

Disruptive Actors and Normative Expansion: Post-AI Act Governance in the European Union

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Abstract

This article reconceptualizes the European Union's Artificial Intelligence Act (AIA) as a catalyst for recursive governance, rather than a static legal instrument. While existing scholarship has examined regulatory overlaps with the General Data Protection Regulation (GDPR), particularly regarding high-risk AI systems and compliance burdens, it has largely overlooked how the AIA reshapes the broader governance ecosystem. The research asks: How do peripheral and non-formally embedded actors influence the trajectory of AI governance in the EU following the AIA's adoption? The central hypothesis is that disruptive actors—including the European Data Protection Board (EDPB), national regulators, and regional infrastructure initiatives—reconfigure post-AI Act governance by injecting citizen-centric accountability and expanding regulatory norms beyond the Act's formal legal architecture. Empirical analysis of institutional consolidation (AI Office and AI Board), Member State innovation (Spain's ALIA, Barcelona AI Factory), and strategic interventions by non-embedded bodies (EDPB) demonstrates how legal codification activates multi-scalar feedback loops and pluralistic norm expansion. The article contributes to the experimentalist governance literature by showing that post-legislative regulation is shaped by infrastructural experimentation, normative turbulence, and strategic behavior at the margins. The EU's AI regime emerges as a dynamic system—where law, infrastructure, and contestation co-evolve in real time.

Keywords: Recursive governance, AI Act, Normative contestation, Peripheral actors, Post-legislative regulation.

Introduction

The European Union's Artificial Intelligence Act (AIA), formally adopted in July 2024, marks a pivotal moment in the recursive codification of digital governance—where years of experimental coordination, trilogue negotiations, and stakeholder consultations culminate in a structured legal architecture. The Act institutionalizes a risk-based framework for AI systems, embedding transparency obligations, conformity assessments, and oversight mechanisms across Member States. Yet, as with prior EU regulatory innovations, legislative adoption does not signal finality. Instead, it inaugurates a new phase of governance—characterized by infrastructural deployment, normative contestation, and the emergence of disruptive actors operating beyond the Act's formal legal architecture.

This article examines how such actors—particularly the European Data Protection Board (EDPB), national regulators, and regional infrastructure initiatives—reconfigure the trajectory of AI governance in the EU following the AIA's adoption. It asks: How do disruptive actors influence post-AI Act governance, and through what mechanisms do they expand their normative authority? The central hypothesis is that these actors inject citizen-centric accountability and regulatory pluralism into the EU's technocratic regime by leveraging feedback loops, legal interpretation, and infrastructural experimentation.

Conceptually, the article builds on the literatures of experimentalist governance, recursive regulation, and multilevel institutionalism. It argues that the EU's regulatory ecosystem remains porous and dynamic, enabling actors outside the core legislative framework to exert influence through dissent, norm entrepreneurship, and strategic alignment. This is especially evident in domains where AI intersects with fundamental rights, data protection, and public sector infrastructure—areas marked by legal ambiguity and normative fluidity.

To substantiate this claim, the article traces three vectors through which post-legislative governance unfolds: (1) the institutional consolidation of recursive mechanisms via the AI Office and AI Board; (2) the infrastructural turn exemplified by Spain's ALIA project and the Barcelona AI Factory; and (3) the normative turbulence introduced by the EDPB's legal opinions, stakeholder interventions, and cross-regulatory advocacy. These cases illustrate how governance is continuously reconfigured through the interaction between formal institutions and disruptive actors.

By foregrounding peripheral authority and regulatory feedback, this study contributes to a deeper understanding of how EU digital governance evolves beyond legal codification. It theorizes post-legislative regulation as a dynamic process of institutional learning, normative turbulence, and infrastructural adaptation—where law, infrastructure, and contestation co-evolve in real time.

1. Theoretical Framework

Sabel and Zeitlin theorize experimental governance and consider the process of experiential multilevel governance to include the following: (1) framework objectives and criteria for measuring their achievement are set by the joint action of Member States and EU institutions; (2) lower-level units have the freedom to pursue these objectives in the manner they see fit; (3) throughout this autonomy, they must regularly report on their performance against agreed indicators and participate in a peer review in which they compare their results with those pursuing the same overall objectives in other ways; (4) the framework objectives, criteria, and procedures are periodically reviewed by the actors who initially set them and are strengthened by the participation of new participants whose views are deemed necessary for a full and fair review (Sabel & Zeitlin, 2010).

The four key elements mentioned should be understood as a set of essential functions that can be performed through different types of institutional arrangements. In such an experimental architecture, there is no one-to-one correspondence between governance functions and specific institutional mechanisms or policy instruments. Meanwhile, during the discussion and reasoning phase, consensus is reached, but this consensus is transient and temporary until a better solution is found. Such experimental governance, accompanied by the creation and revision of recursive frameworks, gives rise to new forms of dynamic accountability that help to regulate the state and protect the rights of citizens without halting the decision-making process, which the authors call direct deliberative polycentric governance (Sabel & Zeitlin, 2010).

Peer review is a key pillar of experimental governance in the European Union. It increases stakeholder participation and reinforces respect for outcomes through a set of tools referred to as “destabilization regimes.” These mechanisms operate in policy deadlocks, making the status quo seem unacceptable and proposing alternative, superior solutions. These mechanisms can be considered a form of sanctions, but not in the traditional sense; rather, they exert pressure on actors to take paths that they may not have

previously considered. However, these tools do not impose specific costs that actors can weigh against the benefits of violating their commitments (Eckert & Börzel, 2012).

