity to bolster prosperity to the capabilities of AITs rather than legal intervention. A focus on the technological capabilities of AI employs a more positive frame in that highlights the benefits of the EU’s work in developing and governing AI. One example comes from Rapporteur Dragoș Tudorache who states that “[AI] technology helps us leverage new discoveries, economic growth, societal progress, and unlock human potential” (Opening Statements, 2024, p. 3). Using more intense rhetoric, Susana Solís Pérez emphasizes on behalf of the Committee on Environment, Public Health, and Food Safety (ENVI) that Parliament needs to “seize the benefits of artificial intelligence and not be enslaved” (Opening Statements, 2024, p. 10).

The term “enslavement” is particularly striking in this context in that it frames AI as a potentially oppressive force if left ungoverned. By juxtaposing “benefits” with “enslavement”, Solís Pérez indicates that AI is a positive yet threatening technology, which must be subdued. This perspective draws upon the concept of Normative Power Europe in that European values in governance serve as a counterforce against potentially adverse outcomes. These sentiments provide additional support for an interventionist strategy and subsequently further the EU’s shift away from neoliberal governance. Ultimately, the apparent discourse on societal protection strengthens the EU’s identity as a normative power through its promotion of European ethical standards.

#### ***4.3. Post-neoliberalism as a justification for coordination and digital sovereignty***

Post-neoliberal discourse is critical for the EU as it justifies coordinating its Member States’ efforts in AI regulation to assert its DS. The EU’s strategic use of post-neoliberal discourse aligns with DS, evident through the data’s emphasis on the security, resilience, and strategic autonomy of Europe’s AI ecosystem (McNamara, 2023, pp. 7-8). This alignment is exemplified by the Commission’s explicit use of the terms “tech(nological) sovereignty” and “digital sovereignty” in the White Paper and Impact Assessment (White Paper, 2020, p. 3; Impact Assessment, 2021, pp. 32, 36). Rhetorical examples of DS are further underscored in the Opening Statements, where Tudorache stresses that “much work lies ahead” of the AI Act, which includes “reducing [the EU’s] strategic dependencies and increase [the EU’s] resilience” (Opening Statements, 2024, pp. 3-4). Such explicit calls for sovereignty, independence, and resilience signal a departure traditional neoliberal, laissez-faire approaches to technological and digital governance. However, this shift toward DS is not unique to the EU. Rather, DS is part of a broader geopolitical trend, most apparent in the United States (US) and China, whose national industrial policies pursue technological self-determination and independent decision-making (Monsees & Lambach, 2022, pp. 377-378). This geopolitical trend helps contextualize the EU’s post-neoliberal turns toward industrial policy based on principles of DS. In brief, the textual examples illuminate the EU’s use of post-neoliberal discourse to support its DS in the interest of maintaining control while improving the flexibility of Europe’s digital markets.

To justify a coordinated legal framework for AI, the EU warns against national approaches to AI by highlighting the potential adverse impacts on the single market. The Commission stresses the need for cooperation, claiming that failure to coordinate Member States’ actions will result in “additional legal uncertainty, legal barriers, and will slow market uptake of AI even further” (Impact Assessment, 2021, p. 31). By beginning with “legal uncertainty” which leads to “legal barriers” and finally, “slow market uptake”, the Commission suggests a slippery slope and creates a sense of urgency. Additionally, the Commission’s assessment argues that “distinct and potential mutually incompatible national

requirements” could lead to “even higher costs” for compliance and administration than those anticipated under a common European framework (Impact Assessment, 2021, p. 65). These quotes negatively construct national responses to AI as financially irresponsible given their “even higher costs”, and legally problematic given their “incompatible” nature.

However, such calls for cooperation in the digital domain are not a new phenomenon in the EU—it appears in documents dating back to the founding treaties of the European Communities (Barry & Walters, 2003). After the failure of the European Atomic Energy Community (EURATOM), the Commission attributed the European Community’s weak industrial structures to “in fact the result as much as the cause of this lack of coordination of officially sponsored projects” (Barry & Walters, 2003, p. 311). The Commission’s remarks in the Impact Assessment, therefore, continue a historical trend in stressing the need for Member States to adopt a unified AI regulation. The EU thus employs post-neoliberal calls for coordination through intervention to justify strengthening its domestic control to promote the advancement and adoption of AITs.

