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The Digital Omnibus Dilemma
Some Ethical and Legal Considerations on the Postponement of Certain Provisions of the European Artificial Intelligence Act

Abstract
On 19 November 2025, the European Commission presented the Digital Omnibus package, a sweeping legislative initiative that includes targeted amendments to the EU Artificial Intelligence Act (Regulation EU 2024/1689). The central proposal is the postponement of the compliance obligations applicable to high-risk AI systems — originally due to enter into force on 2 August 2026 — until at least 2 December 2027, and in certain cases until 2 August 2028. Officially justified on grounds of regulatory simplification, the lack of harmonised technical standards, and the need to support the competitiveness of European businesses, the Digital Omnibus raises profound ethical and legal concerns that this article examines from the perspective of philosophy of law and legal theory. The analysis focuses on four interrelated dimensions: (i) the subordination of the EU's fundamental-rights-based regulatory model to economic competitiveness imperatives; (ii) the structural paradox of deregulating provisions that were never effectively applied, as a result of institutional failures by the Commission and Member States; (iii) the risk that the omnibus format, applied to sensitive legislation on an accelerated and insufficiently deliberated timeline, may undermine the democratic guarantees and legal certainty that the European digital legal order is expected to uphold; and (iv) the global implications of regulatory retreat in a tripartite AI governance landscape in which the EU was designed to represent a distinctive rights-based third path. Drawing on philosophy of law, normative ethics, and comparative regulatory analysis, the article concludes that the Digital Omnibus represents not merely a technical adjustment, but the first — and deeply troubling — stress test of the European AI regulatory model.

Keywords: EU AI Act; Digital Omnibus; AI regulation; high-risk AI; fundamental rights; regulatory ethics; deregulation; Brussels effect; philosophy of law; human oversight; AI literacy.

Resumen
El 19 de noviembre de 2025, la Comisión Europea presentó el paquete «Digital Omnibus», una amplia iniciativa legislativa que incluye modificaciones específicas de la Ley de Inteligencia Artificial de la UE (Reglamento (UE) 2024/1689). La propuesta central es el aplazamiento de las obligaciones de cumplimiento aplicables a los sistemas de IA de alto riesgo —que en un principio debían entrar en vigor el 2 de agosto de 2026— hasta, como mínimo, el 2 de diciembre de 2027 y, en determinados casos, hasta el 2 de agosto de 2028. Justificado oficialmente por motivos de simplificación normativa, la falta de normas técnicas armonizadas y la necesidad de apoyar la competitividad de las empresas europeas, el «Digital Omnibus» plantea profundas preocupaciones éticas y jurídicas que este artículo examina desde la perspectiva de la filosofía del derecho y la teoría jurídica. El análisis se centra en cuatro dimensiones interrelacionadas: (i) la subordinación del modelo regulador de la UE, basado en los derechos fundamentales, a los imperativos de la competitividad económica; (ii) la paradoja estructural de desregular disposiciones que nunca se aplicaron de manera efectiva, como resultado de fallos

institucionales por parte de la Comisión y los Estados miembros; (iii) el riesgo de que el formato ómnibus, aplicado a una legislación sensible en un plazo acelerado y sin la deliberación suficiente, pueda socavar las garantías democráticas y la seguridad jurídica que se espera que defienda el orden jurídico digital europeo; y (iv) las implicaciones globales del retroceso regulatorio en un panorama de gobernanza de la IA tripartito en el que la UE fue concebida para representar una tercera vía distintiva basada en los derechos. Basándose en la filosofía del derecho, la ética normativa y el análisis regulatorio comparativo, el artículo concluye que el Ómnibus Digital no representa meramente un ajuste técnico, sino la primera —y profundamente preocupante— prueba de resistencia del modelo regulatorio europeo de IA.

Palabras clave: Ley de IA de la UE; Ómnibus Digital; regulación de la IA; IA de alto riesgo; derechos fundamentales; ética regulatoria; desregulación; efecto Bruselas; filosofía del derecho; supervisión humana; alfabetización en IA.

1. Introduction: Regulating What Has Not Yet Been Applied

In March 2023, more than five hundred academics, engineers, and technology entrepreneurs signed an open letter warning of the 'profound risks to society and humanity' posed by advanced AI models, calling for a six-month moratorium on the training of systems more powerful than GPT-4. That moratorium never materialised. Instead, the months that followed saw an acceleration of AI development that made the warning seem, to some, overstated, and to others, tragically insufficient. What the letter revealed, more than anything else, was the structural difficulty of constructing meaningful governance for a technology whose pace of change consistently outstrips the tempo of democratic deliberation.

Less than two years later, a paradox of a different and more ironic kind emerged — not from private laboratories, but from the European Union's own legislative institutions. In November 2025, the European Commission presented the so-called Digital Omnibus package, a sweeping proposal to amend, consolidate, and in key respects relax the obligations established by the EU AI Act (Regulation EU 2024/1689) before those obligations had even entered into force. The paradox is sharp: the same legislature that, in 2024, declared certain safeguards indispensable for the protection of fundamental rights was, a year later, proposing to delay their application — not because they had been tested and found unworkable, but because the institutional infrastructure required to implement them had not been built in time.

This article examines that paradox from the perspective of philosophy of law and legal theory. Its central argument is that the Digital Omnibus does not represent a mere technical correction or a pragmatic adjustment of an overly ambitious timeline. Rather, it constitutes a fundamental challenge to the normative foundations of European AI regulation: the idea, anchored in the Charter of Fundamental Rights and the Treaty on European Union, that artificial intelligence must serve the human being and be subject to democratic accountability, not optimised for market efficiency under competitive pressure from jurisdictions with lower standards.

The philosophical tradition relevant to this debate is not merely procedural. The tension between rights-protection and economic efficiency in regulatory design is as old as the welfare state; the contemporary AI governance debate recapitulates it in a new and technologically specific register. Thinkers from John Rawls to Jürgen Habermas have explored the conditions under which democratic

institutions can legitimately subordinate individual rights to collective economic interests — and what those conditions require by way of procedural rigour, substantive justification, and institutional accountability. As this article argues, the Digital Omnibus fails to meet those requirements, and this failure is not incidental but structural.

From my own prior work — and specifically from the question I posed in the Diario de Sevilla in April 2026: '¿pragmatismo o claudicación?' — the position taken here is clear: while pragmatic adjustments to implementation timelines may, in principle, be justifiable, the Digital Omnibus is not that. It is a capitulation to competitive pressure that, in the name of efficiency, subordinates the European AI regulatory model's defining characteristic — its human-centric, rights-based architecture — to the very market logic it was designed to constrain.[1]

The analysis proceeds in seven stages. Section 2 provides an account of the regulatory architecture of the EU AI Act and the implementation challenges that preceded the Omnibus proposal. Section 3 analyses the content, scope, and legislative procedure of the Digital Omnibus. Section 4 examines the ethical and legal dimensions of the postponement in detail. Section 5 interrogates the relationship between the omnibus format and democratic legitimacy. Section 6 addresses the global implications of the proposal. Section 7 offers conclusions and sketches the outlines of a genuinely humanist ethics for autonomous AI.