2. Literature Review

The article “*AI Data Governance – Overlaps Between the AI Act and the GDPR*” explores how the European Union's Artificial Intelligence Act (AI Act or AIA) introduces a parallel regulatory framework that complements—but also complicates—the General Data Protection Regulation (GDPR). It focuses on high-risk AI systems, which, under Article 10 of the AIA, must ensure data quality, representativeness, and fairness across training, validation, and testing datasets. These obligations overlap with GDPR principles such as lawfulness, accuracy, and fairness, yet the AIA adds a preventive, risk-based dimension aimed at mitigating systemic harms and safeguarding fundamental rights. The author highlights operational challenges in aligning the GDPR's Data Protection Impact Assessment (DPIA) with the AIA's Fundamental Rights Impact Assessment (FRIA), noting potential duplication and regulatory friction that may arise from concurrent compliance duties (Ledendal, 2026).

The article “*Legal Analysis of EU Artificial Intelligence Act (2024): Insights from Personal Data Governance and Health Policy*” examines the EU Artificial Intelligence Act (AIA) through the lens of personal data governance and health sector regulation. It emphasizes the AIA's layered approach to risk classification, particularly for high-risk and generative AI systems, and explores how these classifications interact with ethical standards and transparency obligations. In terms of data governance, the authors highlight the AIA's alignment with GDPR principles—especially regarding lawful processing, data quality, and fairness—while also noting the emergence of new institutional mechanisms like the European Artificial Intelligence Office (EU AIO) to oversee compliance. The article underscores the importance of harmonizing AIA provisions with existing health data regulations, pointing to challenges in integrating AI oversight with medical device standards and cross-border data flows (Olimid & et al., 2024).

The article “*Reflections on the Data Protection Compliance of AI Systems under the EU AI Act*” critically examines how the EU Artificial Intelligence Act (AIA) interfaces with the General Data Protection Regulation (GDPR) in regulating AI systems that process personal data. It argues that while the AIA reinforces GDPR

principles—such as transparency, fairness, and accountability—it introduces additional compliance layers, particularly for high-risk AI systems. These include mandatory risk assessments, documentation duties, and human oversight mechanisms that go beyond GDPR's scope. The authors highlight persistent challenges like algorithmic opacity, profiling risks, and legal uncertainty in automated decision-making. Ultimately, they contend that the AIA does not replace GDPR but rather complements it with a stricter, risk-based framework that demands joint interpretation to ensure coherent and lawful deployment of AI technologies (Hohmann & Kollár, 2025).

While existing scholarship has thoroughly examined the regulatory overlaps between the EU Artificial Intelligence Act (AIA) and the General Data Protection Regulation (GDPR)—particularly in terms of data governance, risk classification, and compliance burdens—these analyses remain largely confined to legal-technical interpretations of high-risk AI systems and sectoral integration. What remains underexplored is how the AIA's codification transforms the broader governance ecosystem through recursive mechanisms, infrastructural experimentation, and normative contestation. This article addresses that gap by moving beyond compliance logics to theorize post-legislative governance as a dynamic, multi-scalar process shaped by disruptive actors, peripheral interventions, and feedback loops. In doing so, it reconceptualizes the AIA not merely as a legal instrument but as a catalyst for pluralistic and adaptive regulatory evolution within the EU's digital strategy.

3. Institutionalizing the Governance Cycle: Legal Anchoring in the Final AI Law

The formal adoption of the AI law in July 2024 and the establishment of the European AI Office mark the institutional anchoring of the EU's experimental governance framework. This moment signifies the transition from iterative negotiation to structured implementation, enshrining the main mechanisms—goal-setting, peer review, stakeholder engagement, and periodic review—in a solid legal architecture. The governance model is now based on a dual structure: national competent authorities retain operational oversight, while supranational bodies such as the AI Office, the AI Board, and the Academic Board coordinate implementation, assess systemic risks, and facilitate the exchange of best practices.

Importantly, the law codifies the regressive principle that regulation should target AI products rather than research activities, a concept rooted in the 2023 Tripartite Declaration and now institutionalized across the EU's multi-level governance landscape. On 12 July 2024, the European Parliament and the Council adopted the AI Law as a regulation and formally established the European AI Office as the main implementing body (European Union, 2024). The law also institutionalizes four main governance mechanisms: setting objectives and evaluation criteria, peer review, reporting on results, and periodic reviews.