Further justifying the advancement of the AI Act, the EU clarifies the significance of “harmonization” when discussing “harmonized rules” on AI:

**Table 7**

*“General/Specific objectives,” as shown in the Impact Assessment (2021, p. 32)*

| GENERAL OBJECTIVE                                                                                                                                                                                                            | SPECIFIC OBJECTIVES                                                                                                                             |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------|
| The general objective of the intervention is to <b>ensure the proper functioning of the single market</b> by creating the conditions for the <b>development and use of trustworthy artificial intelligence</b> in the Union. | ▶ <b>Ensure that AI systems</b> placed on the market and used are <b>safe and respect existing law on fundamental rights and Union values</b> . |
|                                                                                                                                                                                                                              | ▶ <b>Ensure legal certainty</b> to facilitate <b>investment and innovation in AI</b> .                                                          |
|                                                                                                                                                                                                                              | ▶ <b>Enhance governance and effective enforcement</b> of existing law on fundamental rights and safety requirements applicable to AI systems.   |
|                                                                                                                                                                                                                              | ▶ <b>Facilitate the development of a single market for lawful, safe and trustworthy AI applications</b> and prevent market fragmentation.       |

In repeatedly mentioning the “single market” in boldface, the Commission justifies harmonized AI regulation by underscoring both economic and political incentives. These incentives stem from the EU’s identity as an economic union and political institution that has historically struggled to unify the efforts of its members (Lütz et al., 2021; Smętkowski & Dąbrowski, 2019). However, the quotes provide evidence that the EU is continuing its efforts to strengthen the single market using post-neoliberalism as a new approach. Through post-neoliberalism, the EU promotes intervention by highlighting benefits for Member States and the European market at large (McNamara, 2023). The EU’s thereby leverages

discourse to justify coordination as essential for market function and development in AI, ultimately reinforcing the EU's authority to set uniform regulation and strengthen the single market.

Lastly, codes related to negotiations, partnerships, and alignment revealed that the EU aims to substantively deter its Member States from taking unilateral action in governing AI. Beyond normatively highlighting the benefits of coordination and DS or the negative impacts of the reverse, the EU addresses areas for concern to ensure that Member States no longer feel inclined to take matters into their own hands. In supporting the option that ultimately emerges as the EU's preferred option for a regulatory framework on AI, the Commission highlights that under an option that effectively address the various classifications of risk, "it is unlikely that Member States would take such a step for a class of applications ( ... )" (Impact Assessment, 2021, p. 64). Here, the Commission underscores Member States' limited willingness to develop a risk-based regulation on their own. In doing so, the EU exploits the limitations of its Member States by presenting an attractive option they otherwise could not achieve on a unilateral basis. To conclude, the EU employs emotionally loaded rhetoric and offers substantive, attractive solutions to prevent unilateral AI regulation. This approach thereby uses post-neoliberalism to construct the EU's identity as a necessary coordinating authority for Europe.

All in all, these findings demonstrate how the EU leverages post-neoliberal discourse to construct itself as a global leader in AI regulation. Through agenda-setting, strategic positioning, and justifying coordination and invention, the EU navigates the complex landscape of AI regulation while simultaneously legitimizing its leadership and shaping global norms through AI governance. The analysis indicates that the EU discursively reinforces its identity as Normative Power Europe by emphasizing ethical principles, resilient leadership, and harmonized action in response to AI.

