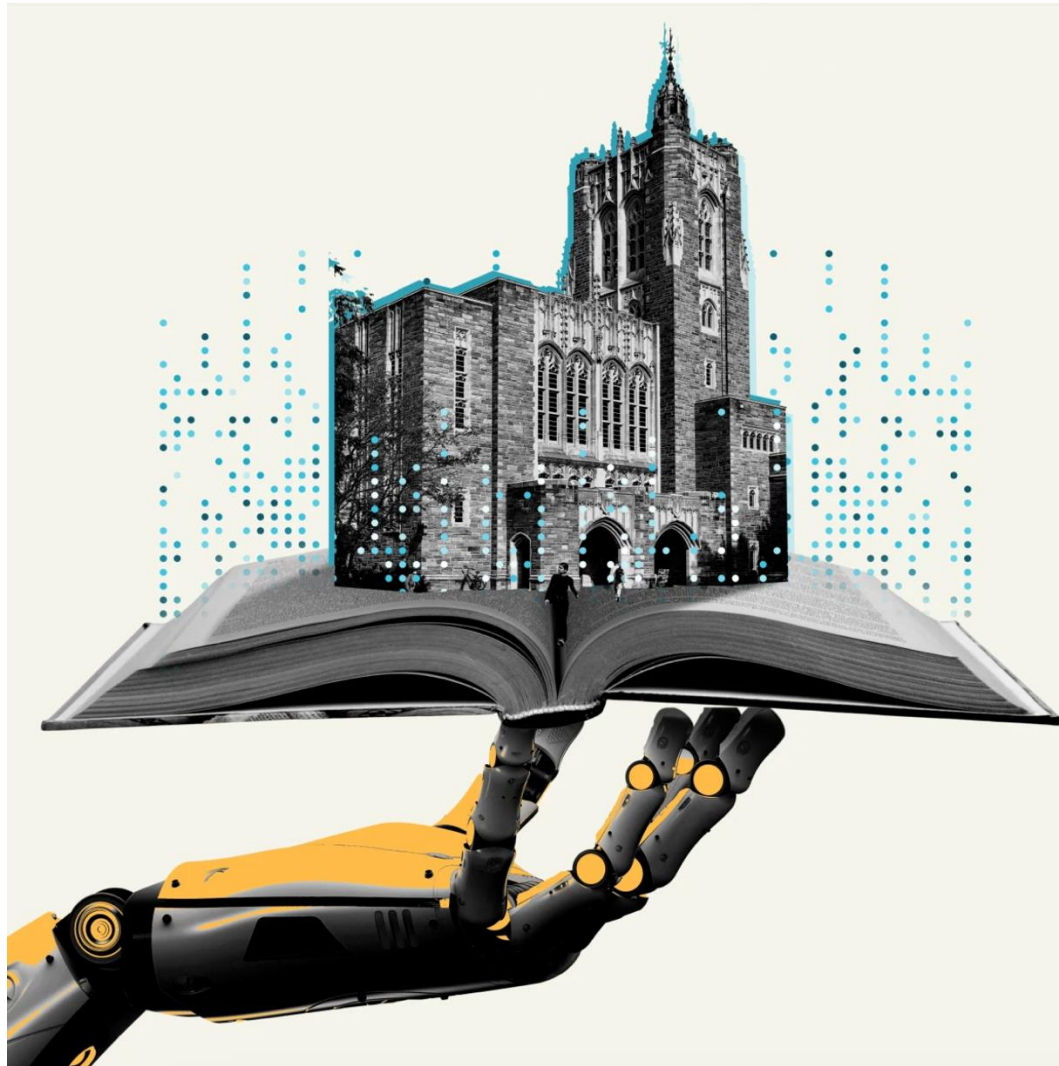


Artificial Intelligence in Education (AIED): Towards More Effective Regulation

Liane Colonna

Stockholm University



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S Latham, "Are You Ready for the AI University? Everything is About to Change" The Chronicle of Higher Education (8 April 2025)

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MacKenzie Price is the founder of *2hr Learning*.



