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Italian Law No. 132/2025 as the First National Implementation Act of the AI Act: A Critical Analysis from a Comparative Legal Perspective

Włoska ustawa nr 132/2025 jako pierwszy akt implementacyjny AI Act do prawa krajowego. Krytyczna analiza w ujęciu prawno-porównawczym

ABSTRACT

The article analyzes the Italian Artificial Intelligence Law No. 132/2025, the first national implementation of the European AI Act. The Law No. 132/2025 introduces innovative sector-specific regulations in healthcare, employment, and the judiciary, and establishes new criminal law provisions addressing deepfakes and the use of artificial intelligence as an aggravating circumstance. At the same time, it is marked by serious structural weaknesses: it abandons regulatory autonomy, adopts the AI Act as a maximum standard, and creates a polycentric yet fragmented and underfunded supervisory model. Furthermore, it fails to address crucial issues such as environmental impact, civic participation, and the interaction with personal data protection. These shortcomings are exacerbated by broad legislative delegations, which contribute to legal uncertainty. Comparative legal analysis suggests that Law No. 132/2025 functions as a test of the limits of the AI Act's flexibility and a potential driver of regulatory asymmetry within the Single Market of the European Union. Nevertheless, the Italian regulation serves as an important, albeit imperfect, laboratory for the future development of EU law on artificial intelligence.

Keywords: AI Act; Italian law; normative subordination; sectoral regulation; oversight architecture; regulatory asymmetry

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INTRODUCTION

The rapid evolution of artificial intelligence (AI) presents one of the most critical and complex regulatory challenges within the European legislative landscape.[1] Italy's enactment of Law No. 132/2025[2] marks a historical juncture as the European Union's first comprehensive national implementing act for Regulation (EU) 2024/1689 on artificial intelligence.[3] Published in the Official Journal of the Italian Republic on 25 September 2025 and entering into force on 10 October 2025, this legislation aspires to establish an exemplary model for harmonizing domestic law with the EU's emergent AI regulatory framework.[4]

Italy's engagement with AI regulation is particularly significant given its traditionally limited role in global technological governance and its consistent alignment with European Union regulatory frameworks. Recent Italian initiatives suggest a growing effort to articulate a national approach within EU parameters, emphasizing ethical safeguards and social inclusion.[5] Prime Minister Giorgia Meloni's characterization of AI as both a source of opportunity and a potential threat underscores what may be termed the constitutional dimension of technological governance[6] – ensuring that technological progress remains "human-centred and human-controlled".[7] This position mirrors the constitutional logic underpinning the AI Act itself, which seeks to balance innovation with fundamental rights protection.

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[1] N. Silva, *The Artificial Intelligence Act: Critical Overview*, 2024.

[2] Law No. 132 of 23 September 2025, "Provisions and delegations to the Government regarding artificial intelligence" (Official Journal of the Italian Republic, General Series No. 223, 25.9.2025). The Italian version is available at https://www.gazzettaufficiale.it/eli/id/2025/09/25/25G00143/sg (access: 5.10.2025).

[3] Regulation (EU) 2024/1689 of the European Parliament and of the Council of 13 June 2024 laying down harmonised rules on artificial intelligence and amending Regulations (EC) No. 300/2008, (EU) No. 167/2013, (EU) No. 168/2013, (EU) 2018/858, (EU) 2018/1139 and (EU) 2019/2144 and Directives 2014/90/EU, (EU) 2016/797 and (EU) 2020/1828 (Artificial Intelligence Act) (OJ L 2024/1689, 12.7.2024), hereinafter: the AI Act.

[4] C. Novelli, *L'Artificial Intelligence Act Europeo: alcune questioni di implementazione*, "Federalismi.it" 2024, no. 2, p. 95.

[5] G. Araco, S. Auricchio, N. De Salvo, F. Izzo, R. Maglio, *Intelligenza artificiale: governance, responsabilità e privacy*, Senato della Repubblica, Documento di analisi n. 31, 2024, https://www.senato.it/service/PDF/PDFServer/BGT/01443718.pdf (access: 12.10.2025).

[6] Meloni previously called the emergence of AI a "technological tsunami" because of the level of impact it could have on society, and later pointed out that "It is a crucial challenge in which Italy intends to be a protagonist, to give ethics to algorithms". See Italian Government, Presidency of the Council of Ministers, *President Meloni's Video Message to the Event 'L'Intelligenza Artificiale per l'Italia'*, 12.3.2024, https://www.governo.it/en/articolo/president-meloni-s-video-message-event-lintelligenza-artificiale-litalia/25213 (access: 28.9.2025).

[7] V. Franceschelli, A. Sirotti Gaudenzi, *La legge Italiana sull'Intelligenza Artificiale. Commento alla Legge 23 settembre 2025, n. 132*, Santarcangelo di Romagna 2025.

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Law No. 132/2025 embraces a rigorously harmonized approach to implementation. Article 2(2) mandates that all national provisions "be interpreted and applied in conformity with Regulation (EU) 2024/1689", while Article 3(6) proscribes any obligation exceeding those prescribed by the AI Act. This dual mechanism of normative subordination and non-aggravation reflects a deliberate choice to treat the AI Act as both ceiling and floor of domestic regulation.[8] However, analysis rooted in comparative legal methodology reveals a fundamental paradox. On the one hand, the Italian statute introduces significant sector-specific rules and novel criminal law provisions; on the other, it exhibits systemic weaknesses – fragmented supervision, resource constraints, legislative lacunae, and excessive delegation – that risk undermining practical efficacy.

This article examines the normative architecture, sectoral regulations, criminal law innovations, structural omissions, and governance mechanisms of Law No. 132/2025 through comparison with implementation models in Poland (government draft UC71[9]), Germany (*KI-Marktüberwachungsgesetz*[10]), France (direct application supplemented by existing statutes), and Spain (draft *Ley para el Buen Uso y Gobernanza de la IA*[11]). The analysis proceeds through five substantive sections examining: (1) normative framework and supervisory architecture; (2) sectoral regulations in healthcare and employment; (3) administration of justice and criminal law innovations; (4) environmental and participatory deficiencies; and (5) legislative delegations and normative suspension. The concluding section addresses the implications for EU harmonization and provides recommendations for future legislation.

RESEARCH AND RESULTS

1. Normative framework and supervisory architecture

Italy's Law No. 132/2025 adopts an exceptionally stringent approach to EU harmonization through explicit normative subordination to the AI Act. This approach exceeds the simple compatibility clauses employed by other Member States.

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[8] G. Coraggio, *Nuova legge italiana sull'IA vs legge UE sull'IA: cosa c'è da sapere*, 23.9.2025, https://dirittoaldigitale.com/2025/0923/legge-italiana-ia (access: 12.10.2025).

[9] Kancelaria Prezesa Rady Ministrów, Projekt ustawy o systemach sztucznej inteligencji, UC71, https://www.gov.pl/web/premier/projekt-ustawy-o-systemach-sztucznej-inteligencji (access: 12.10.2025).

[10] Deutscher Bundestag, 19. Wahlperiode, Gesetz zur Neuordnung der Marktüberwachung, https://dip.bundestag.de/vorgang/gesetz-zur-neuordnung-der-markt%C3%BCberwachung/273948 (access: 25.10.2025).