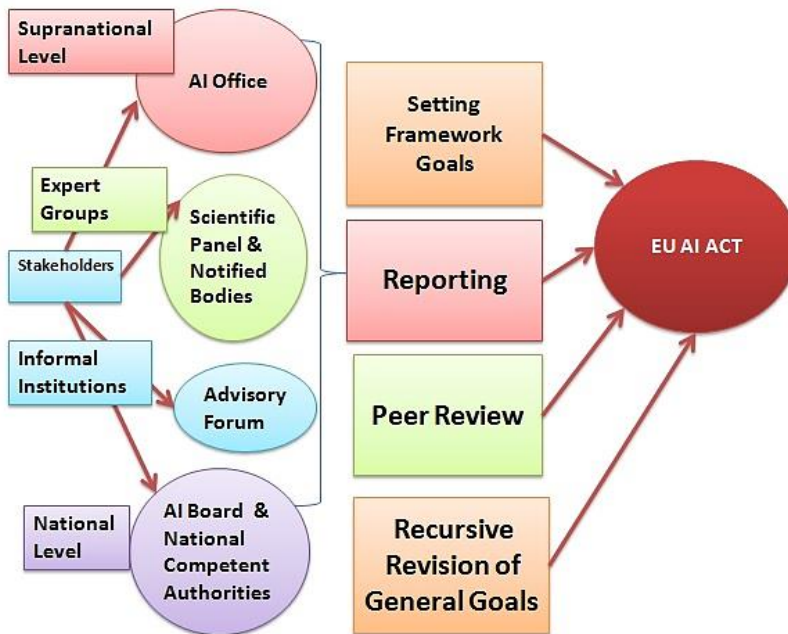
On the one hand, EU Member States—namely governments and the public sector—have been given the necessary powers for AI governance under the AI Law, with the national supervisory body playing a practically significant role in this regard. On the other hand, the European Parliament's initiative to create a dual governance structure at the supranational level, by establishing the AI Office and the European AI Board, has enabled internal peer review (European Union, 2024). The Scientific Panel is also an important elite within European AI governance, reviewing and providing feedback on the law to improve and select best practices. Advisory bodies formed as a result of the Parliament's attention allow for the participation of multiple stakeholders, civil society, and the public.

The AI Board itself, established to coordinate implementation among national authorities, is tasked with supporting uniform application and building technical capacity in the Member States. The dual nature of the AI law reflects the hardening of its experimental, empirical approach. In this structure, the AI Board coordinates and facilitates the exchange of best practices, represents governments, and plays a key role in implementing and providing feedback on the law's application.

Notified bodies are designed to carry out conformity assessments for high-risk AI systems and assess companies' technical and legal requirements *ex ante*. The AI Office is intended as the transnational hub of AI governance, tasked with monitoring compliance, overseeing general and high-risk AI systems, and providing guidance to businesses and national authorities (European Union, 2024). National regulatory authorities, one per country, are responsible for market surveillance and enforcement and for handling complaints, and are in close contact with the AI Board and play an important role in peer review, review and feedback for future amendments. The Independent Expert Panel is a panel of

independent experts to integrate the scientific community and to act as a peer review and periodic review. It is complemented by a consultative forum for stakeholders to provide input into the implementation of this regulation, at Union and national level, which is in fact the place where various private and civil stakeholders are present within the governance of AI, including civil society, academia, industry, small and medium-sized enterprises, and EU agencies (European Union, 2024).

The development of Union expertise and capabilities should also include the use of existing resources and knowledge, in particular through synergies with structures established for the implementation of other Union-level legislation and relevant Union initiatives, such as the European High-Performance Computing Joint Project and the AI Testbeds under the Digital Europe Programme. Figure 1 shows the EU's strengthened experimental governance structure.



Source: (Authors' conceptual synthesis based on process review)

Figure (1): Institutionalization of the Experimental Governance Structure within European AI Law

In 2025, the Academic Board established by the EU AI Law (Article 68(1)) will provide technical advice to the AI Office and national authorities on the implementation of the AI Law

requirements for general AI models and systems. Key tasks include: developing assessment tools and methodologies, advising on the classification of models including the determination of systemic risk, developing tools and templates, and supporting market surveillance activities. The panel can request information from AI model providers through the Commission, while protecting trade secrets, and Commission experts may conduct model assessments for the AI Office (European Commission, 2025b).

4. From Regulation to Infrastructure: Local Adaptation and AI Public Governance in Post-AI European Law

Following the formal adoption of the EU AI Law, the launch of the Alia project by Spain in August 2024 exemplifies how Member States are translating regulatory principles into local public infrastructure. Alia, which is part of Spain's National AI Strategy and aligned with the EU's Digital Decade goals, represents a bottom-up implementation of experimental governance—addressing linguistic equality, technological governance, and the empowerment of SMEs through an open and multilingual AI model. By operationalizing the values of the AI Law—particularly transparency, inclusion, and legal alignment—Alia fills structural gaps created by the law, such as the lack of public-sector AI infrastructure and linguistic diversity requirements. Its integration with regional initiatives and cross-border collaborations reflects a dynamic post-AI law landscape, where national innovation ecosystems adapt and extend EU governance through iterative and context-sensitive deployment.

In Spain, the Alia project is an innovative government initiative responding to the AI law. Officially launched in August 2024 as part of the Spanish AI Strategy 2024 and the National Plan for Language Technologies, its aim, as stated on the Spanish government website, “is to facilitate the creation of a new generation of innovative technological resources and services enriched by the vast linguistic heritage of Spanish, spoken by 600 million people worldwide, and by common official languages.” The project was coordinated by the Barcelona Supercomputing Centre and supported by the Minister for Digitalisation and AI. Alia is a pioneering initiative in public AI infrastructure designed to promote linguistic diversity and technological sovereignty.

The official website notes that Alia was launched in 2019 with the Language Technologies Initiative, and projects such as Ina, promoted by the regional government of Catalonia, and Ilenia,

promoted by the State Secretariat for Digitalisation and AI, laid the foundations for constructing this public AI infrastructure (Barcelona Supercomputing Center–Centro Nacional de Supercomputación (BSC-CNS), 2025). In the National Strategy for Artificial Intelligence 2024, the launch of Alia is one of the main pillars of public AI infrastructure in Spanish and official languages. Additionally, the Alia project aligns with the European Union's Digital Decade program, which guides Europe's digital transformation and technological governance.