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Artificial Intelligence in Education (AIED): Towards More Effective Regulation

Published online by Cambridge University Press: 28 August 2025

Liane Colonna 

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Abstract

This paper critically assesses the effectiveness of the EU AI Act in regulating artificial intelligence in higher education (AIED), with a focus on how it interacts with existing education regulation. It examines the growing use of high-risk AI systems – such as those used in admissions, assessment, academic progression, and exam proctoring – and identifies key regulatory frictions that arise when AI regulation and education regulation pursue overlapping but potentially conflicting aims. Central to this analysis is the concept of human oversight: while the AI Act frames oversight as a safeguard for accountability and fundamental rights, education regulation emphasises the professional autonomy of teachers and their role in maintaining pedagogical integrity. Yet, the regulatory role of teachers in AI-mediated environments remains unclear. Applying Mousmouti’s effectiveness test, the paper evaluates the AI Act along four dimensions – purpose, coherence, results, and structural integration with the broader legal framework – and argues that legal effectiveness in this context requires a

AIED: Non-legal classifications

Evolution: From rule-based systems → machine learning → generative AI

Three areas: Learning *with* AI, learning *through* AI, learning *about* AI

Beyond the classroom: AI in admissions, scheduling, accreditation

AIED: Legal classifications

Prohibited: Emotion-recognition in schools

High-risk: Admissions, placement, assessments, exam proctoring

Limited-risk: E.g. chatbots, mainly subject to transparency duties

Minimal-risk: E.g. spell-checkers, schedulers—low regulation but potential wider impacts

Regulating AIED: AI Regulation

Article 22

Automated individual decision-making, including profiling

1. The data subject shall have the right not to be subject to a decision based solely on automated processing, including profiling, which produces legal effects concerning him or her or similarly significantly affects him or her.
2. Paragraph 1 shall not apply if the decision:
 - (a) is necessary for entering into, or performance of, a contract between the data subject and a data controller;
 - (b) is authorised by Union or Member State law to which the controller is subject and which also lays down suitable measures to safeguard the data subject's rights and freedoms and legitimate interests; or
 - (c) is based on the data subject's explicit consent.
3. In the cases referred to in points (a) and (c) of paragraph 2, the data controller shall implement suitable measures to safeguard the data subject's rights and freedoms and legitimate interests, at least the right to obtain human intervention on the part of the controller, to express his or her point of view and to contest the decision.
4. Decisions referred to in paragraph 2 shall not be based on special categories of personal data referred to in Article 9(1), unless point (a) or (g) of Article 9(2) applies and suitable measures to safeguard the data subject's rights and freedoms and legitimate interests are in place.

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Volume 14, Issue 1
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Liane Colonna

International Data Privacy Law, Volume 14, Issue 1, February 2024, Pages 3–18,
<https://doi.org/10.1093/idpl/ipad024>
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Article Contents

Introduction

Regulating AIED: AI Regulation

Complex Normativity: Understanding the Relationship between Human Oversight by Design and Standardisation in the Context of AI Development and Deployment

LIANE COLONNA

Abstract

This chapter examines the relationship between Human Oversight by Design (HObD), as outlined in Article 14 of the AI Act, and socio-technical standardisation, aiming to understand their roles as regulatory techniques within AI development and deployment. It argues that the growing influence of socio-technical standards, which aim to protect health, safety as well as fundamental rights, intersects with 'Legal Protection by Design' norms like HObD in ways that require critical legal analysis. By exploring these concepts through the lenses of rule setting, monitoring, and enforcement, the chapter highlights how public and private actors, particularly standardisation bodies and technology providers, are increasingly intertwined in regulatory processes. This shift toward co-regulation raises critical challenges related to ensuring accountability and maintaining the legitimacy of regulations influenced by private actors. Ultimately, the chapter demonstrates that the intersection of these hard and soft law approaches to AI regulation creates complex normative issues.

EU AI Act shines light on human oversight needs



Regulating AIED: Education Regulation



Recommendation concerning the Status of Higher-Education Teaching Personnel

Date and place of adoption

11 November 1997

Paris, France

Regulating AIED: Education Regulation



European Education Area
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Digital Education Action Plan: policy background

The Digital Education Action Plan (2021-2027) lays out a strategic vision and 14 actions to foster quality and inclusive digital learning in response to COVID-19 and future-proof Europe's education systems.