2. The EU AI Act: Regulatory Architecture, Philosophical Foundations, and Implementation Challenges

The EU Artificial Intelligence Act, adopted on 13 June 2024 and entering into force on 1 August 2024, constitutes the world's first comprehensive horizontal legal framework for artificial intelligence. Its adoption was the culmination of a legislative process that began with the Commission's White Paper on AI in February 2020[2] and involved multiple rounds of consultation, inter-institutional negotiation, and civil society engagement. The Act's regulatory philosophy is rooted in the human-centric model of AI governance advocated by the High-Level Expert Group on Artificial Intelligence (AI HLEG) in its Ethics Guidelines of 2019,[3] which themselves drew on a rich tradition of European bioethics, constitutional theory, and fundamental rights jurisprudence. As Floridi argued,[4] a good AI society requires not merely technically beneficial systems, but systems whose design and governance can be evaluated against independently specified ethical principles rooted in human dignity.

The Act's architecture rests on a risk-based classification system that distributes regulatory obligations according to the potential harm that different categories of AI system can cause. AI systems posing unacceptable risks — such as social scoring by public authorities, real-time remote biometric surveillance in public spaces, and systems that exploit cognitive vulnerabilities — are prohibited outright. High-risk systems, defined in Annex III of the Act and encompassing applications in biometric identification, critical infrastructure, employment screening, credit assessment, judicial decision support, and border control, are subject to an extensive compliance framework prior to market

[1] See Llano Alonso (2026a).
[2] European Commission (2020).
[3] AI HLEG (2019).
[4] Floridi et al. (2018: 694).

deployment. Systems of limited risk face transparency obligations. Systems of minimal risk are largely unregulated.

The high-risk compliance framework is the Act's most substantive and controversial contribution. It requires providers of high-risk AI systems to establish risk management systems, implement data governance measures, produce detailed technical documentation, maintain automatic event logging, ensure transparency and provision of information to deployers, design systems for genuine human oversight, achieve appropriate accuracy and robustness, and undergo conformity assessment procedures before placing systems on the market. These obligations are demanding, deliberately so: they reflect a political judgment that the stakes in these domains are sufficiently high to warrant robust ex ante regulation rather than reactive ex post liability. As Doshi-Velez observed,[5] accountability of AI systems requires 'explanation at a level of detail appropriate to the decision being made' — precisely the kind of documentation and transparency that the Act mandates.

The philosophical foundations of this approach are explicit in the Act's recitals, which invoke the Charter of Fundamental Rights of the European Union, the Treaty on European Union, and the Council of Europe's emerging framework for AI governance. The Act situates itself within a tradition that, following Kant and his contemporary interpreters, treats human dignity as a value that cannot be subordinated to considerations of utility or efficiency without an extraordinarily strong justification. In the terms of Alexy's constitutional theory, fundamental rights function as 'trumps' against collective goals; when rights are genuinely at stake, the burden of justification for any restriction is exceptionally demanding.[6] Dworkin expressed the same insight[7] in the formula that rights are 'political trumps held by individuals' against majoritarian decision-making — a formula that has direct implications for regulatory debates in which economic efficiency is invoked to justify the reduction of individual protections.

The Act introduced a staggered implementation timeline designed to give industry, Member States, and supervisory authorities time to prepare. The prohibition of unacceptable-risk AI practices entered into force on 2 February 2025. Obligations relating to general-purpose AI (GPAI) models became applicable on 2 August 2025. The comprehensive compliance framework for high-risk AI systems was scheduled to apply from 2 August 2026. Full universal applicability was set for 2 August 2027.

However, even before the August 2025 milestones were reached, the implementation process had begun to reveal structural weaknesses of significant proportions. The European Commission failed to meet its own February 2026 deadline for issuing guidance on compliance with Article 6, the key provision governing the classification of AI systems as high-risk.[8] Two European standardisation bodies — CEN and CENELEC — missed their autumn 2025 deadline to produce harmonised technical standards for conformity assessments, revising their target to the end of 2026.[9] Only eight of the twenty-seven EU Member States had designated their national competent authorities by the August 2025 statutory deadline.[10] The AI Office, though formally operational from 2 August 2025, faced significant

[5] Doshi-Velez et al. (2017:3).
[6] Alexy (2002: 47).
[7] Dworkin (1977: xi).
[8] IAPP (2026).
[9] CEN/CENELEC (2025).
[10] Dataguard (2026).

resource constraints and had yet to develop the operational capacity required for enforcement of GPAI obligations.[11]

The significance of these failures cannot be overstated. They reveal that the implementation challenges facing the EU AI Act are not primarily technical — attributable to the inherent complexity of AI systems — but institutional and political: the product of insufficient investment in regulatory capacity, inadequate coordination between the Commission and Member States, and a tendency, familiar from the history of EU digital regulation, to treat legislative adoption as the principal challenge and implementation as a secondary concern. As Barrio Andrés has documented,[12] the EU's digital regulatory landscape by early 2025 comprised more than one hundred legal instruments, many overlapping in scope and frequently contradictory in their requirements, creating compliance costs that were disproportionate and predictable consequences of incoherent regulatory strategy. Bradford has shown[13] that the 'Brussels effect' — the capacity of EU regulation to project global normative standards — depends precisely on the credibility of implementation: rules that are adopted but not enforced do not project.

3. The Digital Omnibus: Content, Scope, and Legislative Context

On 19 November 2025, the European Commission presented two interrelated legislative proposals: the Digital Omnibus Regulation Proposal[14] and the Digital Omnibus on AI Regulation Proposal[15]. The package was presented as part of the Von der Leyen Commission's second-term programme of regulatory simplification, responding to the Draghi Report on European competitiveness[16] and the Letta Report on the future of the Single Market.[17] The explicit framing of the Digital Omnibus as a competitiveness measure signals a shift in the Commission's regulatory philosophy from a rights-protective to a market-efficiency orientation whose normative implications this article addresses directly.[18]

The proposals seek simultaneously to amend the GDPR (Regulation EU 2016/679), the Data Act, the Data Governance Act, the NIS 2 Directive, the Cybersecurity Act, and the EU AI Act. The scale of the intervention is without precedent in the history of EU digital regulation: no previous initiative has proposed amendments to so many major regulatory instruments on such a compressed timeline and without the impact assessments that EU Better Regulation Guidelines require for significant legislative changes. As EDRi has characterised it,[19] the Digital Omnibus represents 'a massive reopening of the EU's core digital protections' that 'risks dismantling the very foundation of human rights and tech policy in the EU.' Corporate Europe Observatory and LobbyControl have documented in detail how major technology corporations — primarily American — traced their influence across the

[11] DLA Piper (2025).
[12] Barrio Andrés (2025a).
[13] Bradford (2020: 25).
[14] European Commission (2025b).
[15] European Commission (2025a).
[16] Draghi (2024).
[17] Letta (2024).
[18] Barrio Andrés (2025b).
[19] EDRi (2025).

key provisions of both proposals through lobbying activity that intensified in the months preceding their publication.[20]

With respect to the AI Act, the principal modification proposed by the Digital Omnibus concerns the application timeline for high-risk AI obligations. Rather than maintaining the fixed deadline of 2 August 2026, the Commission proposed to link the application of Annex III obligations to the availability of harmonised standards and other compliance tools — at the latest by 2 December 2027 for stand-alone high-risk AI systems and by 2 August 2028 for AI systems embedded in safety-critical products governed by sectoral EU legislation. As noted by the Delors Centre, 'this delay was widely demanded by industry representatives, who are pushing for the rules to apply even later,' while 'the EDPB and EDPS have expressed concerns that later dates could potentially impact fundamental rights protections.'[21] The postponement amounts to between sixteen months and two years beyond the legislatively mandated deadlines — an extension that the Commission characterises as technical but that, on examination, is normative.

