

Maria Bergsröm and Valsamis Mitsilegas: EU Law in the Digital Age

Tiwai Mhundwa*

<https://doi.org/10.15170/PJIEL.2025.2.6>

Over time, the legal landscape has had to adapt to the rise of global digitalisation and its impact on society and fundamental rights. *EU law in the Digital Age*, edited by Maria Bergström and Valsamis Mitsilegas, brings together twenty chapters that track the adaptation of EU law in response to evolving technology, such as Artificial Intelligence, and examines how human rights and laws are impacted during this shift. This analysis is crucial in light of recent developments in EU law such as the AI Act, the Digital Services and Digital Markets Acts, and the Interoperability Framework which the book discusses. Additionally, the book provides a holistic overview of the impact the digital revolution has on fundamental rights, the rule of law and democracy, raising several concerns of how rights are affected and the role that the EU plays in safeguarding these rights through its laws. Divided into five parts, the question of how the EU handles the pressures of digitalisation is explored through a multidisciplinary approach and by bringing together experts in several key areas of EU law such as the internal market, privacy and data protection law and immigration law.

The first part of the book focuses on the challenges of AI and how the European Commission and The Council of Europe seek to tackle these challenges through initiatives such as the AI Act and the proposed Convention on Artificial Intelligence. From mapping out the uses of AI in areas such as predictive policing and process automation in chapter Two, to highlighting the shortcomings of AI in chapter Four, this section offers a balanced perspective of how AI will further revolutionise the law through initiatives discussed in chapter Three. The second part of the book introduces digitalisation and fundamental rights in the context of the internal market. The EU's digital package consisting of the Digital Services Act (DSA) and the Digital Markets Act (DMA) are discussed in chapter Five whilst chapter Six discusses the evolution of product liability due to the development of AI. Additionally, this section analyzes risk and trustas

* Bachelor Student, International and European Law, University of Groningen; Law Student, University of Pécs, Faculty of Law.

emerging discussions in law due to AI, drawing from discussions from the anti-money laundering field. AI and criminal Justice is analysed in part three, exploring human rights under the influence of algorithms and analysing the impact of AI and deepfake technology on the rule of law, legal certainty and democracy. Part Four is narrowed down to AI and evidence, more specifically, forensic AI. It examines issues such as the right to fair trial, fact finding in proceedings with the use of AI tools such as consumer product AI, and the cross-border nature of evidence which calls for the need for more co-operation between service providers and law enforcement authorities in proceedings. Lastly part Five of the book discusses AI and migration, specifically exploring the impacts of digitisation on the fundamental rights of travellers. This includes an analysis of the impact of the interoperability framework and systems such as the European Travel Information and Authorisation System (ETIAS) which were proposed to be used in the protection of from terrorism and the strengthening of the EU's borders. Throughout these parts, the unifying concern is how the rule of law and fundamental rights are affected by the dynamic digital reality and, more concerningly, Artificial Intelligence.

Having outlined the structure and scope of *EU Law in the Digital Age*, an evaluation of the key themes and concerns that are emphasised throughout the book will be made. Although written on a wide range of legal issues, the authors link their sections to the influence of Artificial intelligence in the context of EU Law. In explaining this relevance Gösta Petri highlights the EU's definition of AI in the AI Act which is crucial in understanding what technology falls under this definition so the appropriate laws and effects can be analysed.¹ The book clearly lays out how the EU has evolved in response to the growth of AI. From early Council of Europe initiatives, such as Recommendation 2102(2017) of the Parliamentary Assembly of the Council of Europe on Technological Convergence, Artificial Intelligence and Human Rights, to the first comprehensive EU risk based framework on AI (AI Act) the trajectory of EU AI governance is clearly traced.² Rudi Fortson KC takes a different approach by contrasting the approach of the UK, no longer a part of the EU, when it comes to tackling AI in law, more specifically in the realm of criminal law. Fortson highlights how a principle based and pro-innovation approach is taken in the UK which relies on regulators in a given sector, with the House of Lords highlighting that an overarching AI regulation like the AI Act would be an inappropriate response to the spread of AI.³

1 Gösta Petri, "AI and Justice – From Policy to Practice" in Maria Bergström and Valsamis Mitsilegas (eds), *EU Law in the Digital Age* (Hart Publishing 2025) 14.

2 Regulation (EU) 2024/1689 (Artificial Intelligence Act) [2024] OJ L2024/1689, Recommendation 2102 of the Parliamentary Assembly of the Council of Europe about Technological Convergence, Artificial Intelligence and Human Rights.

3 Rudi Fortson KC, "UK Strategy on AI – Implications for Criminal Law" in Maria Bergström and Valsamis Mitsilegas (eds), *EU Law in the Digital Age* (Hart Publishing 2025) 217.