[11] Ministerio para la Transformación Digital y de la Función Pública, *El Gobierno da luz verde al anteproyecto de ley para un uso ético, inclusivo y beneficioso de la Inteligencia Artificial*, 11.3.2025, https://digital.gob.es/comunicacion/notas-prensa/mtdfp/2025/03/2025-03-11 (access: 12.10.2025).

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Article 2(2) provides that "all provisions of this Law shall be interpreted and applied in conformity with Regulation (EU) 2024/1689", thereby pre-empting any divergence in national interpretation. Article 3(6) further stipulates that the Law "introduces no new obligations beyond those laid down by Regulation (EU) 2024/1689".

This dual mechanism transforms the AI Act from a minimum harmonization instrument into both floor and ceiling of domestic regulation. The significance of this choice becomes apparent when contrasted with the AI Act's express provisions. Recitals 7–10 of the AI Act explicitly permit Member States to enact proportionate and non-discriminatory measures in areas not subject to full harmonization,[12] particularly in strategic sectors such as healthcare, employment, and public administration. Italy's non-aggravation clause forfeits this regulatory space, abandoning the possibility of augmenting EU minima in response to specific national interests or constitutional imperatives.

The doctrinal implications are substantial. By treating the AI Act as a maximum standard, Italy effectively renounces the regulatory autonomy typically afforded to Member States under EU law. This approach raises questions about the scope of national sovereignty in areas where Union competence is not exclusive and where subsidiarity principles would ordinarily permit differentiated national responses to technologically driven social challenges.

Member States have adopted divergent approaches to AI Act implementation, reflecting different constitutional traditions and regulatory philosophies. This diversity tests the elasticity of the AI Act framework and may foreshadow regulatory asymmetry within the Digital Single Market.

Poland's approach exemplifies organizational minimalism. Draft UC71 confines itself to establishing the Committee for the Development of Artificial Intelligence and Security (*Komisja Rozwoju i Bezpieczeństwa Sztucznej Inteligencji*) without detailed sectoral rules.[13] Crucially, it includes no non-aggravation provision, thereby preserving future legislative discretion to introduce enhanced protections should experience demonstrate their necessity. Germany's model extends existing administrative structures. The AI Market Surveillance Act (KIMüG – *KI-Marktüberwachungsgesetz*)[14] assigns market surveillance competences to the Federal Network Agency (*Bundesnetzagentur*) without renouncing the option to introduce sector-specific enhancements. This approach reflects Germany's traditional

[12] A. Duflot, *Artificial Intelligence in the French Law of 2024*, "Legal Issues in the Digital Age" 2024, vol. 5(1), pp. 37–56.

[13] Legalis, *Ustawa o sztucznej inteligencji wciąż w fazie projektu*, 9.7.2025, https://legalis.pl/ustawa-o-sztucznej-inteligencji-wciaz-w-fazie-projektu (access: 14.10.2025).

[14] KI-Bundesverband, Referentenentwurf Gesetz zur Durchführung der Verordnung über künstliche Intelligenz, 20.2.2026, https://ki-verband.de/positionspapiere-referentenentwurf (access: 17.7.2026).

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preference for technological neutrality in legislation and reliance on established regulatory institutions.[15]

France has adopted a hybrid strategy, relying on the direct effect of EU regulations while supplementing the AI Act through targeted national legislation. Law No. 2023-380 of 19 May 2023,[16] authorizing experimental use of AI-based "augmented video protection" systems during the 2024 Olympic and Paralympic Games, exemplifies this incremental, context-specific approach.[17] France channels AI oversight through existing institutions, particularly the National Commission for Information Technology and Civil Liberties (CNIL – *Commission nationale de l'informatique et des libertés*), avoiding creation of new supervisory bodies.

Spain's draft legislation represents the most ambitious departure from minimum harmonization. The proposed Law on the Good Use and Governance of Artificial Intelligence[18] actively introduces obligations exceeding AI Act requirements, notably mandatory labeling of AI-generated content with penalties reaching €35 million or 7% of global turnover. Spain wholly eschews non-aggravation clauses, asserting national regulatory autonomy in areas of strategic importance.

These divergent approaches reveal fundamental disagreements about the proper balance between harmonization and subsidiarity in AI governance. Should the European Commission accept Italy's expansive sectoral measures while tolerating Spain's augmented requirements, regulatory fragmentation may intensify. Conversely, should the Commission challenge national innovations, a restrictive precedent will emerge that may stifle experimental approaches to unprecedented regulatory challenges.[19]

Articles 4 and 5 of Law No. 132/2025 establish a dual supervisory architecture with sector-specific overlays. The Agency for Digital Italy (AgID – *Agenzia per l'Ita-*

[15] The first draft of the KIMüG, intended to implement the EU AI Act, was introduced in December 2024. While the draft remains under review due to governmental changes, its anticipated adoption by late 2025 reflects Germany's commitment to establishing an innovation-friendly yet robust compliance framework. Germany embeds AI governance into existing statutory frameworks, such as the German Works Constitution Act, which includes specific provisions concerning AI in the workplace. Broader legal domains – including civil liability, product safety, data protection, and intellectual property – also influence the permissible development and deployment of AI technologies.

[16] France has sought to anticipate AI-related regulatory challenges through its National Strategy for Artificial Intelligence under the "France 2030" plan. Illustratively, Law No. 2023-380 of 19 May 2023 authorizes the experimental use of AI-based "augmented video-protection" systems during the 2024 Olympic and Paralympic Games. Ongoing regulatory efforts are also emerging in justice, liability, and intellectual property.

[17] Law No. 2023-380 of 19 May 2023 relating to the 2024 Olympic and Paralympic Games (Official Journal of the French Republic, Text 3 of 202, 20.5.2023). The French version is available at https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000047561974 (access: 14.10.2025).

[18] Ministerio para la Transformación Digital y de la Función Pública, *op. cit*.

[19] M. Almada, N. Petit, *The EU AI Act: Between the Rock of Product Safety and the Hard Place of Fundamental Rights*, "Common Market Law Review" 2025, vol. 62.

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lia Digitale) functions as notifying authority and accreditor of conformity assessment bodies (Article 4(1)), while the Agency for National Cybersecurity (ACN – *Agenzia per la Cybersicurezza Nazionale*) undertakes market surveillance, inspections, and sanctions, serving as single contact point with EU institutions (Article 4(2)).

Simultaneously, sectoral regulators retain their existing competences: the Bank of Italy (*Banca d'Italia*) for financial services, the Italian Companies and Exchange Commission (*Commissione Nazionale per le Società e la Borsa*) for securities markets, the Institute for the Supervision of Insurance (*Istituto per la vigilanza sulle assicurazioni*) for insurance, the Italian Data Protection Authority (*Garante per la protezione dei dati personali*) for data protection, and the Italian Communications Regulatory Authority (*Autorità per le Garanzie nelle Comunicazioni*) for media and telecommunications. A Committee for National Coordination (*Comitato di coordinamento nazionale*) is tasked with resolving jurisdictional conflicts, yet it lacks binding decision-making powers (Article 5).