Beyond the timeline, the Digital Omnibus proposes several modifications of substantive importance. First, it transfers the obligation to ensure AI literacy from providers and deployers — who under the original Act bore a binding legal duty to guarantee that their staff possessed the necessary competence to operate high-risk AI systems — to the Commission and Member States, which would instead merely 'promote' and 'foster' literacy through informational resources. García del Blanco, who served as rapporteur for the AI Act during the 2019–2024 parliamentary term, characterises this as 'an attack on digital literacy' — the 'most important tool that we have as a society and as individuals to adapt to and benefit from, in equity, the opportunities of the digital revolution.'[22] The transformation of a legal mandate into an aspirational objective is not a simplification; it is a fundamental change in the allocation of legal responsibility.

Second, the Omnibus would expand the legal basis for processing special categories of personal data — including data relating to racial or ethnic origin, health status, sexual orientation, and religious beliefs — for the purpose of detecting and correcting algorithmic biases. The original Act permitted such processing only by providers and deployers of high-risk AI systems and under strict conditions of necessity. The Omnibus extends this permission to all AI system providers and deployers, subject to less restrictive conditions. The European Data Protection Board and the European Data Protection Supervisor have both expressed serious concerns about the imprecision of the proposed legal framework and its potential to erode GDPR protections.[23]

Third, the Digital Omnibus would substantially expand simplified compliance regimes. The original Act provided simplified obligations only for microenterprises (fewer than ten employees). The Omnibus extends comparable simplifications to SMEs and, through the novel category of 'small mid-cap' companies — firms with up to 749 employees and annual turnover of up to 150 million euros, pursuant to Commission Recommendation 2025/1099 — effectively encompasses more than 99 per cent of the European business ecosystem within a single simplified regulatory track. As Ibáñez Sánchez has argued, 'we have created a general law that in practice applies strictly to fewer than 1 per cent of companies' — a result that, in addition to its substantive inadequacy, creates perverse incentives for

[20] Corporate Europe Observatory and LobbyControl (2026).
[21] Delors Centre (2026).
[22] García del Blanco (2026).
[23] EDPB and EDPS (2026).

large corporations to fragment their AI operations into nominally independent entities qualifying for the simplified regime.[24]

Fourth, the Omnibus proposes to move AI systems currently listed in Annex IA — including AI components embedded in products such as medical devices, toys, and machinery — into Annex IB, such that sector-specific rules would apply in place of the AI Act's horizontal framework. This 'end of horizontal application,' as García del Blanco characterises it, threatens to fragment the uniform European AI governance architecture into a patchwork of sector-specific standards whose levels of protection will depend on the political economy of each industry rather than on the uniform risk-based logic of the original Act. The Commission would acquire 'immense discretionary power,' replacing 'freshly squeezed orange juice with an insipid substitute'.[25]

Fifth, the Omnibus proposes a moratorium on the obligation to watermark AI-generated content — including deepfakes — for systems already operating in the market, citing technical impossibility as justification. The credibility of this justification is, to say the least, questionable. On the positive side, the Omnibus introduces, at the initiative of Parliament and Council rather than the Commission, a targeted ban on AI systems that generate non-consensual sexual and intimate imagery — a response to well-documented harms, including those associated with the Grok system — and on AI-generated child sexual abuse material.[26]

The legislative procedure of the Digital Omnibus is itself normatively problematic. No impact assessment accompanied either proposal, in apparent violation of the Commission's own Better Regulation Guidelines. Barrio Andrés characterises the procedural acceleration as 'a serious breach of the legislative procedure,' citing the absence of adequate consultation, the compression of the legislative timeline, and the failure to allow affected parties sufficient time to analyse the legal problems at stake: 'there is no evaluation of impact accompanying the Digital Omnibus, nor has there been sufficient time to analyse the problems in detail, nor a real consultation of stakeholders.'[27] By March 2026, trilogue negotiations had begun, with adoption expected by mid-2026.[28]

4. Ethical and Legal Dimensions of the Postponement

4.1. The Central Normative Question

The central ethical question posed by the Digital Omnibus is not technical but normative: under what conditions, if any, is it legitimate for a democratic legislature to suspend the application of safeguards that it has previously declared indispensable for the protection of fundamental rights? This question has a long history in legal and political philosophy. Dworkin's account of rights as 'political trumps' over collective goals provides one answer: if fundamental rights are genuinely at stake, economic efficiency considerations cannot override them without an extraordinarily strong justification that goes beyond the mere inconvenience or cost of compliance.[29] Rawls's difference principle offers a

[24] Ibáñez Sánchez (2026).
[25] García del Blanco (2026).
[26] European Parliament (2026).
[27] Barrio Andrés (2026).
[28] European Parliament Legislative Train (2026).
[29] Dworkin (1977: xi).

complementary perspective: inequalities in the distribution of regulatory protection are only justified if they benefit the least advantaged members of society[30] — a test that the Digital Omnibus conspicuously fails to apply. The individuals most exposed to the risks of unregulated high-risk AI systems — those subject to algorithmic credit scoring, automated employment decisions, or AI-assisted judicial processes — are not the technology corporations whose compliance costs the Omnibus seeks to reduce.

The EU AI Act was constructed on a foundational philosophical commitment: that artificial intelligence must be human-centric, that it must serve the person rather than supplant or instrumentalise them. This commitment, anchored in Article 1 of the Charter of Fundamental Rights ('human dignity is inviolable') and in Article 2 TEU (which founds the Union on 'respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights'), distinguished the European regulatory model from its principal alternatives. The Digital Omnibus does not formally abandon that commitment, but it subordinates it, in practice, to the competitive efficiency imperatives that the Commission's framing has made dominant. This is not a trivial concession; it is a change in the hierarchy of values that governs EU AI regulation — a change that, under Alexy's proportionality doctrine, requires rigorous justification that the Commission has not provided.[31]

4.2. Human Oversight and the AI Literacy Obligation

Article 14 of the EU AI Act — among its most important provisions — requires that high-risk AI systems be designed and deployed in such a way that human beings can effectively oversee their operation, understand their outputs, and intervene when necessary. This obligation presupposes that the persons performing oversight are genuinely competent to do so: that they possess the knowledge and skills necessary to evaluate what the AI system is doing and to recognise when its outputs are erroneous, biased, or inappropriate. The Act addressed this presupposition directly through its AI literacy mandate: a binding legal obligation on providers and deployers to ensure that their staff possessed the necessary competence. The Digital Omnibus eliminates this binding obligation and replaces it with a soft responsibility of the Commission and Member States to 'promote' training through informational resources.