Alia is the first large, public, open, and multilingual language model in Europe, offering resources in Spanish and other official languages such as Basque, Catalan, and Galician. Its infrastructure is built on three pillars: language models, access to educational data, and real-world applications. As Josep M. Martorell explains, Alia is not only about performance but also about accessibility: “The goal is not to be the best large language model in the world, but to be the most widespread large language model in the Spanish-speaking world,” whose open-source nature enables government institutions, startups, and researchers to create AI solutions tailored to different communities and foster innovation (Barcelona Supercomputing Center–Centro Nacional de Supercomputación (BSC-CNS), 2025).

The project also addresses key challenges in AI development, including the English-language bias of training data, the need for native tools compliant with AI legislation, and the reduction of reliance on foreign technologies. Analyses indicate that Alia supports the delivery of public services in sectors such as health and transport while aligning with the European goals of the AI Law for widespread technology adoption. At the same time, the Spanish government's involvement was necessary due to the obstacles faced in developing such a model: the data infrastructure took five years to build, computational needs required Spain's most powerful supercomputer, MareNostrum 5, and attracting talent was challenging amid competition from private AI labs. Political support was essential to secure long-term investment and ensure the sustainability of Alia as a public good (Oxford Insights, 2025).

But the question arises: why was Alia necessary despite the EU AI law? In this regard, the following points can be mentioned: 1) Linguistic gaps in AI: The EU AI law sets rules for high-risk AI systems, but it does not address the problem of linguistic inequality. Despite supporting multilingualism and its importance in the regional policy sphere, this area was left to EU member states, and the fact that most large language models are trained on

predominantly English data made it necessary to create a public AI infrastructure. The Alia project is designed to fill this gap by supporting Spanish and other official languages such as Catalan, Basque, and Galician; 2) Public infrastructure for governance: The EU AI law regulates private-sector AI, but it does not create a public infrastructure, and it also emphasizes European sovereignty over data and AI under the Commission's vision. The Alia project is Spain's answer to this issue – an open-source, publicly funded model that ensures national control over critical AI capabilities. This initiative is in line with the EU's broader goals of reducing dependence on foreign tech giants; 3) Adaptation and innovation: The Alia project has been designed to be compatible with the AI law from the outset, helping startups and public institutions develop responsible AI tools that comply with EU standards, while also fostering innovation in local contexts; 4) Bottom-up construction, which reflects the same experimental AI governance structure on which the Catalan local government projects and those by the State Secretariat for Digitalisation and AI were based, reflecting the local perspective and the principle of EU subsidiarity and citizenship; 5) The role of the nexus between AI and digital public infrastructure, which has gained a special place in global policy discourse, especially in India and its initiatives, is highlighted by empirical evidence showing how AI, a general-purpose technology, can be integrated into many digital public infrastructure systems to support the functioning of digital public infrastructure in use cases such as language localization through machine translation, personalized service delivery through recommender systems, and more (Nagar & Eaves, 2024). In fact, it can be said that the AI Act cleared the ground for national policymaking in the area of technology governance by removing uncertainties about how AI should be governed, and the Spanish Alia project is important in Europe because it shows that an important European language with a large user base in the Americas can be implemented within the government structure through the creation of digital public infrastructure. Therefore, the relationship between AI and public digital infrastructure originated from the AI and intergovernmental governance law that was created within this empirical governance structure. As stated on the Spanish government website: “This is the first European public infrastructure that, thanks to the unique supercomputing capabilities of the Barcelona Supercomputing Center, strengthens the technological sovereignty of Spain and Europe in the development of transparent and responsible AI

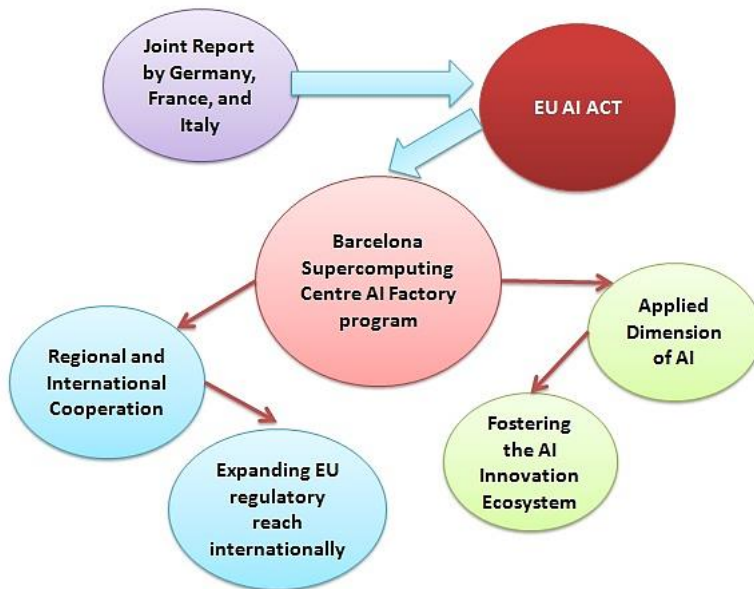
serving the public” (Barcelona Supercomputing Center–Centro Nacional de Supercomputación (BSC-CNS), 2025).