This polycentric model formally aligns with Articles 70–73 of the AI Act, which accommodate either centralized or dispersed configurations.[20] However, two critical deficiencies undermine its effectiveness.

First, financial constraints compromise supervisory capacity. Article 27's financial invariance clause (*clausola di invarianza finanziaria*) prohibits any additional public expenditure, leaving AgID and ACN without dedicated resources for complex oversight tasks. Experience with Italian regulatory agencies demonstrates that chronic underfunding produces symbolic rather than substantive enforcement. The Italian Communications Regulatory Authority and the Data Protection Authority have repeatedly identified resource insufficiency as the principal obstacle to effective supervision.[21] Absent dedicated funding, Italy's AI supervisory regime risks replicating this pattern of regulatory paralysis.

Second, institutional independence remains questionable. The Agency for National Cybersecurity, established by Decree-Law 82/2021, operates under direct oversight of the Presidency of the Council of Ministers (*Presidenza del Consiglio dei Ministri*). This structural subordination arguably contravenes Article 70(2) of the AI Act, which mandates organizational, functional, and financial independence for market surveillance authorities. The European Commission, in Detailed Opinion C(2024) 7814,[22] and the Italian Data Protection Authority have raised concerns

[20] S. Villani, *Il sistema di vigilanza sull'applicazione dell'AI Act: ognun per sé?*, 2024, https://www.aisdue.eu/susanna-villani-il-sistema-di-vigilanza-sullapplicazione-dellai-act-ognun-per-se (access: 12.10.2025).

[21] L. Scaffardi, *Internet fra auto-limitazione e controllo pubblico*, 2023, https://www.rivistaaic.it/it/rivista/ultimi-contributi-pubblicati/lucia-scaffardi/internet-fra-auto-limitazione-e-controllo-pubblico (access: 12.10.2025), p. 368.

[22] European Commission Detailed Opinion C(2024) 7814 concerning the Italian Draft AI Bill (Draft Law No. 1146), Brussels, 5.11.2024.

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regarding ACN's and AgID's independence from governmental influence, particularly problematic given that the Italian government is itself a substantial deployer of AI systems in public administration. The absence of binding conflict-resolution mechanisms exacerbates fragmentation risks. When AI systems span multiple sectors – as increasingly common with general-purpose AI models – overlapping jurisdictions create regulatory uncertainty. A healthcare AI system processing financial data for insurance purposes might simultaneously fall under the supervision of the Ministry of Health, the Institute for the Supervision of Insurance, and the Data Protection Authority, with no clear mechanism for resolving contradictory guidance or enforcement priorities.[23]

Comparative assessment reveals varied approaches to these challenges. Poland's draft secures fixed tenures for Committee members but fails to guarantee dedicated funding. Germany relies on the Bundesnetzagentur's existing budget, accepting resource insufficiency as a constraint. France channels oversight through CNIL's established structures, benefiting from institutional experience but risking capacity overextension.[24] Only Spain's proposed Spanish Agency for the Supervision of Artificial Intelligence (AESIA)[25] explicitly mirrors the GDPR model by granting substantial budgetary and organizational autonomy, with dedicated funding sources specified in the enabling legislation.

The Italian model thus represents a paradox: formally compliant with the AI Act's structural requirements yet substantively undermined by resource constraints and independence deficits that may preclude effective enforcement.

[23] Garante per la protezione dei dati personali, *Artificial Intelligence: The Italian Data Protection Authority Writes to Parliament and Government: Need for Independent and Impartial Supervisory Authorities*, 25.3.2024, https://www.garanteprivacy.it/home/docweb/-/docweb-display/docweb/9996508#english (access: 12.10.2025).

[24] The authorities responsible for implementing the European regulation on artificial intelligence in France are as follows: the Audiovisual and Digital Communication Regulatory Authority (ARCAN – *L'Autorité de régulation de la communication audiovisuelle et numérique*), the Directorate General for Competition, Consumer Affairs and Fraud Control (DGCCRF – *Direction générale de la concurrence, de la consommation et de la répression des frauds*), the National Commission for Information Technology and Civil Liberties, the Digital Regulation Expertise Center (PEReN – *Pôle d'expertise de la régulation numérique*), and the National Cybersecurity Agency of France (ANSSI – *L'Agence nationale pour la sécurité des systèmes d'information*). Por. Direction générale des Entreprises, *Les autorités compétentes pour la mise en œuvre du règlement européen sur l'intelligence artificielle*, 9.9.2025, https://www.entreprises.gouv.fr/priorites-et-actions/transition-numerique/soutenir-le-developpement-de-lia-au-service-de-0 (access: 12.10.2025).

[25] The Spanish Agency for the Supervision of Artificial Intelligence is the public body in charge of guaranteeing the ethical and safe use of artificial intelligence in Spain. See https://aesia.digital.gob.es/en/es (access: 12.10.2025).

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2. Sectoral regulations: healthcare and employment

Articles 7–9 of Law No. 132/2025 impose sector-specific rules for AI in healthcare that extend beyond the AI Act's baseline requirements. A principle of complementarity is established: AI systems "may only support, not replace, medical personnel" (Article 7(1)). Regular verification of diagnostic systems is mandated, and algorithmic discrimination in access to health services is categorically prohibited (Article 8(2)).

The AI Act classifies medical AI as high-risk under Annex III, points 5(a) and 1(a), imposing comprehensive requirements on risk management, data governance, technical documentation, human oversight, and cybersecurity (Articles 16–51). However, the AI Act contains no principle preventing AI from substituting medical personnel, leaving such determinations to sectoral legislation under the Medical Device Regulations (2017/745 and 2017/746).[26] Italy's additional prohibitions thus exceed the AI Act's requirements, reflecting a precautionary posture aimed at preserving clinical responsibility and professional autonomy.

The regulatory dilemma emerges from undifferentiated treatment of AI capabilities.[27] The Italian provisions fail to distinguish between "weak" AI systems that provide information without interpretation (e.g., database retrieval tools) and "strong" decision-support systems that generate statistically robust diagnostic or therapeutic recommendations based on pattern recognition in complex datasets. This categorical approach creates several problems. First, it may impose disproportionate burdens on systems with demonstrated clinical benefits. AI-driven diagnostic tools for diabetic retinopathy screening, for instance, have achieved sensitivity and specificity levels exceeding human experts in peer-reviewed studies, enabling detection in under-resourced settings where specialist ophthalmologists are unavailable. A blanket prohibition on AI "replacing" clinical judgment could prevent deployment of such tools precisely where they would generate greatest social benefit. Second, the undifferentiated standard fails to account for varying degrees of clinical risk and urgency. Emergency triage systems employing AI to prioritize patient assessment based on vital signs and symptom presentation could enhance efficiency and reduce mortality in overcrowded emergency departments. Yet the principle that AI "may only support" without operational autonomy might

[26] Regulation (EU) 2017/745 of the European Parliament and of the Council of 5 April 2017 on medical devices, amending Directive 2001/83/EC, Regulation (EC) No. 178/2002 and Regulation (EC) No. 1223/2009 and repealing Council Directives 90/385/EEC and 93/42/EEC (OJ L 117/1, 5.5.2017); Regulation (EU) 2017/746 of the European Parliament and of the Council of 5 April 2017 on in vitro diagnostic medical devices and repealing Directive 98/79/EC and Commission Decision 2010/227/EU (OJ L 117/176, 5.5.2017).

