

White Paper on Artificial Intelligence: The EU takes a step further towards future

Introduction: the White Paper's context

It has been a few years now that the European Union focuses on technologies, robotics and Artificial Intelligence (hereafter 'AI').

According to the EU, AI constitutes one of the biggest challenges of our time: while technological advances are in constant evolution, it inevitably modifies the world we are living in and it is shaping our world of tomorrow.

AI can be of help in many areas of life, such as environment, health, trade and mobility. However, it needs to be carefully approached in socio-economic, legal and ethical terms.

This is why the EU is working on a digital strategy at the European level.

Its objectives are to address the opportunities and the challenges raised by AI. The needs are, on the one hand, to enhance AI developments and, on the other hand, to preserve the citizens from the potential risks it involves.

With that in mind, the European Commission has published, on 28 February 2020, a White Paper on Artificial Intelligence.

This White Paper presents key proposals for the concretisation of an AI policy and calls for discussion on issues related to AI.

1. An ecosystem of excellence

First, the White Paper defines a policy framework that would be proper to enhance the development and the use of AI across the EU.

It promotes:

- ✓ Joint actions and cooperation between Member States in order to prevent the European single market to be fragmented;
- ✓ The creation of networks between research centres so as to concentrate their efforts, mobilize the resources and attract investments and talents related to technologies;
- ✓ AI's access for small and medium enterprises.

2. An ecosystem of trust

AI will bring many changes that will severely impact fundamental rights (including data protection, privacy protection and non-discrimination) and raises new safety and liability-related issues.

Accordingly, the EU's intentions are, first, to promote the use and the development of AI and, second, to cap the risks technology involves.

In order to face those risks and opportunities, the EU plans to elaborate a regulatory framework so as to create what it calls an "ecosystem of trust".

As for now, EU legislations remain applicable regardless AI's development. However, the EU is considering the opportunity to reinforce, adjust and create legal instruments.

In the same vein, it wants to ensure a common approach at the European level and to guarantee competitiveness and an easy access to the single market for businesses.

3. Promotion of a risk-based approach

The White Paper promotes a risk-based approach.

As detailed above, the existing frameworks will continue to apply. The new regulations will primarily concern the use of high-risk AI systems.

Specific criteria will be used to determine if an AI system involves high risks or not. This will depend on:

- the sector: is AI used in a sector in which high risks are likely to arise, considering the activities it typically implies?
- the intended use of the AI system: is AI used in a way that involves high risks?

Concretely, the question will be: *does the use of AI involve high risks in terms of safety, consumer rights and fundamental rights?*

If the answer to this question is positive, this will mean that the AI application carries high risks, and the use of this technology will be even more regulated.

4. Requirements for high-risk AI application

The White Paper details key features that need to be considered when elaborating the future regulatory framework for AI:

➤ Training data

AI cannot exist without data. As such, there is a need to protect EU's values regarding security and fundamental rights.

➤ Data and record-keeping

Considering the complexity and the often-non-transparency of AI, the keeping of records and data should be regulated so as to guarantee the possibility to verify how and why the data has been used by the AI system. Measures should be put in place to ensure that the information is made available upon request, which would facilitate inspections by authorities.

Confidentiality would, of course, be maintained and regulated.

➤ Information to be provided

Clear and proactive information should be provided when using a high-risk AI system.

➤ Robustness and accuracy

The development and functioning of AI systems must ensure trustworthiness. They must, as such, remain technically robust and accurate.

It will therefore be necessary that the development and functioning of AI systems guarantee reliability and prevent from harms that could be caused.

➤ Human oversight

A constant monitoring is to be performed by human beings in order to ensure the trustworthiness of AI systems and to avoid adverse effects related to the used technology.

Concerning high-risk AI systems, the Commission aims to establish conformity assessments, which would have to be carried out prior to the use of AI and could include procedures for testing, inspection or certification as well as checks of the algorithms and data used to develop the systems.

5. On whom do the obligations related to high-risk AI rely?

One of the issues the European Commission approached concerns the addressee of the obligations set out above.

The Commission came to the following conclusion: the obligation should rely on the actor who is best placed to address potential risks (e.g.: developers).

Conclusion

The White Paper on Artificial Intelligence might seem as a simple list of good intentions.

However, it gives a clear indicator of the EU's position regarding AI and, more broadly, technologies.

The EU wants to play a key role in the developments of AI, while enhancing cooperation between Member States, guaranteeing access to technologies and ensuring the respect of fundamental rights and values.

The EU – and it is good news - aims to build trust around AI on a human-centric basis.

The proposals enshrined in the European Commission's White Paper, as vague as it may seem now, gives an idea of the legal framework that will govern our lives of tomorrow...

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