In line with the theme of AI, the book also places emphasis on the impact of AI on rule of law. According to Karine Caunes, the rule of law serves as the underpinning of democracy, suggesting that there is a triangular relationship between the rule of law, democracy and human rights, and the challenges of AI therefore impact this relationship.⁴ Light is shed on self determination through the right to consent and the right to vote which may be affected by the use of AI in the political atmosphere, especially by the use of deepfake technology as Clementina Salvi points out.⁵ Deepfakes can distort civil discourse by spreading disinformation and fabricating fake scenarios, thus impacting decision making and undermining the formation of free consent, self determination and the rule of law.⁶

The impact AI has in criminal proceedings has also been exemplified in the book. Emmanouil Billis questions whether AI in criminal justice can be incorporated in a manner which respects fundamental rights and the rule of law.⁷ Rule of law principles such as legal certainty, transparency, impartiality and equality can only be upheld, not by solely relying on AI, but maintaining a human centric and complementary approach which requires human judgment and intervention in criminal proceedings.⁸ However, Authors such as Katalin Ligeti also point out that even with a human-in-the loop, judges and correctional officers may still rely on the outputs of AI used in criminal proceedings to make their decisions as opposed to remaining impartial, thus affecting the rule of law.⁹

Fundamental rights like right to privacy and data protection as set out in the Charter of Fundamental rights and other equivalent laws are a key focus in the book. The authors illustrate how digitalisation and AI have created new risks for individuals and these rights. Teresa Quintel and Mark D. Cole note that certain data protection principles such as data minimisation and proportionality can be undermined due to the transnational nature of digital evidence, highlighting that certain production orders for e-evidence may be disproportionate especially with the abuse of state authority.¹⁰ Similarly, digitalisation by governments could

4 Karine Caunes, “The Challenges of AI: A Mapping Exercise” in Maria Bergström and Valsamis Mitsilegas (eds), *EU Law in the Digital Age* (Hart Publishing 2025) 51.

5 Clementina Salvi, “Challenges of Deepfake Technology” in Maria Bergström and Valsamis Mitsilegas (eds), *EU Law in the Digital Age* (Hart Publishing 2025) 186.

6 *ibid.*

7 Emmanouil Billis, “AI in Criminal Justice” in Maria Bergström and Valsamis Mitsilegas (eds), *EU Law in the Digital Age* (Hart Publishing 2025) 151.

8 Emmanouil Billis, “Challenges of Deepfake Technology” in Maria Bergström and Valsamis Mitsilegas (eds), *EU Law in the Digital Age* (Hart Publishing 2025) 153.

9 Katalin Ligeti, “AI Evidence: Ensuring a Fair Trial” in Maria Bergström and Valsamis Mitsilegas (eds), *EU Law in the Digital Age* (Hart Publishing 2025) 226.

10 Teresa Quintel, “Transborder Access to e-Evidence” in Maria Bergström and Valsamis Mitsi-

be used to increase surveillance in violation of the right to privacy as pointed out by Elspeth Guild, a proportionality assessment of such technology is therefore crucial in assessing the impact on fundamental rights.¹¹ The right to privacy and data protection is even more vulnerable for travellers due to evolving border control technology such as the European Travel Information and Authorisation System (ETIAS) and the interoperability of migration systems.¹² This puts foreigners at risk of disproportionate over-surveillance, as upheld by the CJEU in cases such as *Quadrature du Net and Others*, thus potentially violating their rights to privacy and data protection.¹³

A distinct character of the book is the ability to link the relevance of EU law to relevant major non-EU legislation such as the link made between the US Clarifying Lawful Overseas Use of Data Act (CLOUD Act) and the EU e-Evidence Regulation in chapter sixteen. Here, Quintel and Cole show the overlap of these instruments, offering differing legal perspectives from specifically the US.¹⁴ However, the discussion on international digitalisation is limited and may have gone further to discuss other key competitors such as China in order to aptly track how the EU is progressing with regards to adapting to digitalisation and AI. The strong EU focus leaves limited room for comparison to other jurisdictions which is crucial considering the transnational nature of the digital world. Future versions may delve more into several other jurisdictions, allowing for a holistic analysis and comparison on the effects of a digital world on law. Additionally, the chapters minimally discuss how member states are to interact with the legislation created by the EU and could provide further analysis of how national institutions will tackle and interpret these instruments in practice, highlighting potential differences in harmonisation. As the book analyses AI at large, the focus is mostly from a legal perspective. A more technical approach such as explaining the key technical terms in AI would help in understanding how legal norms are related to AI technology in reality. Lastly, more emphasis could be placed on the role of private companies in digitalisation as opposed to focusing on the vertical relationship between companies and governments. Chapter five on the DSA/DMA package and chapter six on product liability do cover the

legas (eds), *EU Law in the Digital Age* (Hart Publishing 2025) 285-287.

11 Elspeth Guild, "The Traveller and the Digital Border" in Maria Bergström and Valsamis Mitsilegas (eds), *EU Law in the Digital Age* (Hart Publishing 2025) 303.

12 Regulation (EU) 2018/1240 of the European Parliament and of the Council of 12 September 2018 establishing a European Travel Information and Authorisation System (ETIAS) and amending Regulations (EU) No 1077/2011, (EU) No 515/2014, (EU) 2016/399, (EU) 2016/1624 and (EU) 2017/2226 (ETIAS Regulation) [2018] OJ L236/1.

13 Joined Cases C-511/18, C-512/18 and C-520/18 *La Quadrature du Net and Others v Premier Ministre and Others* EU:C:2020:791.

14 Teresa Quintel, "Transborder Access to e-Evidence" in Maria Bergström and Valsamis Mitsilegas (eds), *EU Law in the Digital Age* (Hart Publishing 2025) 266.

private sector and their power, yet other key issues such regarding private actors could still be discussed in other chapters as well.

In conclusion, *EU law in the Digital Age* offers a comprehensive analysis on the efforts of the European Union in adapting to digitalisation and AI, identifying the need for laws to adapt to new technology in order to effectively protect fundamental rights, democracy and the rule of law. The interdisciplinary approach is crucial in highlighting the areas of law that are affected by technological advancement. The book as whole serves as a significant contribution to the understanding of EU laws in the digital context, showing the evolving relationship between technology, regulation and fundamental rights.