The philosophical significance of this transformation should not be underestimated. Without the guarantee of operational competence, human oversight of AI systems degenerates from a meaningful safety mechanism into a formal act — the signing of documentation, the clicking of a confirmation button — by persons who do not understand what they are confirming. In high-stakes domains such as judicial decision-making, medical diagnosis, employment screening, or credit assessment, this is not merely an administrative deficiency; it is a structural failure of the accountability mechanism on which the Act's fundamental rights protections depend. As Ibáñez Sánchez has argued with particular force: 'a blind signature in a high-risk system is not oversight, it is an alibi.'[32] This observation connects directly to the broader literature on meaningful human control of AI systems.[33]

There is also a prospective dimension to this concern. The traces generated by competent human supervision of AI systems — records of when supervisors intervened, what they corrected, what they

[30] Rawls (1971: 83).
[31] Alexy (2002: 102).
[32] Ibáñez Sánchez (2026).
[33] Doshi-Velez et al. (2017: 7); Kearns and Roth (2019: 34).

refused to ratify — constitute a uniquely valuable dataset for the development of AI systems aligned with fundamental rights. Every documented act of informed human oversight contributes to a corpus of evidence about how AI systems should and should not behave in socially and legally consequential contexts. Ibáñez Sánchez has argued that this corpus represents Europe's most distinctive competitive asset in AI governance — the 'traceability by design' that neither the American nor the Chinese model can generate in an independently verifiable, rights-oriented form.[34] The Digital Omnibus, by converting active supervision into a passive formality, destroys precisely this informational infrastructure. The loss is not merely technical; it is normative — the forfeiture of the evidentiary foundation required to demonstrate, empirically, that an AI system respects the values it is supposed to serve.

4.3. The Paradox of Deregulating the Unapplied

The most structurally revealing aspect of the Digital Omnibus is what Ibáñez Sánchez has called 'the great paradox': the proposal to deregulate provisions that were never effectively applied.[35] The high-risk AI obligations scheduled for August 2026 did not fail because they were tried and found impractical; they are being postponed because the EU institutions — the Commission, Member States, and standardisation bodies — failed to build the institutional infrastructure that would have made their application possible. The Omnibus proposes to relieve private actors of regulatory burdens as a consequence of public institutional failures for which those private actors bear no responsibility.

The question that the Commission has not answered — and that this article poses directly — is the following: if the safeguards established for high-risk AI systems were necessary to protect fundamental rights in 2024, why have they ceased to be necessary in 2026? High-risk AI systems — those used to assess creditworthiness, screen job applicants, assist in judicial decisions, identify individuals through biometric surveillance, and manage border control — have not become less risky in the intervening period. If anything, their proliferation has accelerated and their technical sophistication has increased. As I argued in the Diario de Sevilla article that prompted this broader debate: 'if those guarantees were necessary in 2024, why do they cease to be so in 2026?'.[36] The absence of a satisfactory answer is itself a normative judgment — an implicit acknowledgment that competitive efficiency now takes precedence over the fundamental rights protection that originally animated the legislation.

Ibáñez Sánchez has identified an additional dimension of this paradox with particular acuity: the Digital Omnibus proposes to deregulate not because regulation has failed, but 'because it has not been attempted.'[37] The Commission did not publish the compliance guidelines it had committed to issuing by February 2026; the standardisation bodies did not meet their own deadlines; Member States did not designate their competent authorities. To relax the obligations of private actors in response to the failures of public institutions is not regulatory pragmatism; it is institutional irresponsibility dressed in the language of competitiveness. As García del Blanco observed, 'it seems that they have already discounted the outcome of the trilogues. Either me or chaos.'[38] This observation reveals the coercive logic of the Omnibus: by failing to meet its own preparatory obligations, the Commission has created

[34] Ibáñez Sánchez (2026).
[35] Ivi.
[36] Llano Alonso (2026a).
[37] Ibáñez Sánchez (2026).
[38] García del Blanco (2026).

a situation in which postponement appears inevitable, thereby relieving itself of responsibility for the consequences.

4.4. Sensitive Data, GDPR, and the Erosion of Privacy Protections

The Digital Omnibus's proposed expansion of the legal basis for processing special categories of personal data raises concerns that extend beyond AI regulation into the core of the European data protection framework. The GDPR established careful restrictions on the processing of sensitive personal data — data relating to racial or ethnic origin, political opinions, religious beliefs, health, sexual orientation, and criminal records — reflecting a considered judgment that these categories of information are most dangerous to individual autonomy and equal treatment when misused. The proposed Digital Omnibus amendments introduce a modified 'legitimate interest' basis for AI-related data processing and extend permission to process sensitive data for bias detection to all AI system providers, not merely high-risk ones.

Finance Watch's Peter Norwood has articulated the practical stakes directly: 'Under these proposals, a person could be denied a loan because of a biased AI model, or charged higher insurance premiums based on predicted health status, all without their knowledge or consent'.[39] The EDPB and EDPS have both warned that the proposed modifications could 'potentially impact fundamental rights protections' and have conditioned any support for the Omnibus on 'precise safeguards' that the current text does not provide.[40] Zuboff has described the systematic exploitation of personal data for predictive purposes as 'surveillance capitalism' — a regime in which the asymmetry of information between those who collect and those whose data is collected generates structural power imbalances that regulation is supposed to correct.[41] The Digital Omnibus moves, in this respect, in precisely the wrong direction.

5. Democratic Legitimacy and the Omnibus Format

The Digital Omnibus raises concerns that are constitutional as well as substantive: concerns about the use of the omnibus legislative format to introduce significant modifications to recently negotiated, politically balanced legislation under conditions of time pressure, reduced democratic scrutiny, and apparent capture by concentrated private interests. García del Blanco has described the reopening of the AI Act's text as the opening of 'Pandora's box' — an act of 'recklessness' whose consequences extend far beyond the specific amendments proposed, because the reopening of a hard-won political equilibrium creates an opportunity for actors who were not satisfied with the original agreement to pursue more radical modifications.[42]

The documented role of corporate lobbying in shaping the Digital Omnibus is a central element of any honest account of its origins. Corporate Europe Observatory and LobbyControl have traced the fingerprints of major technology corporations — primarily American — on the key provisions of both proposals.[43] The specific amendment introducing 'legitimate interest' as a legal basis for AI data

[39] Finance Watch (2025).
[40] EDPB and EDPS (2026).
[41] Zuboff (2019: 11).
[42] García del Blanco (2026).
[43] Corporate Europe Observatory and LobbyControl (2026).

processing was identified in a lobbying paper submitted by Google to the German government in August 2025, subsequently incorporated into a German government position paper, and ultimately reflected in the Commission's text. Meta's meetings with far-right MEPs increased dramatically during the period of Digital Omnibus negotiation, with the Digital Omnibus identified as a priority topic in those encounters. Big Tech companies are investing, by some estimates, up to $550 billion in AI market dominance in 2026;[44] loosening rules on AI data collection plays directly into their competitive interests.