## **5. Discussion and Conclusion**

### ***5.1. Findings***

To investigate the research question, "*How does post-neoliberal discourse construct the European Union as a global leader in AI regulation?*", I delineate three ways in which post-neoliberalism emerges—as a frame for agenda-setting, political strategy, and justification for coordination and DS. In agenda-setting, post-neoliberalism upholds European values and promotes the ethical conception of "trustworthy AI" as a driver of innovation, reinforcing the position of Normative Power Europe in AI regulation. Employing post-neoliberal discourse as a strategy, the EU identifies its limitations and the necessity of adaptative leadership, thus positioning itself as a protector of European interests and a competitive actor in the global AI landscape. Finally, post-neoliberalism justifies coordination and DS by underscoring the need for control, expected benefits, and deterring Member States from unilateral action, thereby constructing the EU as a legitimate and continuously strengthening

unified market force. Collectively, these uses of post-neoliberal discourse indicate that the EU uses AI policy to aid its transition away from neoliberal practices. The EU thus exploits the surging prevalence of AI to exercise an emerging interventionist approach in line with the wider geopolitical trend of protectionist DS. Overall, AI policy enables the EU to promulgate itself as an ethically moral, capable, and legitimate leader of Europe to a global audience.

## ***5.2. Implications***

Subsequently, the ways in which the EU employs post-neoliberal discourse in the policy domain of AI provide a greater understanding of how the Union is constructing its identity in an era defined by rapidly advancing technologies and digital sovereignty concerns. With AI serving as a new frontier to exercise interventionism, the EU appears to be actively shaping an updated identity aligned with modern notions of technological autonomy and resilience.

As follows, the findings contain important implications for both academia and broader politics. For researchers, my analysis demonstrates the utility of DA in unveiling how discourse is strategically wielded by institutions through policy to engage in geopolitical competition and project a particular identity. For policymakers and political actors, the findings demonstrate how discourse can be leveraged to legitimize interventionist approaches required to remain competitive in a continuously evolving technological realm like AI. Moreover, by constructing itself as a values-driven leader, the EU may prove to be a pertinent normative role model for political actors further behind in developing AI governance.

Ultimately, as AI continues to disrupt industries and societies worldwide, the linguistic perspectives offered in this research highlight how emerging technologies act as inescapable arenas for geopolitical positioning and assertions of legitimate authority by political institutions.

## ***5.3. Limitations***

While this analysis offers valuable insights, it is important to acknowledge its limitations and the subsequent opportunities for further research. The time and resources at my disposal necessitated a small and selective dataset. My findings therefore only represent the most critical developments in the AI Act and could benefit from analyses of alternative documents to identify whether the same discursive trends emerge. Additionally, interesting connections drawn to the colonial nature of value dissemination as well as the technological sovereignty efforts in the US and China were incorporated in the analysis but not thoroughly explored. These related topics independently offer abundant material for investigating the EU's identity. Ultimately, the wide breadth and limited depth of this research prompts a more targeted exploration of the colonial origins of the normative, protectionist, and sovereigntist identity promulgated in EU AI policy.

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## **Appendix A. Acronyms and Abbreviations**

|              |                                                                            |
|--------------|----------------------------------------------------------------------------|
| AI           | Artificial Intelligence                                                    |
| AIT          | Artificial Intelligence Technology                                         |
| CDA          | Critical Discourse Analysis                                                |
| “Commission” | The European Commission                                                    |
| DA           | Discourse Analysis                                                         |
| DS           | Digital Sovereignty                                                        |
| ENVI         | The Parliamentary Committee on Environment, Public Health, and Food Safety |
| EU           | The European Union                                                         |
| EURATOM      | The European Atomic Energy Community                                       |
| JURI         | The Parliamentary Committee on Legal Affairs                               |
| “Parliament” | The European Parliament                                                    |
| US           | The United States                                                          |