[27] C. Mennella, U. Maniscalco, G. De Pietro, M. Esposito, *Ethical and Regulatory Challenges of AI Technologies in Healthcare: A Narrative Review*, "Heliyon" 2024, vol. 10(4).

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require continuous human supervision incompatible with the speed and scalability advantages that justify AI deployment. Third, rural and underserved areas may face reduced access to innovation. Telemedicine solutions employing AI for preliminary diagnostic assessment could extend specialist expertise to geographically isolated populations. Overly restrictive interpretation of the "support, not replace" mandate could perpetuate healthcare inequities by constraining AI deployment where clinician shortages are most acute.

Moreover, Article 10's provision for a national AI platform in healthcare lacks essential implementation details. The statute mandates creation of a platform for data integration and AI experimentation but omits interoperability standards, data governance frameworks, consent mechanisms, and security protocols. These matters are delegated to future ministerial decrees, creating a regulatory vacuum during the critical early implementation period.

France's Health Data Hub, operational since 2019, demonstrates the necessity of anticipatory governance.[28] Established under Articles L.1461-1 to L.1461-8 of the Public Health Code,[29] the Health Data Hub operates under explicit data-sharing protocols, GDPR-compliant consent frameworks, and transparent governance structures including stakeholder representation. Italy's omission of comparable specifications risks implementation delays and may generate legal uncertainty deterring investment in healthcare AI innovation.

Articles 11 and 12 broaden the AI Act's information obligations, which apply exclusively to high-risk systems (Article 26(7)), to encompass any AI system affecting working conditions. Employers must notify employees of AI deployment and prohibit uses violating human dignity (Article 11(1)). Consultation with trade unions is required prior to implementation (Article 11(2)).

The AI Act classifies employment-related AI – recruitment, performance evaluation, task allocation, promotion decisions, and dismissal – as high-risk under Annex III, point 4. However, information duties under the AI Act apply only within this delimited high-risk category. Italy's extension to all workplace AI reflects concerns about algorithmic management systems that, while not meeting formal high-risk criteria, nevertheless affect worker autonomy, dignity, and working conditions.

Nevertheless, the Italian approach generates significant compliance burdens, particularly for small and medium-sized enterprises (SMEs). The obligation to notify employees and consult trade unions for any AI system "affecting working conditions" is expansive and indeterminate. The statute provides no de minimis

[28] Health Data Hub, https://www.health-data-hub.fr/notre-organisation (access: 20.10.2025).

[29] Public Health Code, Chapter II "Health Data Platform", amended by Law No. 2019-774 of 24 July 2019 relating to the organization and transformation of the health system. The French version is available at https://www.legifrance.gouv.fr/loda/id/LEGIARTI000038824880/2019-07-27 (access: 25.10.2025).

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threshold or materiality standard, potentially requiring bureaucratic processes disproportionate to actual impact.

Comparative analysis reveals more nuanced approaches. Germany's Works Constitution Act (*Betriebsverfassungsgesetz*, §§ 87, 90, and 111) already mandates works council consultation for technical systems affecting workers, providing established procedures and jurisprudential guidance. The Spanish draft advances a right to algorithmic disconnection (*derecho a la desconexión algorítmica*), allowing workers to demand suspension of algorithmic monitoring outside working hours, and requires pre-implementation impact assessments – but limits these requirements to systems meeting specified intensity thresholds. Poland's draft UC71 remains silent on workplace-specific rules, though its explanatory memorandum contemplates assigning supervisory functions to the National Labour Inspectorate.

Italy's National Observatory on AI's Impact on Work (*Osservatorio nazionale sull'impatto dell'intelligenza artificiale sul lavoro*, Article 12) exemplifies institutional symbolism without substance. The Observatory is tasked with monitoring, research, and policy recommendations but receives no budgetary allocation, staffing provisions, or enforcement authority. Comparable institutions in other jurisdictions demonstrate the necessity of adequate resourcing. Spain allocates dedicated funding for AESIA's research functions.[30] Germany extends the mandate of the Institute for Employment Research (*Institut für Arbeitsmarkt- und Berufsforschung*) with corresponding budgetary increases.[31] Italy's unfunded Observatory risks becoming another instance of regulatory theater – formal compliance masking substantive incapacity.

3. Administration of justice and criminal law innovations

Article 15 of Law No. 132/2025 reflects profound constitutional conservatism regarding AI in judicial proceedings. AI systems "may be used exclusively as a support tool" and "may not replace judicial discretion in evidence evaluation and decision-making" (Articles 15(1) and (2)). Experimental use requires dual

[30] Royal Decree 729/2023, of August 22, approving the Statute of the Spanish Agency for the Supervision of Artificial Intelligence. The Spanish version is available at https://www.boe.es/buscar/pdf/2023/BOE-A-2023-18911-consolidado.pdf (access: 12.10.2025).

[31] T. Karathanasis, *The AI Act: Balancing Implementation Challenges and the EU's Simplification Agenda*, 1.5.2025. The draft KIMüG must determine which authorities will oversee implementation of the AI Act (Article 70(1) of the AI Act). Data protection authorities have proposed assuming this role, citing their subject-matter expertise and market oversight experience. However, such a federal structure could lead to inconsistent enforcement across regions. Under the draft, existing market surveillance and notifying authorities in harmonized product areas will also supervise AI compliance, while the Federal Network Agency (*Bundesnetzagentur*) will assume these functions where no competent authority exists.

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approval from the Superior Council of the Judiciary (*Consiglio Superiore della Magistratura*) and the Ministry of Justice – a process risking bureaucratic delay and technological obsolescence.

This stringent approach is deeply rooted in constitutional principles concerning judicial independence, due process, and the irreplaceable role of human judgment in adjudication. The Italian Constitution guarantees independence of the judiciary (Article 104) and access to justice (Article 24), principles that arguably preclude delegation of substantive decision-making to algorithmic systems lacking accountability, transparency, and capacity for ethical reasoning.

However, the categorical prohibition on AI assistance may be disproportionate to the risks identified. The AI Act designates certain judicial AI as high-risk (Annex III, point 8) and requires human oversight (Article 14) but does not prohibit substantive assistance with fact-finding, legal research, or case law analysis. Artificial intelligence systems capable of identifying relevant precedents, summarizing complex evidentiary records, or flagging inconsistencies in testimony could enhance judicial efficiency and consistency without compromising decisional autonomy.[32]

International experience demonstrates that cautious experimentation is feasible with appropriate safeguards.[33] France's Datajust platform employs AI to calculate personal injury compensation, providing judges with statistically derived ranges while preserving ultimate decisional discretion.[34] Germany's ELSA (*Elektronischer Rechtsverkehr und Standardisierung im Prozess*) system facilitates case law review without automated decision-making.[35] These implementations employ human-in-the-loop architectures, maintaining judicial control while leveraging AI's capacity for pattern recognition and data synthesis.