The legitimacy deficit of the Digital Omnibus must be assessed against the standards set by Habermas's discourse theory of law.[45] In that theory, law acquires legitimacy not merely through formal procedural compliance but through the quality of the deliberative process that produces it: the extent to which all those affected by a legal norm have had a genuine opportunity to participate in its justification. A consultation period of less than four months, a compressed trilogue timeline, no impact assessment, and conditions of concentrated corporate influence do not satisfy this criterion. As Barrio Andrés has argued, the process 'supposes a serious breach of the legislative procedure' that cannot be justified by reference to competitive urgency: 'it is necessary to reconcile legislative agility with democratic guarantees and legal robustness.'[46]

The omnibus format itself deserves constitutional scrutiny. By bundling amendments to multiple legal instruments in a single package, it creates conditions structurally advantageous to actors with the resources to monitor and influence complex, simultaneous negotiations across multiple policy domains — precisely the conditions in which concentrated private interests tend to prevail over diffuse public ones. The EU AI Act was not merely a technical regulation; it was, as its own recitals make clear, an expression of the European Union's fundamental values. Amendments to an expression of fundamental values should be subject to the full rigour of democratic deliberation, not the compressed timeline of an omnibus simplification exercise.

It is worth acknowledging, in the interest of intellectual honesty, the strongest version of the argument for the Digital Omnibus. Barrio Andrés has documented convincingly that the complexity of EU digital law is a genuine structural problem: more than a hundred regulatory instruments, many overlapping and contradictory, imposing compliance costs that are disproportionate and that fall most heavily on the SMEs that the EU declares it wishes to support.[47] Some degree of rationalisation is necessary. The question is whether the Digital Omnibus — with its procedural defects, its substantive reductions in protection, and its accelerated timeline — is the right instrument for achieving it. The answer of this article is clear: it is not. Rationalisation without vision, as Barrio Andrés himself acknowledges, merely replaces one form of fragmentation with another.[48] What is needed is not fewer rules but better ones, embedded in a strategic framework that all Member States share and are institutionally equipped to implement.

[44] Ivi.
[45] Habermas (1996: 107).
[46] Barrio Andrés (2026).
[47] Barrio Andrés (2025a).
[48] Barrio Andrés (2025b).

6. The Reverse Brussels Effect: Global Implications of EU Regulatory Retreat

The concept of the 'Brussels effect' — elaborated most systematically by Bradford — describes the phenomenon by which EU regulatory standards, driven by the economic weight of the European market, become de facto global standards.[49] Companies seeking access to the EU market adjust their products and services to EU norms, thereby extending the reach of those norms beyond the Union's territorial jurisdiction. The GDPR offered the clearest recent illustration: its influence is traceable in data protection legislation from Brazil to Japan, from India to California. The EU AI Act was widely understood, upon its adoption, as a potential catalyst for a similar effect in AI governance — a rights-based anchor for the international debate that, if credibly enforced, could reshape global AI development practices.

The Digital Omnibus raises the spectre of what this article terms the 'reverse Brussels effect': a scenario in which the EU's decision to relax its own standards, under competitive pressure from less regulated jurisdictions, accelerates rather than dampens a global race to the bottom in AI governance. If the jurisdiction that was supposed to anchor international responsible AI development chooses, when tested, to soften its requirements before those requirements have been applied, the signal sent to other regulators — and to the AI industry — is deeply damaging to the project of international AI governance. As I argued in my Diario de Sevilla contribution: 'the regulatory race to the bottom rarely protects the most vulnerable.'[50]

The global regulatory landscape in 2026 presents a tripartite division whose character makes the EU's positioning particularly consequential. The United States, under the Trump administration, has moved decisively toward AI deregulation, revoking Biden-era executive orders on AI safety requirements and creating active federal pressure to preempt state-level regulation.[51] China maintains a state-directed model in which AI alignment is prescribed from above without independent verification, democratic accountability, or genuine transparency.[52] The EU was supposed to represent a third path — rights-based, risk-based, horizontally applicable, extraterritorially significant, and democratically accountable. The Digital Omnibus undermines the coherence and credibility of that third path at precisely the moment when it is most needed.

There is a specifically economic argument that complicates the Commission's competitive framing. Ibáñez Sánchez, drawing on analysis published by Mistral AI,[53] has argued that the competitive advantage of the AI future belongs not to the system with the broadest training data but to the system that most precisely understands its specific user's context, values, and needs.[54] That kind of contextual intelligence requires privacy by design, data sovereignty, and user-controlled governance — precisely the principles that EU regulation had codified. The Digital Omnibus's relaxation of transparency and data protection requirements thus weakens, rather than strengthens, the regulatory foundation on which a genuinely competitive European AI sector could be built. The claim that the Omnibus benefits European SMEs does not survive scrutiny: as I observed in the Diario de Sevilla, 'the large technology

[49] Bradford (2020: 25–26).
[50] Llano Alonso (2026a).
[51] Dataguard (2026).
[52] Barrio Andrés (2025b).
[53] Conklin (2026).
[54] Ibáñez Sánchez (2026).

companies — predominantly American — are those that process the most data and, therefore, those that save the most'. [55] The competitiveness rationale, examined closely, is an argument for the competitiveness of Silicon Valley, not of Europe.

Ibáñez Sánchez has identified what he calls 'the European competitive advantage that nobody wants to see' [56]: the traceability data generated by competent human supervision of AI systems constitutes a uniquely valuable, independently verifiable corpus of evidence about how AI systems interact with human decision-making in rights-sensitive contexts — a corpus that neither the American nor the Chinese model can generate in a democratically accountable form. This asset is being destroyed, not preserved, by the Digital Omnibus's dilution of AI literacy and human oversight requirements. The Omnibus, in the name of competitiveness, forfeits precisely the competitive asset that Europe's regulatory model had generated.