## Appendix B. Tables

**Table 1**

*Dataset and justification of selection*

| Policy                                                                                                 | Relevance                                                                                                                                                                                                                                                                                     | Date published | Source                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
|--------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| “White Paper on Artificial Intelligence - A European approach to excellence and trust”                 | The White Paper is the von der Leyen administration’s first official policy document outlining preferred options for an anticipated regulatory framework for AI to advance a coordinated European approach.                                                                                   | 19 Feb. 2020   | <a href="https://commission.europa.eu/publications/white-paper-artificial-intelligence-european-approach-excellence-and-trust_en">https://commission.europa.eu/publications/white-paper-artificial-intelligence-european-approach-excellence-and-trust_en</a>                                                                                                                                                                                                         |
| “Impact Assessment of the Regulation on Artificial Intelligence”<br>( <i>Chapters 3, 4, 6, and 8</i> ) | The Impact Assessment accompanies the Commission’s proposal for a regulatory framework on AI. It is the EU’s first endorsement of mandatory requirements for high-risk AI applications and co-regulation for lower risk applications through codes of conduct.                                | 21 Apr. 2021   | <a href="https://digital-strategy.ec.europa.eu/en/library/impact-assessment-regulation-artificial-intelligence">https://digital-strategy.ec.europa.eu/en/library/impact-assessment-regulation-artificial-intelligence</a>                                                                                                                                                                                                                                             |
| “Artificial Intelligence Act: Opening statements”                                                      | The Opening Statements introduced Parliament’s final debate on March 12 before the passage of the AI Act. The statements comprise of short speeches given by rapporteurs, commissioners, and representatives of Parliamentary committees, who reflect views of both Member States and the EU. | 12 Mar. 2024   | <a href="https://multimedia.europarl.europa.eu/en/video/artificial-intelligence-act-opening-statements-by-brando-benifei-sd-it-and-dragos-tudorache-renew-ro-rapporteurs-and-thierry-breton-commissioner-for-internal-market_I254281">https://multimedia.europarl.europa.eu/en/video/artificial-intelligence-act-opening-statements-by-brando-benifei-sd-it-and-dragos-tudorache-renew-ro-rapporteurs-and-thierry-breton-commissioner-for-internal-market_I254281</a> |

**Table 2** (continued on next page)

*Textual considerations derived from Carvalho (2008)*

| Consideration            | Description                                                |
|--------------------------|------------------------------------------------------------|
| Mode of presentation     | How the information is presented, formatted, and stylized. |
| Topics and subtopics     | The main themes and subthemes discussed.                   |
| Organization of content  | How the content is ordered and structured.                 |
| Language of presentation | The specific language, vocabulary, and terminology used.   |
| Rhetorical strategies    | The techniques used to convey the message.                 |

|                    |                                                             |
|--------------------|-------------------------------------------------------------|
| Political contexts | The political happenings that are simultaneously occurring. |
|--------------------|-------------------------------------------------------------|

**Table 3** (continued on next page)

*Coding categories*

| Category                                                                                                                             | Explanation                                                                                                                                                                                                                                                                                    | Example                                                                                                                                                                                                                                                                                                                                                                            |
|--------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>Leadership in AI production, management, and governance</p> <p><i>As detailed in Lütz et al. (2021)</i></p>                       | <p>Speech positioning the EU in a positive light against global competitors, highlighting existing work on AI development and governance.</p> <p>This demonstrates the EU's current leadership in AI, constructing its identity as a capable and exemplary actor in the AI landscape.</p>      | <p>“This is it colleagues, we deliver The EU delivered. No ifs, no buts, no later. These are the rules” (Opening Statements, 2024, p. 3).</p> <p>“It is a historic debate which is being held here ( ... ) to lead to tomorrow's vote, a vote which will make it possible for us ( ... ) to develop the first regulation on AI in the world” (Opening Statements, 2024, p. 7).</p> |
| Color code: Dark blue                                                                                                                |                                                                                                                                                                                                                                                                                                |                                                                                                                                                                                                                                                                                                                                                                                    |
| <p>Ethical considerations</p> <p><i>As detailed in Manners (2002, as cited in Saurugger &amp; Thatcher, 2019)</i></p>                | <p>Speech discussing the normative implications of AI, including its risks and benefits, while emphasizing fundamental rights.</p> <p>This aims to mitigate risks and disseminate European values, reinforcing the EU's identity as a protector of Europeans and a global normative power.</p> | <p>“The Commission is convinced that international cooperation on AI matters must be based on an approach that promotes the respect of fundamental rights, including human dignity, pluralism, inclusion, non-discrimination and protection of privacy and personal data and it will strive to export its values across the world” (White Paper, 2020, p. 9).</p>                  |
| Color code: Light blue                                                                                                               |                                                                                                                                                                                                                                                                                                |                                                                                                                                                                                                                                                                                                                                                                                    |
| <p>AI as an attractive, innovative, and competitive technology and landscape</p> <p><i>As detailed in Ulnicane et al. (2022)</i></p> | <p>Speech highlighting the unprecedented, impactful, and competitive nature of AI.</p> <p>This promotes the EU's goal of accelerating the uptake of AI, constructing its identity as an innovative and economically competitive actor.</p>                                                     | <p>“Currently, in the European Union the share of companies use AI at a scale is 16% lower than in the US, where growth continues. There is thus ample scope to accelerate the uptake of AI in the EU. Faster uptake by companies would yield significant economic benefits” (Impact Assessment, 2021, p. 64).</p>                                                                 |
| Color code: Dark pink                                                                                                                |                                                                                                                                                                                                                                                                                                |                                                                                                                                                                                                                                                                                                                                                                                    |