In fact, it is an open project, distinguished by its transparency, and is in line with the European AI law while being open to promote innovation and the adoption of technologies, ensuring technological reliability and social and economic inclusion, and the Alia model family has been certified by the Spanish AI Supervisory Agency and complies with the transparency standards set by the European AI Law. Therefore, we can speak of the creation of a digital public infrastructure as part of the governance of AI in the European Union based on the values enshrined in the EU AI Law, which, instead of following the path of privatization of digital infrastructure, has adopted an approach similar to the Indian model — that is, the digital public infrastructure in the case of Spain — derived from the European Commission's AI and Technology Governance Law; 6) Alia will also be particularly useful for small and medium-sized enterprises, enabling them to develop new applications, optimize their processes, or create new products and services that can compete in international markets, which is particularly important in this context, supported by the Barcelona Supercomputing Centre AI Factory program, one of the main pillars of the European Commission for accelerating the development of AI applications in line with European values. The European Commission website states that the proposal represents a joint initiative of the Barcelona Supercomputing Centre – National Centre for Supercomputing, the Portuguese Science and Technology Foundation, the Turkish Scientific and Technological Research Council, and the Romanian National Institute for Research and Development in Informatics to develop and operate the Barcelona Supercomputing Centre AI Factory, a new AI factory serving the EU AI innovation ecosystem (European Commission, 2025).

The Barcelona Supercomputing Centre AI Factory project will deploy a comprehensive set of AI-based services, together with strong training, networking, and centralized facilities to increase the uptake and use of AI by industry, with a particular emphasis on SMEs and start-ups, all located in the four participating countries, serving the European innovation community. The project is specifically designed to meet Europe's growing AI needs and will be implemented on a major upgrade of the European Supercomputer, which will leverage the latest AI-based computing technologies. AI Factories are dynamic ecosystems built around AI-optimized supercomputers, providing computing resources and support

services to European industry as well as European academic users to develop large-scale AI models, to exploit the capabilities of AI technologies in the EU, and to foster skills and knowledge in the field of AI. In fact, Barcelona has been selected to host one of seven AI Innovation Factories across the European Union, an initiative announced by the European High Performance Computing Joint Venture, aimed at accelerating innovation in AI technology (Salierno & et al., 2025).

The Barcelona Supercomputing Centre AI Factory will act as a key hub for promoting the AI innovation ecosystem in Europe, enabling the training of advanced AI models and the development of AI solutions. Since 2023, the city has implemented advanced systems to improve access to urban services and optimize communication with its residents. These tools manage thousands of daily interactions through digital channels and are designed to support multiple languages, including Catalan, Spanish, and English, which is a vital feature for a multicultural and international metropolis (Salierno & et al., 2025). The important point here regarding the Barcelona Supercomputing Centre AI Factory is the applied dimension of AI that the joint document of Germany, France, and Italy had emphasized. In fact, on 18 November 2023, Germany, France, and Italy reached an important agreement on the future of AI regulation, marking a step forward in shaping the AI landscape in the European Union (Thoms, 2023). An analysis of this joint document highlights the joint efforts of the three largest European economies — Germany, France, and Italy — to create a unified approach to AI regulation, demonstrating a commitment to fostering innovation, emphasizing the applied dimension of AI, and ensuring the responsible adoption of AI in the European Union. On the other hand, the dimension of international and regional cooperation, aimed at extending the EU's influence in AI governance beyond Europe's borders, is noteworthy because this cooperation centers on Bulgaria, Spain, Portugal, Romania, and Turkey, sharing common Mediterranean and Southern European characteristics. Figure 2 illustrates this structure.



Source: (Authors' conceptual synthesis based on process review)

Figure (2): The Role and Significance of the Barcelona Supercomputing Centre AI Factory in AI Governance

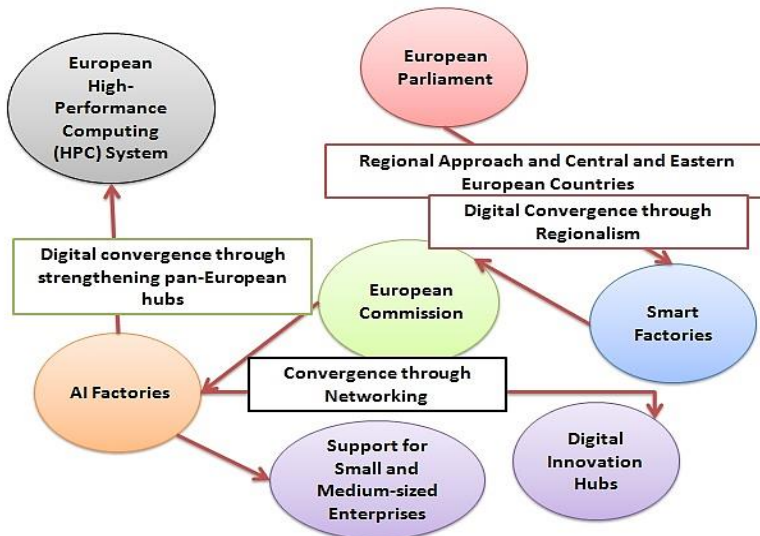
However, the AI Factory should be seen as a direct response to the European Parliament's "Smart Factory" initiative, which was launched with a regional perspective for Central and Eastern Europe to increase digital convergence. The public procurement project "Smart Factories in the New Member States of the European Union" was aimed at establishing a network of Digital Innovation Hubs in Europe, and the European Parliament entrusted the management of the project, which functioned as a pilot of the Digital Technology Hub scheme, to the European Commission (European Commission, 2017e). One of the objectives of the Parliament was to provide a preparatory action designed to develop a coherent, coordinated, and sustainable approach to increase the participation of all relevant stakeholders from the 13 EU Member States (industry, academia, research organizations, and civil society) in the activities of the European Commission, and in particular its Factory of the Future program. One of its main objectives was to contribute to the implementation of Digital Innovation Hubs across the 13 EU Member States in Central and Eastern Europe, whose primary aim was to advance the digitalization of industry across these countries and reduce divergence in the uptake and adoption of digital technologies,