The Italian prohibition may inadvertently perpetuate inefficiencies and inconsistencies. Civil case backlogs in Italian courts remain among Europe's longest, with average first-instance proceedings exceeding three years. AI-assisted legal research and document analysis could reduce these delays without compromising substantive justice. Moreover, consistency of jurisprudence – a rule-of-law value – might benefit from AI tools identifying disparate treatment of factually similar cases, enabling judges to address unwarranted variation.

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[32] P. Kłos, *Inteligentne systemy wspomagania decyzji w procesie podejmowania decyzji prawnych – wybrane zagadnienia z perspektywy teoretycznoprawnej*, "Ruch Prawniczy, Ekonomiczny i Socjologiczny" 2025, vol. 87(2), pp. 37–56.

[33] C. Renning, *The Use of Artificial Intelligence and the Professional Duties of German Lawyers*, "Studia Prawa Publicznego" 2025, no. 1; Z. Fantoly, *Simplifying Criminal Proceedings Using Artificial Intelligence in Criminal Compliance*, "Studia Iuridica Lublinensia" 2024, vol. 33(5), pp. 57–67.

[34] A. Duflot, *op. cit*.

[35] C. Momsen, *Implications and Limitations of the Use of AI in Criminal Justice in Germany*, 2023, https://kripoz.de/wp-content/uploads/2023/01/momsen-implications-and-limitations-of-the-use-of-ai-in-criminal-justice-in-germany.pdf (access: 12.10.2025).

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Spain's approach offers a middle path. The Spanish draft proposes a Judicial Ethics Committee on AI (*Comité de Ética Judicial en IA*) without categorical prohibitions, tasking the committee with developing guidelines for appropriate AI use, monitoring experimental deployments, and proposing legislative adjustments based on practical experience. This adaptive framework accommodates technological evolution while institutionalizing ethical oversight.

The question remains whether human-in-the-loop requirements under the AI Act would suffice to safeguard constitutional values, or whether Italy's stricter stance reflects proportionate concern for judicial independence and the right to a fair trial before a human judge. Resolution may ultimately require constitutional adjudication or European Court of Justice guidance on the limits of automation in core governmental functions.

Italy's criminalization of deepfakes represents the EU's first comprehensive statutory response to synthetic media manipulation. Article 24 creates a new offense (Article 612-quater of the Criminal Code) punishing dissemination of AI-generated or manipulated multimedia content "capable of misleading concerning authenticity" (*idonei a indurre in inganno*) with imprisonment from one to five years. Sentences increase to three to eight years where electoral processes are affected (Article 24(2)). The AI Act's Article 5(1)(h) prohibits placing on the market, putting into service, or using AI systems generating deepfakes that infringe fundamental rights, subject to administrative penalties under Article 99. Italy's broader criminalization extends beyond fundamental rights violations to encompass any content "capable of misleading", substantially expanding the prohibited conduct. This expansion raises proportionality concerns, particularly regarding satire, parody, and artistic expression. Political satire frequently employs manipulated images or videos to criticize public figures – think of altered photographs, voice impersonations, or digitally modified footage in comedy programs. Does such content fall within Article 612-quarter's scope if "capable of misleading" even when intent is comedic rather than deceptive?[36]

The statute provides no explicit exception for artistic expression or commentary, unlike defamation provisions that typically accommodate criticism of public officials. The vague "capable of misleading" standard grants prosecutors and courts substantial discretion, potentially chilling protected speech. The European Court of Human Rights has consistently required narrow construction of criminal prohibitions affecting expression (Article 10 ECHR[37]), demanding that restrictions be "prescribed by law" with sufficient precision to enable individuals to regulate their conduct accordingly.

[36] B. Fragasso, *Profili penalistici della legge sull'intelligenza artificiale: osservazioni a prima lettura*, 16.10.2025, https://www.sistemapenale.it/it/scheda/profili-penalistici-della-legge-sullintelligenza-artificiale-osservazioni-a-prima-lettura?out=print (access: 12.10.2025).

[37] Convention for the Protection of Human Rights and Fundamental Freedoms, signed in Rome on 4 November 1950.

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Comparative criminal law approaches reflect varied balancing of competing interests. Germany relies on existing provisions: Section 186 StGB[38] (defamation), Section 201a StGB (violation of intimate privacy), and § 33 KUG[39] (violation of the right to one's image), applying them to deepfakes through analogical interpretation. This approach benefits from established jurisprudence but may leave gaps in coverage. France amended the Penal Code (Article 226-8-1) to extend provisions on photographic montages without consent to encompass deepfakes, while Article L163-2 of the Electoral Code bans electoral deepfakes within 90 days preceding elections – a temporal limitation recognizing heightened risks during campaign periods.

Spain's draft criminalizes pornographic and electoral deepfakes (proposed Article 197-quater of the Criminal Code) with scaled sentences based on harm, but excludes general-purpose prohibitions, focusing on contexts of greatest injury. Poland's draft UC71 omits specific deepfake offenses, relying on existing provisions for stalking (Article 190a of the Criminal Code) and defamation (Article 212 of the Criminal Code).[40]

Italy's novel aggravating circumstance under Article 61(11-decies) c.p. treats AI use as an insidious means (*mezzo insidioso*) – a doctrinal innovation requiring careful analysis. Italian criminal law traditionally distinguishes fraudulent means (*mezzo fraudolento*), involving active deception of the victim, from *mezzo insidioso* reserved for instruments exploiting vulnerability or trust through concealment or betrayal.[41]

The challenge lies in determining when AI deployment constitutes "insidiousness". Is algorithmic opacity itself sufficient, such that any AI-facilitated crime warrants aggravation? Or must the perpetrator exploit specific trust relationships or vulnerabilities made possible by AI's characteristics? The statute provides no guidance, delegating these foundational questions to judicial interpretation.[42]

Early case law will be pivotal not only for Italian criminal justice but potentially for European harmonization efforts. Should Italian courts develop consistent criteria for "insidiousness" grounded in AI's distinctive characteristics – its capacity for personalization, scalability, and psychological manipulation – this jurisprudence

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[38] Criminal Code in the version published on 13 November 1998 (Federal Law Gazette I, p. 3322), as last amended by Article 2(2) of the Act of 7 November 2024 (Federal Law Gazette 2024 I No. 351). The English version is available at https://www.gesetze-im-internet.de/englisch_stgb/englisch_stgb.html (access: 29.10.2025).

[39] Act on Copyright in Works of Visual Arts and Photography of 9 January 1907 (RGBl. 1907, p. 7), last amended by Article 3 § 31 of the Act of 16 February 2001 (BGBl. I p. 266).

[40] Act of 6 June 1997 – Criminal Code (consolidated text, Journal of Laws 2025, item 383).

[41] I. Salvadori, *Agenti Artificiali, opacità tecnologica e distribuzione della responsabilità penale*, "Rivista italiana di diritto e procedura penale" 2021, vol. 1.

[42] F. Scarpelini, *Deepfake, dalle norme Ue al reato italiano: tutele e limiti*, 15.5.2026, https://www.agendadigitale.eu/sicurezza/deepfake-dalle-norme-ue-al-reato-italiano-tutele-e-limiti (access: 29.10.2025).