|                                                                                                      |                                                                                                                                                                                                                                                                                                   |                                                                                                                                                                                                                                                        |
|------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Forward-thinking criticisms<br><i>As detailed in McNamara (2023)</i>                                 | Speech anticipating future work necessary for continued AI development and regulation, acknowledging areas for improvement.<br><br>This encourages change and action to address the risks of AI and maintain competitiveness, constructing the EU's identity as a proactive and self-aware actor. | "I think it's only just starting. We need to respond more quickly than we usually do and adapt to problems and new developments" (Opening Statements, 2024, p. 6).                                                                                     |
| Color code:<br>Light pink                                                                            |                                                                                                                                                                                                                                                                                                   |                                                                                                                                                                                                                                                        |
| Negotiations, partnerships, and alignment<br><i>As detailed in Smełkowski &amp; Dąbrowski (2019)</i> | Speech emphasizing the necessity of cooperation amongst numerous public and private actors.<br><br>This aims to prevent fragmentation of the single market, reinforcing the EU's identity as a coordinating authority capable of cultivating trustworthy AI.                                      | "Stakeholders – consumer organization and social partners, businesses, researchers, and civil society organisations – should be consulted on the implementation and the further development of the [governance] framework" (White Paper, 2020, p. 25). |
| Color code:<br>Dark green                                                                            |                                                                                                                                                                                                                                                                                                   |                                                                                                                                                                                                                                                        |
| Modern notions of sovereignty<br><i>As detailed in Robles-Carrillo (2023) and Mügge (2024)</i>       | Speech on reducing dependencies and increasing resilience in the AI sector.<br><br>This aims to protect the EU's autonomy and assert its authority in the AI landscape, constructing its identity as a sovereign and self-determined actor.                                                       | "...Member States' unilateral action to address that problem [businesses and citizens' distrust in AI] ( ... ) threatens the Union's digital sovereignty" (Impact Assessment, 2021, p. 36).                                                            |
| Color code:<br>Light green                                                                           |                                                                                                                                                                                                                                                                                                   |                                                                                                                                                                                                                                                        |

**Table 4** (continued on next page)

*Coding dimensions*

|                                                                             |                                                                           |
|-----------------------------------------------------------------------------|---------------------------------------------------------------------------|
| <b>Dimension 1.</b> <i>Post-neoliberalism as a frame for agenda-setting</i> |                                                                           |
| (i)                                                                         | Leadership in AI production, management, and governance                   |
| (ii)                                                                        | Ethical considerations                                                    |
| <b>Dimension 2:</b> <i>Post-neoliberalism as a political strategy</i>       |                                                                           |
| (iii)                                                                       | AI as an attractive, innovative, and competitive technology and landscape |
| (iv)                                                                        | Forward-thinking criticisms                                               |

**Dimension 3: Post-neoliberalism as a justification for coordination and digital sovereignty**

- (v) Negotiations, partnerships, and alignment
- (vi) Modern notions of sovereignty

**Table 5**

*Boldface text in Dimension 1: Post-neoliberalism as a frame for agenda-setting*

**WHITE PAPER (2020)**

“Europe can combine its technological and industrial strengths with a high-quality digital infrastructure and a regulatory framework based on its fundamental values to **become a global leader in innovation in the data economy and its applications** as set out in the European data strategy. On that basis, it can develop an AI ecosystem that brings the benefits of the technology to the whole of European society and economy” (p. 2).