which had remained limited until then. Pilot projects and preparatory actions are an exception to the European Commission's exclusive legislative initiative, and in this context, the project “Smart Factories in the New Member States of the European Union” and the creation of a network of Digital Innovation Hubs represent one of the European Parliament's initiatives to increase its role in AI governance and translate its political ideas into EU policies. In this direction, the European Parliament's emphasis on a regional perspective and reducing regional gaps is central to the Smart Factories and Digital Innovation Hubs project, and can be seen as an example of a destabilization strategy, in which the European Parliament challenges conventional practices and proposes a form of dynamic and democratic responsibility through the creation of regional equality. After the signing of the EU Artificial Intelligence Law in June 2024, the European Commission, taking into account feedback from the Parliament's Smart Factories pilot project, moved toward the creation of an AI infrastructure across Europe, while retaining a regionalist approach in the selection of AI Factory sites, which this time were distributed throughout Europe. This led to the launch of the AI Factory programme, announced by Commission President Ursula von der Leyen as part of her 100-day agenda, as shown in Table 1 and Figure 3 below.

Table (1): Comparison between the Smart Factory and the AI Factory Initiatives

Feature	Smart Factories (2017–2020)	AI Factories (Post-2024)
Initiated by	European Parliament (pilot initiative)	European Commission (implementation following adoption of the AI Act)
Focus	Support for Digital Innovation Hubs in 13 new EU Member States	AI model training, supercomputing, and data accessibility
Infrastructure	Regional Digital Innovation Hubs, advisory services, SME support	EuroHPC supercomputers, AI-optimized systems
Target Stakeholders	Small and medium-sized enterprises (SMEs), regional innovation centers	AI startups, researchers, universities, industry
Legacy	Capacity-building for digital innovation in underserved regions	Development of a pan-European network of advanced AI laboratories

Source: (Authors' synthesis of governance process)



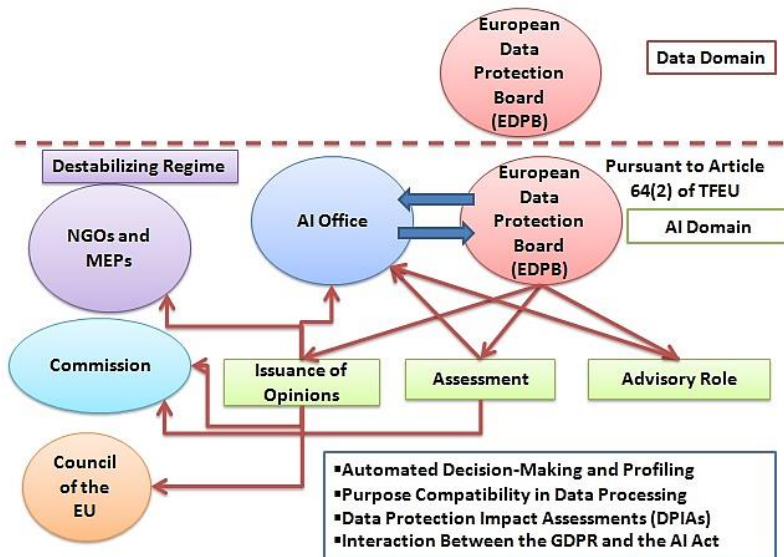
Source: (Authors' synthesis of the process review)

Figure (3): The Impact of the European Parliament's Destabilization Strategy on the Creation of an AI Factory

5. Regulatory Controversy and Normative Expansion: The Destabilizing Role of the European Data Protection Board in Post-AI Law Governance

In the post-AI Law landscape, the European Data Protection Board has emerged as a destabilizing but normatively significant actor, challenging the boundaries of institutional authority and regulatory coherence. Although not formally included in the governance architecture of AI law, the European Data Protection Board has exerted its influence through expert opinions, strategic interventions, and stakeholder engagement – particularly in areas where AI systems intersect with personal data and fundamental rights. By advocating for alignment between the General Data Protection Regulation (GDPR) and digital laws, issuing interpretative guidance, and accelerating enforcement actions across member states, the European Data Protection Board exemplifies how delegated institutions can expand their powers and inject citizen-centric accountability into technocratic regimes. This evolving role reflects a deeper dynamic in empirical governance: the capacity of peripheral institutions to reshape mainstream regulatory paths through debate, normative pressure, and transnational feedback. Despite not being formally incorporated into

the main structure of EU AI law, the European Data Protection Board has done the following, as discussed below and illustrated in Figure 4: it has issued opinions and statements addressed directly to the European Commission, the European Parliament, and even the Court of Justice of the EU, particularly when AI systems interfere with personal data and fundamental rights; it has called for alignment between the General Data Protection Regulation and EU digital law, including the AI Law, the Digital Services Act, and the Data Governance Act; and it has exercised its authority in areas such as police and judicial cooperation, where AI surveillance and biometric technologies raise serious privacy concerns (European Data Protection Board, 2024). In fact, we are witnessing a destabilization strategy in which the Data Protection Board challenges the usual practices of transnational and national institutions and creates a form of dynamic accountability in experiential governance.



