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The New Geopolitical Order and the Weaponisation of EU Digital Law

Editorial

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The year 2025 marks the beginning of a period characterised by geopolitical instability and reassessment. International trade has been disrupted by new tariffs introduced by the United States, including those affecting historical allies such as the United Kingdom and the European Union. At the same time, the European Union is finalising a commercial agreement with MERCOSUR countries.[1] Despite political rhetoric and assurances, Europe - like many other regions in the world - continues to confront violent conflicts along its borders.

Within this complex and volatile environment, EU digital legislation is increasingly viewed through a geopolitical lens. In the United States, the European Union's regulatory initiatives aimed at safeguarding fundamental digital rights are at times perceived as external interference. The Privacy and Civil Liberties Oversight Board, responsible for monitoring privacy safeguards within U.S. counter-terrorism activities and advising on judicial appointments to the Data Protection Review Court, has faced legal challenges, with a U.S. federal court ruling that the dismissal of its three members earlier this year was unlawful.[2] Concurrently, the EU General Court has upheld the independence of the Data Protection Review Court against potential intervention from U.S. authorities.[3] In this evolving geopolitical context, everything -

[1] See EU Commission, 'Commission proposes Mercosur and Mexico agreements for adoption', 3 September 2025, https://ec.europa.eu/commission/presscorner/detail/en/ip_25_1644.
[2] US District Court for the District of Columbia, Civil Action No. 25-542 (RBW), Travis Leblanc et al. v. US Privacy and Civil Liberties Oversight Board et al., 21 May 2025, available at < https://storage.courtlistener.com/recap/gov.uscourts.dcd.277733/gov.uscourts.dcd.277733.24.0.pdf>.
[3] Judgment of the General Court (Tenth Chamber, Extended Composition) of 3 September 2025. *Philippe Latombe v European Commission*. Case T-553/23, ECLI:EU:T:2025:831.

including the law - becomes a bargaining chip in international trade and politics. This development coincides with a critical juncture in which the European Union is consolidating the implementation of a series of legislative measures in the digital domain adopted over the past decade.

The second EJLT issue of 2025 analyses two of the key Acts whose application to U.S. firms appears to be leveraged in the context of trade negotiation with the European Union. The first paper, entitled **'Transparent, Rapid and Contextualised? Comparing Content Moderation Requirements in Emerging EU Regulation**' by Therese Enarsson, focuses on the DSA and other EU instruments regulating online content moderation. The paper analyses the obligations that require human oversight in this context. The author concludes that, in contrast to transparency, a human contextual input is not always explicitly mandated, highlighting the complex overlap between applicable EU law and self-regulatory measures adopted by Very Large Online Platforms.

Our second article, by Marta Lasek-Markey and Linda Hogan, is entitled **'Delivering on the Promise of the Fundamental Rights Impact Assessments in the EU AI Act: Intersectionality and Vulnerability**'. The paper investigates the limitations of the Fundamental Rights Impact Assessment (FRIA) model, introduced by the AI Act to prevent issues related to high-risk systems. The authors link the fundamental rights to which the AI Act refers to the principles of the Charter of Fundamental Rights of the EU (CFREU). The paper argues that issues regarding the direct horizontal effect of these rights might emerge in litigation and proposes intersectionality and the vulnerable subject theory as frameworks that might enhance the FRIA model.

Our third piece is a commentary by Lucilla Gatt, Ilaria Amelia Caggiano, Maria Cristina Gaeta, and Anna Anita Mollo, entitled **'Neurorights in BCI Applications: a Private Law Perspective**'. The paper investigates the extent to which existing law can address the issues generated by the use of brain-computer interface (BCI) applications. The authors focus on private law, drawing examples from the Italian legal system and including case studies that reflect on the vulnerable position of potential BCI users.

This issue also includes a special section on **Digital Justice through AI in Family (Patrimonial) Law**, edited by Nishat Hyder-Rahman, Elisabeth Alofs, and Marco Giacalone. It is composed of six papers that explore the potential and challenges that AI technologies bring to the administration of justice in the field of family law. We refer you to the editorial of the special section for a more detailed description of the rationale and content of these papers.

As always, we thank our invaluable peer reviewers, all our contributors, and our readers. We hope you will enjoy this new issue.

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