**IMPACT ASSESSMENT (2021)**

“As a result from the comparison of the options, **the preferred option is option 3+, a regulatory framework for high-risk AI applications with the possibility for all non-high-risk AI applications to follow a code of conduct**” (p. 85).

“Regarding **high-risk AI systems which are safety components of products**, the regulatory framework will integrate the enforcement of the new requirements into the existing sectoral safety legislation so as to minimise additional burdens” (p. 86).

“The future changes to the liability rules will take into account the elements of the horizontal framework with a view to designing the most effective and proportionate solutions with regard to liability **for damages/harm caused by AI systems** as well as ensuring effective **compensation of victims**” (p. 88).

**Table 6** (continued on next page)

*Boldface text in Dimension 2: Post-neoliberalism as a political strategy*

**IMPACT ASSESSMENT (2021)**

“( ... ) **Current EU law does not effectively ensure protection for safety and fundamental rights specific to AI systems, as shown in the problem definition**” (p. 35).

“( ... ) Under current EU law, **competent authorities do not have sufficient powers**, resources and/or procedural frameworks in place to effectively ensure and monitor compliance of AI systems with fundamental rights and

safety legislation” (p. 35).

“As a consequence, **it may become impossible to verify compliance with existing EU law ( ... )**” (p. 35).

“( ... ) Current EU legislation does provide certain requirements related to safety and protection of fundamental rights that apply to new technologies, including AI systems. However, those **requirements are not specific to AI systems, they lack legal certainty or standards on how to be implemented and are not consistently imposed on different actors across the value chain**” (p. 36).

“( ... ) In the absence of an EU legislation on AI that addresses the new specific risks to safety and digital rights, **businesses and citizens distrust the technology ( ... )**” (p. 36).

“( ... ) **If the Commission does not take action, Member States would be likely to legislate against the risks of artificial intelligence**” (p. 65).

**Table 7**

*“General/Specific objectives,” as shown in the Impact Assessment (2021, p. 32)*

| GENERAL OBJECTIVE                                                                                                                                                                                                            | SPECIFIC OBJECTIVES                                                                                                                             |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------|
| The general objective of the intervention is to <b>ensure the proper functioning of the single market</b> by creating the conditions for the <b>development and use of trustworthy artificial intelligence</b> in the Union. | ▶ <b>Ensure that AI systems</b> placed on the market and used are <b>safe and respect existing law on fundamental rights and Union values</b> . |
|                                                                                                                                                                                                                              | ▶ <b>Ensure legal certainty</b> to facilitate <b>investment and innovation in AI</b> .                                                          |
|                                                                                                                                                                                                                              | ▶ <b>Enhance governance and effective enforcement</b> of existing law on fundamental rights and safety requirements applicable to AI systems.   |
|                                                                                                                                                                                                                              | ▶ <b>Facilitate the development of a single market for lawful, safe and trustworthy AI applications</b> and prevent market fragmentation.       |

## Appendix C. Sample of Coded Data

### Document 1

*White Paper on Artificial Intelligence - A European approach to excellence and trust*

#### **White Paper on Artificial Intelligence A European approach to excellence and trust**

Artificial Intelligence is developing fast. It will change our lives by improving healthcare (e.g. making diagnosis more precise, enabling better prevention of diseases), increasing the efficiency of farming, contributing to climate change mitigation and adaptation, improving the efficiency of production systems through predictive maintenance, increasing the security of Europeans, and in many other ways that we can only begin to imagine. At the same time, Artificial Intelligence (AI) entails a number of potential risks, such as opaque decision-making, gender-based or other kinds of discrimination, intrusion in our private lives or being used for criminal purposes.