Source: (Authors' synthesis of the process review)

Figure (4): Mechanism of the European Data Protection Board's Destabilization Strategy in AI Governance

In this regard, on 2 and 3 December 2024, the EDPB held its plenary session and published several documents, one of which called for greater coordination between the General Data Protection Regulation (GDPR) and EU digital law (including AI), a point that is

also addressed in the report below. The statement on the Second Report on the Application of the GDPR stresses the need to clarify the substantive enforcement and regulatory interaction between the application of the GDPR and other EU digital law, in particular the EU AI law and legislative measures stemming from the EU Data Strategy and the Digital Services Package, noting that some work in this area has already commenced and calling for the development of common guidance on issues such as the interaction between the GDPR and the Digital Markets Act. The EDPB also calls for the establishment of enforcement cooperation mechanisms among regulators, which should be subject to future evaluations of the GDPR and digital law. Importantly, representatives of the European Commission's AI Office joined the plenary session and discussed future cooperation with the Data Protection Board to ensure a coordinated approach to AI governance. On 28 November 2024, the EDPB also published its letter to the EU AI Office regarding the role of data protection authorities in the AI framework, dated 6 November 2024. The letter states that the EDPB supports the establishment of appropriate mechanisms to ensure cooperation between itself, the AI Office, and the AI Board (Wolters & et al., 2024).

The EDPB, as the leading authority in data protection matters, adopted an opinion on the use of personal data for the development and deployment of AI models in response to a request from the Irish Data Protection Authority. This opinion examines: (1) when and how AI models can be considered anonymous, (2) whether and how legitimate interests can be used as a legal basis for the development or use of AI models, and (3) what happens if an AI model is developed using personal data that has been unlawfully processed (European Data Protection Board, 2024). It also considers the use of both first-party and third-party data. Thus, here we see a form of institutional role-playing in the creation of a regulatory regime. As was previously the case in data governance, the European Data Protection Supervisor used his delegated powers to expand his role in European affairs and, in a major policy document, broadly interpreted his powers to include all proposals relating to data processing affecting European societies, extending well beyond data processing by EU institutions. In doing so, he argued that his advisory role also applied to matters relating to the first and third pillars, and he even published opinions on issues ranging from the sharing of airline passenger data to the Prüm Treaty on police cooperation (Sabel & Zeitlin, 2010).

Similarly, we see that the European Data Protection Board has

used its delegated powers to expand its role in European affairs, by issuing its opinion on the anonymity features of AI models, legitimate interests as a legal basis for the development or use of AI models, and the use of personal data and illegality in the development of AI, which in practice shows that it has defined these domains of AI governance as part of its emerging mandate (European Data Protection Board, 2024). The EDPB organized a stakeholder event to gather views on this opinion, which addresses rapidly evolving technologies that have a significant impact on society, and exchanged views with the EU AI Office, but ultimately acted on the basis of its own expertise and within its mandate, effectively creating an informal institutional structure in which the European Data Protection Board, in a peer-review relationship with the AI Office and other civil, economic, and social stakeholders, guides regulation in this area. The EDPB opinion also stressed the need for appropriate assessments by controllers deploying AI models to determine whether the model was developed lawfully. The EDPB's emphasis on examining whether sanctions were imposed on the model provider as part of the assessment process raises new questions regarding the use of third-party large language models by developers seeking to comply with data protection regulations.

It may be interesting to note what Anu Talus, the President of the European Data Protection Board, stated: "AI technologies can bring many opportunities and benefits to different industries and areas of life. We need to ensure that these innovations are carried out ethically, safely, and in a way that benefits everyone. The European Data Protection Board wants to support responsible AI innovation by ensuring the protection of personal data and full compliance with the General Data Protection Regulation" (European Data Protection Board, 2024). What is particularly interesting is the direct impact of this new participation and role of the European Data Protection Board in the field of AI. The indirect impact of the European Data Protection Board on the Court of Justice of the European Union in the field of AI is also noteworthy. While the EDPB does not directly issue opinions to the Court of Justice of the EU, its binding decisions and interpretations of the General Data Protection Regulation—particularly concerning AI companies and cross-border data use—have been cited in legal proceedings. For example, the EDPB's binding decisions under Article 65 of the Regulation have shaped rulings on data protection enforcement. Its interpretations of "legitimate interests" and anonymisation in the context of AI are increasingly being referred to in legal research and judicial

proceedings. Another important point is the substantial impact these opinions have had within Member States, both in national courts and in AI policymaking, as outlined in the report below.