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may inform future EU-level initiatives. Conversely, inconsistent or expansive interpretation could undermine the provision's legitimacy and demonstrate the perils of legislative experimentation absent adequate doctrinal foundation.

4. Environmental and participatory deficiencies

Law No. 132/2025 contains no reference to the environmental impact of AI systems – a conspicuous omission given the growing body of evidence regarding the carbon footprint of artificial intelligence.[43] The AI Act acknowledges environmental considerations in Recital 27 but imposes no binding sustainability obligations.[44] Member States thus retain discretion to establish environmental requirements, provided they are proportionate and non-discriminatory. Italy's non-aggravation clause forecloses this option, precluding national measures that might integrate AI governance with climate objectives.

Comparative legislation demonstrates feasible approaches. France's Climate and Resilience Law mandates energy consumption reporting for data centers exceeding 500 kW capacity and requires environmental impact assessments for new facilities.[45] Germany's Energy Efficiency Act imposes a Power Usage Effectiveness (PUE) ratio ≤1.3 for new data centers from 2027, compelling adoption of cooling and efficiency technologies.[46]

Spain's draft requires environmental impact assessments for general-purpose AI models exceeding 10^{25} floating-point operations (FLOP), recognizing that model scale correlates with energy consumption and carbon emissions.

Italy's omission is particularly striking given its National Recovery and Resilience Plan (PNRR) commitments under the EU Recovery and Resilience Facility. The PNRR dedicates significant resources to the green transition, yet Law No. 132/2025 fails to integrate digital and environmental policy objectives.[47]

Article 5 establishes the National Coordination Committee (*Comitato di coordinamento nazionale*), which is composed exclusively of representatives of public au-

[43] Note that training large language models such as GPT-3 is estimated to have consumed 1,287 MWh and generated 552 tons of CO_2. See D. Patterson, J. Gonzalez, U. Hölzle, Q. Le, C. Liang, L.-M. Munguia, D. Rothchild, D.R. So, M. Texier, J. Dean, *The Carbon Footprint of Machine Learning Training Will Plateau, Then Shrink*, "Computer" 2022, vol. 55(7), pp. 18–28.

[44] T. Le Goff, *Environmental Law's Principles Applied to Artificial Intelligence: A Path Towards Regulation*, "International Review of Law, Computers & Technology" 2025, vol. 40(1).

[45] Law No. 2021-1104 of 22 August 2021 on combating climate change and strengthening resilience to its effects. The French version is available at https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000043956924 (access: 12.10.2025).

[46] Law of 13 November 2023 on increasing energy efficiency in Germany. The German version is available at https://www.gesetze-im-internet.de/enefg/BJNR1350B0023.html (access: 12.10.2025).

[47] Ministry of Economy and Finance, National Recovery and Resilience Plan (PNRR), 26.5.2021, https://www.mef.gov.it/en/focus/The-National-Recovery-and-Resilience-Plan-NRRP (access: 12.10.2025).

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thorities, thereby excluding non-governmental organizations, academia, consumer associations, and industry stakeholders. This composition contrasts sharply with the AI Act's emphasis on participatory governance.

Article 65 of the AI Act establishes an Advisory Forum including civil society, industry representatives, start-ups, SMEs, and academia. Recitals 126–128 emphasize stakeholder inclusion as essential for legitimate and effective regulation, recognizing that AI governance requires diverse expertise spanning technical, ethical, legal, and social domains.

Italy's exclusionary approach generates three principal deficiencies. First, it forfeits access to specialized expertise. Civil society organizations possess frontline knowledge of AI impacts on vulnerable populations, workers, and consumers. Excluding these voices from coordination mechanisms diminishes regulatory quality and adaptability. Second, it reduces social legitimacy. Regulation perceived as technocratic imposition rather than collaborative development faces greater resistance and lower compliance. Stakeholder participation enhances acceptance by ensuring that affected parties can voice concerns and influence outcomes. Third, it insulates decision-making from accountability.

Comparative models demonstrate alternative approaches. Poland's draft UC71 envisions consultative councils, though their composition remains unspecified in the current text. Germany's Data Ethics Commission (*Datenethikkommission*) and France's National Digital Ethics Committee (*Comité National Pilote d'Éthique du Numérique*) integrate broad social representation, including ethicists, technologists, legal scholars, labor representatives, and civil liberties advocates. Spain's AESIA statute establishes a Consultative Council (*Consejo Consultivo*) with mandatory private-sector and civil society participation in policy development.

The Italian exclusion appears particularly anomalous given Italy's own traditions of social dialogue (*concertazione*) in labor and economic policy. Replicating these participatory mechanisms in AI governance would enhance both technical quality and democratic legitimacy – yet Law No. 132/2025 opts for administrative insularity.

Law No. 132/2025 remains silent on the interaction between the AI Act and the General Data Protection Regulation (GDPR),[48] despite numerous potential conflicts and ambiguities. Article 85(1) of the AI Act provides that the Regulation is "without prejudice to" the GDPR but offers no mechanism for resolving contradictions when they arise.

Two principal tensions require clarification. First, Article 10(3) of the AI Act requires that training, validation, and testing datasets be "relevant, sufficiently representative, and to the best extent possible, free of errors and complete" with respect

[48] Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119/1, 4.5.2016).

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to the intended purpose. This relevance requirement potentially conflicts with GDPR Article 5(1)(c)'s data minimization principle, which demands that personal data be "adequate, relevant and limited to what is necessary". When might AI system effectiveness require data exceeding what GDPR minimization permits? Second, automated decision-making safeguards differ between regimes. GDPR Article 22 establishes a right not to be subject to solely automated decisions producing legal or similarly significant effects, subject to exceptions.[49]

Member States have adopted varied solutions. Poland's draft UC71 designates the Personal Data Protection Office (*Urząd Ochrony Danych Osobowych*) as supervisor for high-risk AI systems processing personal data, centralizing competence and ensuring GDPR-AI Act coordination. France assigns primary AI supervisory functions to CNIL, leveraging its established data protection expertise and infrastructure.

Germany's *KI-Marktüberwachungsgesetz* mandates cooperation protocols between the *Bundesnetzagentur* (AI market surveillance) and the Federal Commissioner for Data Protection (*Bundesbeauftragte für den Datenschutz*), specifying information-sharing obligations and joint inspection procedures for AI systems processing personal data. Spain's draft applies the stricter regime (*el régimen más riguroso*) where AI Act and GDPR requirements overlap, ensuring that higher protections prevail.

Italy provides no comparable clarification. The failure to delineate functional relationships between ACN (AI market surveillance) and the *Garante* (data protection) creates jurisdictional ambiguity.

5. Legislative delegations and normative suspension

Articles 16 and 24 confer wide-ranging powers upon the government to issue legislative decrees (*decreti legislativi*) within twelve months, adapting domestic law to the AI Act (Article 16) and harmonizing civil liability regimes for AI-caused damage (Article 24). Delegation criteria – compliance, rationalization, coordination, proportionality – are articulated in general terms, granting extensive executive discretion.[50]

Italian constitutional doctrine regarding legislative delegation has evolved from the permissive *Legge Delega* tradition toward more stringent control under Articles 76–77 of the Constitution, which require that delegations specify directive principles, time limits, and defined subject matter.[51] Law No. 132/2025's broad formulation tests these constitutional limits.