Against a background of fierce global competition, a solid European approach is needed, building on the European strategy for AI presented in April 2018<sup>1</sup>. To address the opportunities and challenges of AI, the EU must act as one and define its own way, based on European values, to promote the development and deployment of AI.

The Commission is committed to enabling scientific breakthrough, to preserving the EU's technological leadership and to ensuring that new technologies are at the service of all Europeans – improving their lives while respecting their rights.

Commission President Ursula von der Leyen announced in her political Guidelines<sup>2</sup> a coordinated European approach on the human and ethical implications of AI as well as a reflection on the better use of big data for innovation.

Thus, the Commission supports a regulatory and investment oriented approach with the twin objective of promoting the uptake of AI and of addressing the risks associated with certain uses of this new technology. The purpose of this White Paper is to set out policy options on how to achieve these objectives. It does not address the development and use of AI for military purposes. The Commission invites Member States, other European institutions, and all stakeholders, including industry, social partners, civil society organisations, researchers, the public in general and any interested party, to react to the options below and to contribute to the Commission's future decision-making in this domain.

#### **1. INTRODUCTION**

As digital technology becomes an ever more central part of every aspect of people's lives, people should be able to trust it. Trustworthiness is also a prerequisite for its uptake. This is a chance for Europe, given its strong attachment to values and the rule of law as well as its proven capacity to build safe, reliable and sophisticated products and services from aeronautics to energy, automotive and medical equipment.

Europe's current and future sustainable economic growth and societal wellbeing increasingly draws on value created by data. AI is one of the most important applications of the data economy. Today most data are related to consumers and are stored and processed on central cloud-based infrastructure. By contrast a large share of tomorrow's far more abundant data will come from industry, business and the public sector, and will be stored on a variety of systems, notably on computing devices working at the edge of the network. This opens up new opportunities for Europe, which has a strong position in

<sup>1</sup> AI for Europe, COM/2018/237 final

<sup>2</sup> [https://ec.europa.eu/commission/sites/beta-political/files/political-guidelines-next-commission\\_en.pdf](https://ec.europa.eu/commission/sites/beta-political/files/political-guidelines-next-commission_en.pdf).

## Document 2

### *Impact Assessment of the Regulation on Artificial Intelligence*

Functioning of the European Union can be taken for the purposes of the approximation of the provisions laid down by law, regulation or administrative action in the Member States when it has as its object the establishment and functioning of the internal market. The measures must be intended to improve the conditions for the establishment and functioning of the internal market and must genuinely have that object, actually contributing to the elimination of obstacles to the free movement of goods or services, or to the removal of distortions of competition.

Article 114 TFEU may be used as a legal basis to prevent the occurrence of these obstacles resulting from diverging national laws and approaches how to address the legal uncertainties and gaps in the existing legal frameworks applicable to AI.<sup>185</sup> The present initiative aims to improve the functioning of the internal market by setting harmonized rules on the development, placing on the Union market and the use of products and services making use of the AI technology or provided as stand-alone AI applications. Some Member States are already considering national rules to ensure AI is safe and is developed and used in compliance with fundamental rights obligations. This will likely lead to a further fragmentation of the internal market and increasing legal uncertainty for providers and users on how existing and new rules will apply to AI systems.

Furthermore, the Court of Justice has recognised that applying heterogeneous technical requirements could be valid grounds to trigger Article 114 TFEU.<sup>186</sup> The new initiative will aim to address that problem by proposing harmonised technical standards for the implementation of common requirements applicable to the design and development of certain AI systems before they are placed on the market. The initiative will also address the situation after AI systems have been placed on the market by harmonising the way in which ex-post controls are conducted.