7. Towards a Humanist Ethics for Autonomous AI: What the Digital Omnibus Puts at Risk

The debate about the Digital Omnibus is, at its deepest level, a debate about values — about the kind of relationship that European societies wish to establish with artificial intelligence as it becomes more capable, more pervasive, and more consequential. The emergence of what may be called autonomous AI systems — systems capable of continuous self-improvement, of generalising across domains, of operating without direct human intervention in a manner that fundamentally alters the human role from designer of solutions to supervisor of self-reconfiguring processes — makes the normative stakes of regulatory decisions exponentially higher.[57]

The philosophical tradition of humanism, in its Kantian formulation, insists that rational beings must be treated as ends in themselves and never merely as means. Applied to AI governance, this principle demands that AI systems be designed, deployed, and regulated in ways that respect the autonomy, dignity, and rational agency of the persons they affect. The Act embodied this principle in its human-centric framework; the Digital Omnibus subordinates it, in practice, to the instrumental logic of market competition. This subordination is, in the domain of fundamental rights, constitutionally suspect under both the proportionality doctrine of the EU's own constitutional order[58] and the political philosophy that underpins European constitutional democracy.[59]

A humanist ethics for autonomous AI requires, as a minimum, three interlocking commitments that the Digital Omnibus puts at risk. First, it requires genuine human oversight — not the formal signing of documents by persons who do not understand what they are signing, but the active, informed, and competent supervision of AI systems by human beings who possess the knowledge and the authority to intervene. Without the AI literacy obligation that the Digital Omnibus has weakened, this form of genuine oversight is not achievable across the range of high-risk applications that the Act was designed to govern. Kearns and Roth have argued that meaningful human control of algorithmic systems requires not merely the formal possibility of intervention, but the practical capacity to exercise

[55] Llano Alonso (2026a).
[56] Ibáñez Sánchez (2026).
[57] Llano Alonso (2026b).
[58] Alexy (2002: 102).
[59] Habermas (1996: 455).

it — a capacity that depends on exactly the kind of competence training the Omnibus has demandated.[60]

Second, a humanist ethics for autonomous AI requires institutional accountability — functioning supervisory authorities with adequate resources, binding enforcement powers, and genuine independence from the commercial interests they regulate. The Digital Omnibus's postponement of high-risk obligations does nothing to accelerate the construction of this institutional infrastructure. By relieving the pressure of imminent compliance deadlines, it may reduce the political incentive for the investment in national competent authorities that the Act requires. A regulatory framework without functioning enforcement is not a framework; it is a declaration of intent that offers no protection to those it purports to serve.

Third, a humanist ethics for autonomous AI requires what might be called regulatory fidelity: the commitment of democratic institutions to apply the norms they have adopted, to defend the values those norms embody against pressure to compromise them, and to treat the credibility of the regulatory enterprise as itself a constitutive element of the rule of law. As I argued in my Diario de Sevilla piece: 'regulatory credibility is not built by adopting ambitious norms; it is built by applying them'.[61] This is not a counsel of inflexibility — regulatory frameworks must adapt as technologies evolve. But adaptation is not the same as retreat. The Digital Omnibus, presented without genuine justification for why the protections it defers are no longer necessary, fails the test of regulatory fidelity.

García del Blanco has characterised the Digital Omnibus as a portrait of 'a Europe that has been afraid of its own humanistic ambition.'[62] Ibáñez Sánchez has developed this diagnosis into a systemic argument: the Omnibus repeats a pattern familiar from the GDPR and from the Next Generation EU funds — the pattern of 'legislating with ambition, implementing with negligence, and converting formal compliance into a substitute for real transformation.'[63] The GDPR produced a vast compliance industry without, in many cases, producing a material improvement in citizens' actual control over their personal data; the Next Generation EU funds generated impressive-sounding commitments and a flourishing ecosystem of compliance consultancies, without always producing the technological transformation they promised. The Digital Omnibus risks reproducing this pattern at scale in the AI domain — reducing the compliance bar until formal compliance is cheap and easy, then watching as the market fills with compliance tools that certify conformity without ensuring protection.

Ibáñez Sánchez has coined the concept of 'Lex Agentis' to gesture toward the regulatory innovation that the AI transition ultimately requires: a future legal framework for genuinely autonomous AI agents, with their own accountability structures and procedural guarantees.[64] Whatever one thinks of the specific proposal, it points in the right direction — toward the recognition that the legal categories of 2024 may not be adequate for the AI systems of 2030, and that the regulatory challenge of the coming decade is not simplification of existing norms but the construction of genuinely new ones. Pagallo made a similar argument in the context of robotics: technology that reshapes the conditions of human agency eventually reshapes the conditions of legal agency.[65] The Digital Omnibus

[60] Kearns and Roth (2019: 56).
[61] Llano Alonso (2026a).
[62] García del Blanco (2026).
[63] Ibáñez Sánchez (2026).
[64] Ivi.
[65] Pagallo (2013: 185).

moves in the opposite direction: not toward the regulatory innovation that autonomous AI demands, but backward, toward a landscape of reduced obligations and weakened accountability.

8. Addendum: Comparative Perspectives and Emerging Regulatory Responses

The Digital Omnibus is not, as its proponents present it, a neutral instrument of regulatory rationalisation. It is the first major test of the European Union's commitment to the values that animated the EU AI Act — and, on the evidence currently available, the results of that test are deeply troubling.

The Digital Omnibus's postponement of high-risk AI obligations is officially justified by reference to the absence of harmonised technical standards and institutional infrastructure. But this absence is itself the product of institutional failures by the Commission and Member States — failures to designate competent authorities on time, to develop standardisation infrastructure, to issue compliance guidance on schedule. To relieve private actors of compliance obligations because public institutions failed to build the preconditions for those obligations is to invert the logic of regulatory responsibility and to convert institutional failure into a justification for legal retreat.

The Digital Omnibus makes substantive modifications to the normative content of the EU AI Act that move consistently in a single direction: away from binding obligations and toward aspirational commitments; away from the enforceable rights of individuals and toward institutional discretion; away from the human-centric model that distinguished European AI regulation and toward a competitiveness-centric model that converges, under external pressure, with the regulatory postures of jurisdictions whose values the EU has consistently declared it does not share. The subordination of fundamental rights to competitive efficiency, in the absence of the rigorous proportionality analysis that Alexy's constitutional theory requires,[66] is constitutionally suspect and normatively indefensible.

The procedural dimension of the Digital Omnibus is constitutionally problematic. The introduction of significant amendments to hard-won, politically balanced legislation through an accelerated omnibus process — without adequate impact assessment, without genuine stakeholder consultation, and in conditions shaped significantly by concentrated corporate lobbying — does not meet the democratic legitimacy standards that EU fundamental rights legislation demands. Habermas's criterion of deliberative legitimacy is not satisfied;[67] neither is the principle of proportionality under EU constitutional law.[68]

The global implications of EU regulatory retreat compound these domestic concerns. The EU's capacity to exercise normative leadership in AI governance depends on the credibility of its commitment to the standards it has adopted. A regulator that relaxes its requirements before those requirements have been applied projects vulnerability, not credibility. The reverse Brussels effect — the acceleration of a global race to the bottom in AI governance — is a genuine and underweighted risk. As I argued in the Diario de Sevilla: 'the regulatory race to the bottom rarely protects the most vulnerable'.[69] Nor, as Ibáñez Sánchez has shown, does it protect the competitiveness of European

[66] Alexy (2002: 102).
[67] Habermas (1996: 107).
[68] Alexy (2002: 47).
[69] Llano Alonso (2026a).

industry, because it forfeits precisely the regulatory assets that differentiated European AI governance from its competitors.[70]

Europe can be competitive without renouncing what defines it. The regulatory credibility of the European AI framework is not built by adopting ambitious norms; it is built by applying them, defending them against pressures to subordinate rights to interests, and treating the rule of law as an indispensable precondition of innovation rather than an obstacle to it. The Digital Omnibus is not the end of the European AI regulatory model. It is, as I wrote in the Diario de Sevilla, 'its first stress test. And by now, the results are troubling'.[71] The challenge for European institutions in the trilogue and beyond is to demonstrate that the assessment is premature — not by abandoning the values the Act embodies, but by finding the political will to apply them.

