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Domingos Soares Farinho
Rui Tavares Lanceiro
João Tornada

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EDITORIAL

DOMINGOS SOARES FARINHO

Lisbon Public Law Research Centre | ICJP | FDUL

soaresfarinho@fd.ulisboa.pt

ORCID 0000-0002-1187-5975

RUI TAVARES LANCEIRO

Lisbon Public Law Research Centre | ICJP | FDUL

rulilanceiro@fd.ulisboa.pt

ORCID 0000-0002-7432-1873

JOÃO TORNADA

Lisbon Public Law Research Centre | ICJP | FDUL

joaotornada@fd.ulisboa.pt

ORCID 0000-0003-2296-2641

In the European Union, policymakers have been trying to meet the rapid development of artificial intelligence (AI) and digital technologies, culminating in a range of regulatory instruments and authorities that pose serious challenges to both legal theory and legal practice. From the recent EU AI Act, the Digital Services Act (DSA) and the European Media Freedom Act (EMFA), to the Digital Markets Act (DMA) and the General Data Protection Regulation (GDPR), both courts and regulators (administrative authorities and digital platforms) have yet to assess how the intersection of these instruments will work in practice across different sectors, legal systems and technological contexts. As this issue of *e-Publica* shows, the task of balancing innovation with the protection of fundamental rights and digital innovation is certainly not an easy one.

This special issue of *e-Publica* on the theme of “Digital Regulation(s)” stems from the I Annual Conference of the Lisbon Digital Rights research cluster, organized by the Lisbon Public Law research centre, having Domingos Soares Farinho, Rui Tavares Lanceiro and João Tornada as the scientific coordinators. The conference took place on the 10th of October 2024 and featured presentations by leading experts such as András Koltay (University of Public Service Ludovika, Budapest) as keynote speaker, Margarita Amaxopoulou (University of Oxford), Ana Galdámez Morales (University of Seville), João Tornada (University of Lisbon), Diana Camões (Catholic University Portugal), Beatriz Garcia (University of Lisbon) and Pedro Lomba (University of Lisbon) with commentary by Rui Tavares Lanceiro (University of Lisbon), Mariana de Lemos Campos (University of Lisbon), Domingos Soares Farinho (University of Lisbon) and Filipe Brito Bastos (Lisbon Nova School of Law). These discussions laid a very solid foundation for the theme of digital regulation and governance on the following topics: regulation of hosting providers as new media, the intersection of AI and data protection, and multi-level governance models on digital platforms.

Starting with the regulation of digital platforms, **András Koltay** examines the “traditional” concept of media freedom in the context of digital platforms,

comparing these technology platforms with traditional media in terms of their role in the public sphere. In particular, the author presents the case that digital platforms have a right to media freedom and analyses the case when these two actors come into conflict: when platforms use their moderation activities against a media outlet.

Another recurring theme in digital regulation is the friction between fostering innovation and protecting fundamental rights against AI's wrongdoing. **Beatriz Garcia's** analysis of the Artificial Intelligence Liability Directive (AILD) and the revised Product Liability Directive (PLD) proposals on ability and consumer protection law aims to do just that. While recognising that the EU needs a unified framework (the majority of member states have no specific liability regime for AI), the article criticises the PLD's treatment of software as a "product", which, among other things, could lead to over-regulation that stifles innovation in the old continent. Critically, **Mariana de Lemos Campos'** commentary on Beatriz Garcia's article argues that the AI Act imposes strict requirements that, while enacted to prevent harm, stand in stark contrast to the provisions of the AILD and PLD, which appear to ease the burden on businesses while complicating it for individuals.

Regarding the intersection of AI law and the GDPR, **Diana Camões'** article questions whether Article 22 of the GDPR on automated decision-making can adequately address the unique characteristics of AI systems. By analysing the landmark case of SCHUFA Holding, the author argues that it's not clear how to reconcile the requirement of "meaningful human intervention", paving the way for a change in the CJEU's jurisprudence or a change in the scenario of automated decision-making under the GDPR.

Moving forward from the conference, this special issue also includes an article whose subject was not presented at the Annual Conference – **Gonçalo Afonso's** article (University of Lisbon) on the Portuguese Digital Services Coordinator, ANACOM. In this article, the author provides an overview of how the Portuguese legislator is dealing with the enforcement preparations for the Digital Services Act, including different regulators with different powers coordinated by ANACOM, the Portuguese Digital Services Coordinator.

Overall, this issue invites readers to think critically about the future of AI and digital governance in Europe. Given that this issue will always inevitably lag behind the pace of technological development, there is still a long way to go to create a coherent and balanced legal framework. Yet, as the legislative processes unfolds, we hope that the insights offered here will prove to be useful in shaping a European legal order that safeguards fundamental rights without the aforementioned stifling progress. At least until the promises of a "fourth industrial revolution" of an automated society are no longer just a digital utopia.

The (guest) Editors,
Domingos Soares Farinho
Rui Tavares Lanceiro
João Tornada