Based on the above, Article 114 TFEU is the applicable legal basis for the present initiative.<sup>187</sup> In addition, considering that this Regulation contains certain specific rules, unrelated to the functioning of the internal market, restricting the use of AI systems for 'real-time' remote biometric identification by the law enforcement authorities of the Member States, which necessarily limits the processing of biometric data by those authorities, it is appropriate to base this Regulation, in as far as those specific rules are concerned, on Article 16 of the Treaty.

#### **3.2. Subsidiarity: Necessity of EU action**

The intrinsic nature of AI which often relies on large and varied datasets and which might be embedded in any product or service circulating freely within the internal market mean that the objectives of the initiative cannot effectively be achieved by Member States alone. An emerging patchy framework of potentially divergent national rules will hamper the seamless provision of AI systems across the EU and is ineffective in ensuring the safety and protection of fundamental rights and Union values across the different Member States. Such an approach is unable to solve the problems of ineffective enforcement and governance mechanisms and will not create common conditions for building trust in the technology across all Member States. National approaches in addressing the problems will only create additional legal uncertainty, legal barriers and will slow market uptake of AI even further. Companies could be prevented from seamlessly expanding into other Member States, depriving consumers and other users of the benefits of their services and products and affecting negatively the competitiveness of European companies and the economy.

<sup>185</sup> CJEU Judgment of the Court (Grand Chamber) of 3 December 2019, *Czech Republic v European Parliament and Council of the European Union*, Case C-482/17, paras. 35.

<sup>186</sup> CJEU Judgment of the Court (Grand Chamber) of 2 May 2006, *United Kingdom of Great Britain and Northern Ireland v European Parliament and Council of the European Union*, Case C-217/04, paras. 62-63.

<sup>187</sup> Article 114 TFEU as a legal basis for EU action on AI was also suggested by the European Parliament in its 2017 resolution on civil law rules on robotics and in its 2020 resolution on ethical framework for AI, robotics and related technologies. See European Parliament resolution [2020/2012\(INL\)](#).

### Document 3

*Artificial Intelligence Act: Opening statements by Brando BENIFEI (S&D, IT) and Dragoș TUDORACHE (Renew, RO), Rapporteurs, and Thierry BRETON, Commissioner for Internal Market*

#### **SPEAKER 2:**

**Dragoș TUDORACHE (Renew, RO), Rapporteur**

**SOUNDBITE (English)**

00:04:54 --> 00:05:31

Thank you very much, Chair, Commissioner. Dear colleagues, it is customary to begin with thanks. I will actually continue where my colleague left it, and I want to say first of all, thank you, Commissioner Breton, and thank you to the Commission as such for the foresight of putting forward this proposal with no one else around the world was actually looking at this option. I also want to thank the shadow rapporteurs for putting the incredible energy and effort that was required. From you and your teams to draft those over 3000 amendments to streamline them into a coherent mandate and then negotiate that with the Council.

00:05:31 --> 00:06:12

I would think the Council, if they were here, but they are not. And I want to specifically thank Brando Benifei for being such a great colleague and co-rapporteur. So, this is it, colleagues, we delivered. The EU delivered. No ifs, no buts, no later. These are the rules. We have forever attached to the concept of Artificial Intelligence, the fundamental values that form the basis of our societies. And with it alone, the Act has nudged the future of AI in a human centric direction and a direction where humans are in control of the technology and where it the technology helps us leverage new discoveries, economic growth, societal progress and unlock human potential.

00:06:12 --> 00:06:43

Much work lies ahead that goes beyond the act itself. I will push us to rethink the social contract resting at the heart of our democracies, along with our education models, our labor markets, the way we conduct warfare. All this to say that the act is not the end of a journey, but rather the starting point for a new model of governance built around technology. Going back to the Act itself, we must now focus our political energy in turning it from the law in the books to the reality on the ground.

00:06:43 --> 00:07:24

First, implementation, the rules we have passed in this mandate to govern the digital domain, not just the act, are truly historical pioneering, but making them all work in harmony with a desired effect and turning Europe into the digital powerhouse of the future will be the test of our lifetime. Second, we need to work with others. The EU now has an office to govern the most powerful