The Digital Omnibus did not emerge in a vacuum. Understanding its full implications requires situating it within a comparative regulatory landscape that, by early 2026, has become markedly more complex than it was at the time of the EU AI Act's adoption in 2024. Three concurrent developments — the acceleration of AI deregulation in the United States under the Trump administration, the continued opacity of China's state-directed AI governance model, and the emergence of a nascent international AI governance framework through the Council of Europe's Framework Convention on Artificial Intelligence — together define the environment in which the EU's regulatory retreat must be assessed.

In the United States, the trajectory since January 2025 has been one of rapid and deliberate deregulation. The Biden-era Executive Order on AI Safety, which had imposed modest reporting requirements on frontier AI developers and directed federal agencies to develop sector-specific AI risk frameworks, was revoked within days of the Trump administration taking office. The administration's stated AI policy objective — to maintain American AI dominance through the removal of regulatory constraints — has translated into active federal preemption of state-level AI legislation, the dismantling of the National AI Initiative Office's safety-oriented functions, and a pronounced rhetorical shift from the language of 'responsible AI' to the language of 'AI competitiveness.' The practical consequence is a regulatory environment in which frontier AI developers operating in the United States face minimal mandatory compliance obligations, an absence of binding transparency requirements, and no meaningful independent oversight mechanism for high-risk applications.

The implications of this divergence for the EU's regulatory position are double-edged. On one hand, the growing distance between US and EU regulatory requirements strengthens the case for maintaining the EU AI Act's distinct, rights-based architecture: the existence of a credible alternative model depends on the EU's willingness to apply what it has adopted. On the other hand, the competitive dynamics identified by the Draghi Report are real: European AI developers operating under demanding compliance frameworks face costs that their American counterparts do not, and those costs are particularly acute for the SMEs and mid-size enterprises that constitute the bulk of the European AI sector. The Digital Omnibus responds to this tension by reducing compliance obligations — but, as this article has argued, in a manner that sacrifices the regulatory distinctiveness that was Europe's most valuable contribution to the global AI governance debate.

China's model presents a different kind of challenge. The regulatory framework that Beijing has developed for AI — encompassing the Provisions on the Management of Generative Artificial

[70] Ibáñez Sánchez (2026).
[71] Llano Alonso (2026a).

Intelligence Services (2023), the Interim Measures for the Management of Deep Synthesis Technology (2022), and the earlier Algorithm Recommendation Provisions (2022) — combines sector-specific requirements with extensive state oversight and ideological alignment requirements. What it does not provide is genuine transparency, democratic accountability, or meaningful protection for individual rights against state use of AI. The Council of Europe's Framework Convention on Artificial Intelligence, opened for signature in September 2024 and attracting signatories from both EU Member States and non-EU democracies, represents a potentially significant counterweight: the first binding international instrument on AI governance, explicitly grounded in human rights, democracy, and the rule of law. The EU's credibility as a signatory to, and champion of, that framework depends on its willingness to uphold equivalent standards in its own internal regulation.

9. The Council of Europe Framework and the EU's International Obligations

The Council of Europe's Framework Convention on Artificial Intelligence (CETS No. 225), adopted in May 2024 and opened for signature in September of that year, represents a landmark in international AI governance. As the first binding multilateral instrument on AI, it establishes obligations on contracting parties — including EU Member States — to ensure that the design, development, and use of AI systems within their jurisdictions is compatible with human rights, democracy, and the rule of law. The Convention's Article 5 requires parties to adopt measures that enable individuals to 'effectively access remedies when their rights and fundamental freedoms have been violated through the use of AI systems,' while Article 9 mandates that deployers of AI systems in public authority contexts ensure 'the possibility of human oversight and intervention.'

These obligations sit in direct tension with the Digital Omnibus's dilution of the AI literacy mandate and its postponement of high-risk compliance obligations. If EU Member States are bound by the Council of Europe Convention to ensure effective human oversight of AI systems in public authority contexts from the date of ratification, the Commission's proposal to delay precisely those oversight-enabling requirements until 2027 or 2028 creates a structural inconsistency between the EU's internal regulatory posture and its international treaty commitments. The legal analysis of this inconsistency has not been adequately addressed in the Digital Omnibus's supporting documentation — a further reflection of the procedural deficit that characterises the proposal.

The emerging international AI governance architecture, fragile as it remains, places a premium on the credibility of the actors who claim to anchor it. The EU has consistently presented itself, and been accepted by others, as the proponent of a rights-based approach to AI governance that provides a model for jurisdictions unwilling to accept either American laissez-faire or Chinese state direction. The Digital Omnibus, by signalling that this commitment is subject to competitive pressure, weakens the EU's standing in precisely those international forums — the OECD AI Policy Observatory, the UN Advisory Body on AI, the Global Partnership on AI — where normative leadership matters most. Regulatory credibility, once lost, is not easily recovered.

10. Recommendations: Preserving the European AI Regulatory Model Without Paralysis

This article has argued at length against the Digital Omnibus as presented. It would be incomplete, however, without an attempt to sketch what a defensible alternative might look like — one that takes seriously both the legitimate implementation challenges facing the EU AI Act and the fundamental rights imperatives that motivated it. The following recommendations are offered in that spirit: not as a counsel of regulatory immobilism, but as an outline of the conditions under which adaptation to implementation realities can be achieved without abandoning the values the Act embodies.

10.1. Conditional, Targeted, and Accountable Flexibility

The core defect of the Digital Omnibus's postponement is not that it acknowledges implementation difficulties — those difficulties are real — but that it relieves private actors of compliance obligations as a blanket response to public institutional failures, without accountability for those failures and without conditionality on their rectification. A defensible alternative would tie any postponement of compliance deadlines explicitly to measurable progress in the institutional infrastructure that makes compliance possible: the designation of national competent authorities, the publication of Commission guidance on Article 6 classification, the adoption of harmonised technical standards by CEN and CENELEC. Deadlines extended without such conditionality are not pragmatic adjustments; they are indefinite deferrals dressed in the language of temporary flexibility.

Concretely, this would mean replacing the Omnibus's blanket delay with a structured mechanism: an initial, short extension of no more than six months, renewable only upon formal Commission certification that specified institutional preconditions have been met. This approach would maintain pressure on public institutions to fulfil their preparatory obligations, rather than allowing those obligations to dissolve into the general atmosphere of regulatory simplification. It would also make transparent, for parliamentary and public scrutiny, the conditions on which further extension depends — restoring the democratic accountability that the current proposal conspicuously lacks.