The practical risk emerges from Italy's history of expansive delegation interpretation. Executive decrees have frequently introduced provisions tangentially related to

[49] J. Kostrubiec, *Sztuczna inteligencja a prawa i wolności człowieka*, Warszawa 2021, p. 32.

[50] G. Coraggio, *op. cit*.

[51] G. Marchetti, *La delegazione legislativa tra Parlamento e Governo. Studio sulle recenti trasformazioni del modello costituzionale*, Milano 2016.

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delegating statutes, generating constitutional challenges and legal uncertainty.[52] The phenomenon of "gold-plating" – implementing EU requirements more stringently than mandated – has occurred repeatedly in the transposition of EU directives, often through delegated legislation operating beyond parliamentary scrutiny.[53]

Comparative practice reflects greater specificity. Poland's draft UC71 delineates ministerial delegation scopes with procedural and substantive details, specifying which aspects of AI governance may be regulated by executive ordinance and which require primary legislation. Germany adheres to the *Wesentlichkeitstheorie* (essentiality doctrine), which restricts delegation to non-essential technical matters while reserving fundamental policy choices to parliamentary legislation.[54] This constitutional doctrine, developed through Federal Constitutional Court jurisprudence, ensures democratic legitimacy for core regulatory decisions.[55]

Spain regulates most AI governance provisions directly in primary legislation, reserving only technical implementing regulations to ministerial authority. Implementation timelines, procedural requirements, and substantive criteria are specified in the statute itself, constraining executive discretion. France, relying on direct application of the AI Act as an EU regulation,[56] obviates the need for broad national delegations, limiting executive rulemaking to areas explicitly permitted by French administrative law.

Italy's approach thus occupies the permissive end of the delegation spectrum, raising concerns about democratic accountability, legal certainty, and potential for regulatory overreach absent effective parliamentary oversight.

A substantial portion of Law No. 132/2025 remains inoperative pending implementing decrees – a phenomenon that may be termed "normative suspension". The

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[52] P. Mattei, *Legislative Delegation to the Executive in the 'Second' Italian Republic*, "Modern Italy" 2007, vol. 12(1), pp. 73–89.

[53] N. Lupo, *La delega legislativa come strumento di coordinamento dell'attività normativa di Governo e Parlamento: le lezioni che si possono trarre dalla legge n. 421 del 1992 (anche ai fini dell'attuazione del PNRR)*, "Amministrazione in Cammino" 2022, pp. 1–17.

[54] Federal Ministry of Research, Technology and Space, *AI Action Plan*, 2023, https://www.bmftr.bund.de/EN/Research/EmergingTechnologies/ArtificialIntelligence/artificialintelligence_node.html (access: 12.10.2025). Germany integrates its AI Strategy into existing legal and administrative systems, complementing EU risk-based rules with national measures for strict oversight in areas like data use and workplace monitoring. Multiple agencies coordinate to review technologies and update regulations, balancing innovation with strong consumer and worker protections. See M. Krüger, *German vs. European AI Regulation: Comparison of the German Approach to AI Regulation with the European AI Act*, https://linvelo.com/german-vs-european-ai-regulation-comparison-of-the-german-approach-to-ai-regulation-with-the-european-ai-act/#blog-content-header-3 (access: 12.10.2025).

[55] DIN, DKE, *German Standardization Roadmap on Artificial Intelligence*, 2022, https://www.din.de/resource/blob/916798/ed09ae58b60f0d3a498fa90fa5085b7c/nrm-ki-engl-2023-final-web-250-neu-data.pdf (access: 12.10.2025).

[56] Law No. 2016-1321 of 7 October 2016 for a Digital Republic. The French version is available at https://www.legifrance.gouv.fr/loda/id/JORFTEXT000033202746 (access: 12.10.2025).

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statute creates legal frameworks whose practical effect is deferred, sometimes indefinitely, until executive authorities issue requisite implementing measures.[57] Six months post-enactment, none of these implementing measures has been published. This delay generates legal uncertainty, hinders compliance planning, and risks deterring investment in AI innovation. The phenomenon reflects broader Italian administrative culture characterized by legislative ambition unmatched by implementation capacity.[58] Enabling legislation frequently creates frameworks whose realization depends on subsequent administrative action that materializes slowly or incompletely. The result is symbolic regulation – formal legal commitments lacking practical effect.[59]

Comparative approaches emphasize accountability mechanisms. Germany's *KI-Marktüberwachungsgesetz* mandates a comprehensive evaluative review within two years of entry into force (Section 28), requiring government reports to parliament on implementation effectiveness, challenges encountered, and recommended adjustments. This sunset-adjacent mechanism institutionalizes adaptive governance. Spain's draft requires triennial parliamentary review (Article 47) with automatic derogation of provisions demonstrated to be obsolete or ineffective – a hard sunset clause compelling periodic reassessment. France requires *ex post* impact assessments for digital policy legislation under Law No. 2016-1321 for a Digital Republic, generating evidence for iterative refinement.

Italy provides no comparable accountability mechanisms. Law No. 132/2025 contains neither mandatory review provisions, sunset clauses, nor reporting requirements to parliament. Once enacted, the statute's framework persists regardless of implementation effectiveness or technological obsolescence – a static approach ill-suited to the dynamic character of AI technology and governance challenges.

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[57] Critical provisions awaiting implementation include: (1) Healthcare AI experimentation – the Ministry of Health must issue decrees establishing criteria and procedures for AI experimentation in clinical settings (Article 7(3)) and defining conditions for AI system usage (Article 9). Absent these decrees, the statute's healthcare provisions lack operational content; (2) Data governance in healthcare – the National Agency for Regional Health Services (AGENAS – *Agenzia Nazionale per i Servizi Sanitari Regionali*) may prepare guidelines for data anonymization and interoperability (Article 10(4)), but no timeline or mandatory character is specified; (3) Labour Observatory functions – the Ministry of Labour must define the structure, functions, and operational modalities of the National Observatory on AI's Impact on Work (Article 12(2)). Until issued, the Observatory exists in name only; (4) Civil liability regime – Article 24 delegates to government the task of codifying comprehensive rules for civil liability arising from AI-caused damage, including burden of proof, causation standards, and damages calculation. This delegation addresses one of the AI Act's most significant lacunae but defers substantive content to future executive action.

[58] G. Capano, *Administrative Traditions and Policy Change: When Policy Paradigms Matter. The Case of Italian Administrative Reform during the 1990s*, "Public Administration" 2003, vol. 81(4), pp. 781–801.

[59] L. Casini, *Politica e amministrazione: The Italian Style*, "Rivista Trimestrale di Diritto Pubblico" 2019, vol. 1, pp. 13–39.