Two days after the EDPB published its opinion under Article 64 of the GDPR on the training of AI models using personal data, the Italian data protection authority announced a €15 million fine and corrective measures imposed on the AI company OpenAI, within the scope of the EDPB's work (Nance & et al., 2025). In fact, the EDPB's Opinion No. 28/2024 raises concerns about the deployment of AI in sensitive areas such as law enforcement and judicial cooperation and sets out a framework for its action on AI governance. In this regard, it underlines its key role in the uniform application of the General Data Protection Regulation throughout the European Economic Area and (1) stresses Article 64(2) of the General Regulation, which provides that any supervisory authority, the Chairperson of the Management Board, or the Commission may request that any matter of general application or affecting more than one Member State of the European Economic Area be examined by the Management Board for the purpose of obtaining an opinion. The purpose of such an opinion is to examine a matter of general application or affecting more than one Member State of the European Economic Area. It also underlines that (2) the opinion of the Management Board shall be adopted within eight weeks from the date on which the Chairperson and the competent supervisory authority have decided to close the file, in accordance with Article 64(3) of the General Data Protection Regulation, in conjunction with Article 10(2) of the EDPB's Rules of Procedure. This period may be extended by a further six weeks, depending on the complexity of the matter. The EDPB criticizes proposals that allow for the following: automated decision-making, including profiling, whereby processing operations carried out in the context of AI models may fall under Article 22 of the Regulation, which imposes additional obligations on controllers and provides additional protections for data subjects. In this context, the EDPB recalls its Guidelines on automated decision-making and profiling for the purposes of Regulation (EU) 2016/679; compatibility of purposes, whereby Article 6(4) of the GDPR, for certain legal bases, provides criteria that a controller must take into account to determine whether processing is compatible with a purpose other than that for which the personal data were initially collected. This provision may be relevant in the context of the development and deployment of AI models, and its applicability should be assessed by supervisory

authorities; data protection impact assessments, which are an important element of accountability where processing in the context of AI models is likely to result in a high risk to the rights and freedoms of natural persons; and the principle of data protection by design (Article 25(1) of the General Regulation), which constitutes an essential safeguard that must be assessed by supervisory authorities in the context of the development and deployment of an AI model (European Data Protection Board, 2024). Table 2 presents a summary of EDPB actions in EU AI governance.

Table (2): The Role of the European Data Protection Board in AI Governance

Issue Area	Relevant Institutions	EDPB Action
Legitimate Interests	Court of Justice of the EU, European Commission, European Parliament	Opinion No. 28/2024
Anonymization in AI Contexts	Court of Justice of the EU, European Commission, European Parliament	Opinion No. 28/2024
Use of Personal Data and Unlawfully Processed Data in AI Development	Court of Justice of the EU, European Commission, European Parliament	Opinion No. 28/2024

Source: (Author's synthesis based on European Data Protection Board, 2024)

This destabilisation strategy supplies dissenting expert opinions to NGOs and Members of the European Parliament. The Commission and, to a lesser extent, the Council of Ministers are expected to respond to the criticisms raised by the European Data Protection Board and to justify their efforts to expand supervision. The European Data Protection Board introduces into the European debate the perspective of citizens, which is often underrepresented in government negotiations, particularly given the importance of balancing the privacy concerns of individuals with the data needs of governments and businesses in the area of AI and both foundation and general-purpose models.

Conclusion

The European Union's Artificial Intelligence Act represents more than a legislative milestone—it marks the formalization of a recursive governance cycle that began with soft coordination and culminated in a structured legal codification. This article has shown that the Act institutionalizes experimental mechanisms such as stakeholder participation, peer review, and iterative revision, while

simultaneously opening new spaces for infrastructural deployment and normative contestation. The governance of AI in the EU is not static; it is dynamic, multi-scalar, and continuously reconfigured through feedback loops and interventions by peripheral actors.

The central hypothesis—that disruptive actors reshape post-AI Act governance by expanding norms and injecting citizen-centric accountability—has been substantiated across three empirical domains. First, the institutional consolidation of the AI Office, AI Board, and Scientific Panel demonstrates how recursive mechanisms have been hardened and embedded into legal architecture. Second, Spain's ALIA project and the Barcelona AI Factory illustrate how Member States translate regulatory principles into public infrastructure, reinforcing digital sovereignty and linguistic inclusion. Third, the European Data Protection Board's strategic interventions reveal how formally non-embedded actors can challenge technocratic regimes and redefine the boundaries of regulatory authority.

Together, these cases underscore the EU's unique capacity to accommodate both top-down legal codification and bottom-up normative expansion. The governance ecosystem remains porous, enabling actors outside the formal legislative framework to exert influence through dissent, legal interpretation, and infrastructural experimentation. This pluralism is not a weakness—it is a source of adaptive strength, allowing the EU to respond to emerging risks and societal demands in near real time.

Yet, this flexibility also introduces tensions. The coexistence of centralized rule-making and decentralized norm-setting raises questions about coherence, legitimacy, and enforceability. As AI systems become more complex and transnational, the challenge will be to maintain regulatory alignment without stifling innovation or marginalizing civil society. The EDPB's expanding role exemplifies this tension: its normative pressure enhances rights protection while simultaneously complicating jurisdictional clarity and institutional coordination.

This article contributes to the literature on experimentalist governance by showing how legal codification does not end the regulatory process—it fundamentally transforms it. Post-legislative governance is shaped by infrastructural feedback, normative turbulence, and the strategic behavior of actors operating at the margins. The EU's AI regime is thus best understood as a living system, where law, infrastructure, and contestation co-evolve over time.

Future research should explore how these dynamics unfold across other domains of digital regulation, such as cybersecurity, platform governance, and algorithmic transparency. Comparative studies with non-EU jurisdictions could illuminate whether recursive governance and disruptive norm entrepreneurship are uniquely European phenomena or reflect a broader global trend. As the EU continues to refine its digital strategy, the lessons of the AI Act—its tensions, innovations, and institutional feedbacks—will remain central to understanding the future of democratic governance of technology.

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