10.2. Restore the AI Literacy Mandate as a Non-Negotiable Foundation

The AI literacy obligation established in the original EU AI Act is not a compliance formality — it is the functional precondition for meaningful human oversight of AI systems in high-stakes domains. Its transformation into an aspirational soft-law commitment, as proposed by the Digital Omnibus, removes the accountability mechanism on which the entire high-risk compliance framework depends. Without legally binding competence requirements for human supervisors of AI systems used in judicial, medical, employment, and credit-assessment contexts, the formal existence of human oversight requirements becomes, as Ibáñez Sánchez has argued, an alibi rather than a protection.[72]

The recommendation here is unambiguous: the AI literacy mandate should be restored to its binding legal form, with appropriate differentiation by company size to address the legitimate concerns of SMEs and small mid-cap firms. What is not appropriate is the wholesale transfer of the obligation from private actors — who bear direct responsibility for the deployment of AI systems — to public institutions, whose capacity to deliver meaningful literacy training across hundreds of thousands of

[72] Ibáñez Sánchez (2026).

deployers is, to put it charitably, undemonstrated. The competence of the person who clicks the confirmation button on an automated judicial risk assessment or a credit-scoring output is not a matter that can be safely delegated to a Commission information campaign.

10.3. Invest in the Institutional Infrastructure of Enforcement

The most durable lesson of the Digital Omnibus episode is that legislative ambition without institutional investment is not a foundation for regulation — it is a formula for eventual regulatory retreat. The EU AI Act requires, across twenty-seven Member States, functioning national competent authorities with adequate staffing, technical expertise, enforcement powers, and budgetary resources. As of August 2025, only eight of those twenty-seven authorities had been formally designated. This is not a problem that can be solved by relaxing the obligations those authorities are supposed to enforce; it is a problem that requires the political commitment and financial investment that Member States have thus far declined to provide.

The recommendation is accordingly addressed as much to Member States as to the Commission: the designation of national competent authorities must be treated as a matter of constitutional urgency, not administrative convenience. The EU AI Act's enforcement framework is the mechanism through which the rights it protects are made real; a framework without enforcement is a declaration of intent. Member States that have failed to meet the August 2025 designation deadline should be subject to infringement proceedings under Article 258 TFEU, with the same vigour that the Commission has historically applied to failures to implement EU environmental and consumer protection law.

10.4. Democratic Renewal of the Digital Regulatory Framework

The legitimate concern that underlies the Digital Omnibus — that the EU's digital regulatory architecture has become unmanageably complex, overlapping, and costly for those required to comply with it — is real and deserves a serious legislative response. But that response should take the form of a sustained, deliberate, and democratically accountable process of rationalisation, not an accelerated omnibus bundling amendments to six major regulatory instruments without impact assessment, genuine stakeholder consultation, or adequate parliamentary deliberation.

What is needed is a Digital Regulatory Reform Programme that proceeds from a clear statement of values — the human-centric, rights-based model that distinguishes European AI governance — and uses that statement as the criterion against which proposals for simplification are evaluated. Simplification that reduces compliance costs without reducing rights protection is desirable; simplification that achieves cost reduction by weakening the substantive obligations that protect individuals is not simplification but deregulation, and should be assessed as such. The European Parliament, as the directly elected institution of the Union, should insist on its full co-legislative role in any reform process that touches on fundamental rights legislation — not as a procedural formality, but as a democratic guarantee.

The challenge ahead is not to choose between European values and European competitiveness. It is to build the institutional capacity, the regulatory intelligence, and the political will to demonstrate that they are compatible — that a Union founded on human dignity, freedom, and the rule of law can also be a Union at the frontier of technological innovation. The Digital Omnibus, as currently proposed, represents a failure of that ambition. The trilogue process that follows is an opportunity to recover it.

11. Conclusions

The Digital Omnibus is best understood not as a legislative accident but as a revealing symptom: a moment in which the structural tensions that have long existed beneath the surface of European AI governance — between rights protection and market competitiveness, between regulatory ambition and institutional capacity, between democratic deliberation and corporate influence — became impossible to conceal. This article has examined those tensions from the perspective of philosophy of law and legal theory, and the conclusions that emerge are clear, if uncomfortable.

First, the postponement of high-risk AI obligations cannot be legitimately justified on the grounds offered by the Commission. The absence of harmonised standards and the incomplete designation of national competent authorities are not circumstances that fell upon the EU from outside; they are the direct product of institutional failures by the very bodies now invoking them as a reason to relax private-sector obligations. A democratic legal order that rewards public institutional failure with a reduction in individual rights protections has inverted the logic on which regulatory legitimacy depends.

Second, the substantive modifications proposed by the Digital Omnibus — above all, the transformation of the AI literacy mandate from a binding legal obligation into an aspirational commitment — do not merely adjust timelines. They alter the fundamental architecture of accountability that the EU AI Act was designed to establish. Human oversight of AI systems is only meaningful if the humans performing it are competent to do so. Removing the legal guarantee of that competence does not simplify regulation; it hollows it out.

Third, the procedure by which the Digital Omnibus has been advanced — compressed timelines, no impact assessment, documented corporate lobbying, minimal parliamentary deliberation — fails the democratic legitimacy standards that EU fundamental rights legislation must meet. Habermas's criterion is not satisfied; nor is the proportionality requirement of EU constitutional law. Legislative speed is not a substitute for democratic quality, least of all when the legislation in question touches the rights of every person subject to AI-assisted decisions in employment, credit, justice, or healthcare.

Fourth, and perhaps most consequentially for the longer term, the Digital Omnibus risks triggering a reverse Brussels effect at precisely the moment when the EU's normative leadership in AI governance is most needed. The signal sent by a regulator that softens its requirements before they have been applied is not one of pragmatic adjustment; it is one of vulnerability. In a tripartite global landscape in which the alternatives to the EU model are American deregulation and Chinese state control, the cost of that signal extends far beyond Europe's borders.

None of this is irreversible. The trilogue process remains open. The European Parliament has already demonstrated, in its joint committee report of March 2026, a willingness to push back against the most damaging of the Commission's proposals. The restoration of the binding AI literacy mandate, the introduction of genuine conditionality into any postponement mechanism, the acceleration of national authority designation, and the insistence on full democratic deliberation for any further amendments to the AI Act — these are not utopian demands. They are the minimum conditions for a regulatory framework that deserves to be taken seriously, both within Europe and beyond it.

The EU AI Act was built on a conviction: that it is possible to govern artificial intelligence in a way that places the human being at the centre — not as an obstacle to innovation, but as its ultimate purpose and measure. The Digital Omnibus tests that conviction. Whether European institutions find

the political will to uphold it is, at this moment, an open question. It is also, for anyone who believes that law can and should serve human dignity, the most important regulatory question of the decade.

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