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DISCUSSION AND CONCLUSIONS

Italian Law No. 132/2025 embodies a central paradox: it pairs detailed, sector-specific innovation in healthcare, employment and justice with a self-imposed "non-aggravation" clause that converts the EU AI Act's minimum harmonization into maximum harmonization, thereby limiting Italy's regulatory autonomy.[60]

Four structural weaknesses may undercut its effectiveness:

1. Fragmented governance. Authority is split among AgID, ACN and sectoral regulators without binding coordination protocols, while a financial-invariance clause bars dedicated budgets. This mirrors Italy's historic preference for institutional proliferation over capacity building.[61]
2. Weak institutional independence. Agency for National Cybersecurity reports to the Presidency of the Council of Ministers, raising conflicts under Article 70(2) of the AI Act and echoing the Italian Data Protection Authority's 2024 warnings.[62]
3. Critical omissions. The statute omits provisions on AI's environmental footprint,[63] stakeholder consultation,[64] and coordination with the GDPR,[65] risking regulatory gaps and overlap.
4. Overextended delegation. Broadly empowered implementing decrees lack deadlines or accountability mechanisms, perpetuating "normative suspension" and undermining legal certainty.[66]

Italy's approach therefore stress-tests the limits of national discretion under the EU AI Act. Should the Commission endorse these measures without objection, other Member States may follow suit, increasing regulatory asymmetry; conversely, infringement proceedings would curb national innovation.[67] This dynamic underscores the AI Act's hybrid architecture of maximum harmonization for high-risk systems and reserved Member State discretion elsewhere.[68]

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[60] European Commission Detailed Opinion C(2024) 7814 concerning the Italian Draft AI Bill (Draft Law No. 1146), Brussels, 5.11.2024; V. Franceschelli, A. Sirotti Gaudenzi, *op. cit*.

[61] G. Cassano, E.M. Tripodi, *Il Regolamento Europeo sull'Intelligenza Artificiale. Commento al Reg. UE n. 1689/2024*, Santarcangelo di Romagna 2024; N. Lupo, *op. cit*.

[62] Italian Data Protection Authority, Opinion on a Draft Bill Containing Provisions and Delegations Concerning Artificial Intelligence (Decision No. 477 of 2 August 2024); P. Mattei, *op. cit*.

[63] T. Le Goff, *op. cit*.

[64] B.C. Pham, S.R. Davies, *What Problems Is the AI Act Solving? Technological Solutionism, Fundamental Rights, and Trustworthiness in European AI Policy*, "Critical Policy Studies" 2024, vol. 19(2), pp. 318–336.

[65] F. Donati, *La protezione dei diritti fondamentali nel Regolamento sull'intelligenza artificiale*, "Rivista AIC" 2025, vol. 1.

[66] G. Marchetti, *op. cit.*; P. Mattei, *op. cit*.

[67] C. Novelli, *op. cit.*; G. Coraggio, *op. cit*.

[68] B.C. Pham, S.R. Davies, *op. cit*.

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Despite its first-mover status, Italy may serve more as a technical reference than a strategic exemplar. Other Member States will observe which innovations yield enforcement successes or failures and adjust their own frameworks accordingly.[69]

Key lessons for Member State implementation include:

1. Maintain proportional flexibility without sacrificing operational clarity.[70]
2. Guarantee independent, resourced supervisory authorities in line with Article 70(2) – securing budgets, leadership tenure and separation from AI-deploying ministries.[71]
3. Define explicit competence boundaries and dispute resolution mechanisms to prevent forum shopping.[72]
4. Tailor criminal provisions to harm-oriented contexts – distinguishing intent (*dolus*) from negligence (*culpa*) to avoid chilling innovation.[73]
5. Integrate sustainability criteria and environmental reporting into AI governance.[74]
6. Clarify the interplay between the AI Act and GDPR to ensure coherent data-protection enforcement.[75]

Ultimately, Law No. 132/2025 is an experimental step in European AI governance. Its legacy will depend not on the ambition of its text but on Italy's political will, institutional capacity and resource allocation to transform formal compliance into substantive enforcement.[76] The Italian case highlights that formal harmonization does not guarantee uniform implementation and that first-mover advantages may be pyrrhic without robust regulatory infrastructure. As the AI Act moves from adoption to practice, Italy's successes and missteps will offer indispensable insights for the Union's evolving AI governance.

[69] I. Kusche, *Possible Harms of Artificial Intelligence and the EU AI Act: Fundamental Rights and Risk*, "Journal of Risk Research" 2024, pp. 1–14; S. Villani, *op. cit*.

[70] A. Pizzoferrato, *European Legislation and AI Information Systems Applicable to HRM*, [in:] *Law, Technology and Labour*, ed. E. Menegatti, Bologna 2023, pp. 179–185.

[71] Italian Data Protection Authority, *op. cit.*; Kancelaria Prezesa Rady Ministrów, *op. cit*.

[72] S. Villani, *op. cit*.

[73] I. Salvadori, *op. cit*.

[74] T. Le Goff, *op. cit.*; D. Patterson, J. Gonzalez, U. Hölzle, Q. Le, C. Liang, L.-M. Munguia, D. Rothchild, D.R. So, M. Texier, J. Dean, *op. cit*.

[75] F. Donati, *op. cit*.

[76] T. Favaro, *Artificial Intelligence in Italian Public Administration: Challenges, Case Studies and Regulatory Perspectives*, "Journal für Rechtspolitik" 2023, vol. 31(1), pp. 60–73; T. Groppi, *Alle frontiere dello stato costituzionale: innovazione tecnologica e intelligenza artificiale*, 2020, https://giurcost.org/contents/giurcost/studi/groppi4.pdf (access: 12.10.2025).

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ABSTRAKT

W artykule analizie poddano włoską ustawę nr 132/2025 o sztucznej inteligencji, będącą pierwszą krajową implementacją AI Act (rozporządzenia w sprawie sztucznej inteligencji). Ustawa nr 132/2025 wprowadza innowacyjne regulacje sektorowe w obszarze ochrony zdrowia, zatrudnienia i wymiaru sprawiedliwości oraz ustanawia nowe przepisy prawa karnego dotyczące deepfake'ów i wykorzystania sztucznej inteligencji jako okoliczności obciążającej. Jednocześnie charakteryzuje się poważnymi słabościami strukturalnymi: rezygnuje z autonomii regulacyjnej, przyjmuje AI Act jako standard maksymalny i ustanawia policentryczny, lecz niespójny i niedofinansowany model nadzoru. Ponadto nie obejmuje kluczowych kwestii związanych z oddziaływaniem na środowisko, partycypacją społeczną i ochroną danych osobowych. Mankamenty włoskiej regulacji potęgują szerokie delegacje ustawowe prowadzące do niepewności prawnej. Analiza prawnoporównawcza pozwala dostrzec w ustawie nr 132/2025 swoisty test na granice elastyczności europejskiego AI Act oraz przyczynek do asymetrii regulacyjnej na Jednolitym Rynku Unii Europejskiej. Niewątpliwie włoska regulacja stanowi ważne, choć niedoskonałe laboratorium dla przyszłego prawa unijnego w zakresie sztucznej inteligencji.

Słowa kluczowe: AI Act; prawo włoskie; podporządkowanie normatywne; regulacja sektorowa; architektura nadzoru; asymetria regulacyjna