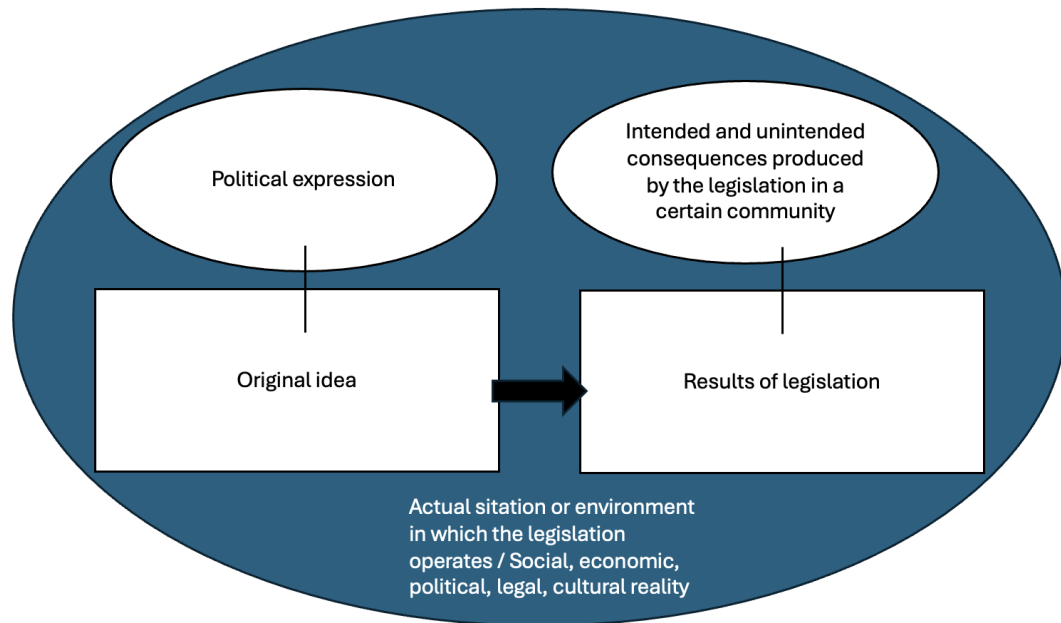
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Recommendation concerning the Status of Higher-Education Teaching Personnel

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Paris, France

Towards more effective regulation



M Zamboni, “Legislative Policy and Effectiveness: A (Small) Contribution from Legal Theory” (2018) 9(3) European Journal of Risk Regulation 416–30.



European Journal of
Risk Regulation

Making Legislative Effectiveness an Operational Concept: Unfolding the Effectiveness Test as a Conceptual Tool for Lawmaking

Published online by Cambridge University Press: 19 November 2018

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- • Content: evaluating legislative coherence and feasibility



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— Laura Baker/Education Week via Canva

Priten Shah

Priten Shah is an education entrepreneur and the author of *AI & The Future of Education: Teaching in the Age of Artificial Intelligence* (Jossey-Bass, 2023). He is the founder of Pedagogy.Cloud, an educational consulting firm that supports educators in K-12 schools, higher education, and the nonprofit sector adapt to the increasing capabilities of AI.



Author
**Jonathan
Moore**

17th Dec 2024

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Results: examining legal implementation and impact



Table 2. Subjective parameters and sub-parameters to assess the severity of a legal infringement.

Subjective parameters to assess the severity of infringement of law	Sub-parameters
Societal Perception	professional expert resources; data and expert analysis from academic and empirical studies and civil society groups; statistics; societal/political thresholds
Group Identity Perception	right-holders; their representatives, especially from groups mostly affected due to, e.g., their historical marginalisation other relevant parties and experts
Individual Perception	impacted individuals; concrete representatives of impacted individuals

G Malgieri and C Santos, “Assessing the (Severity of) Impacts on Fundamental Rights” (2025) 56 Computer Law & Security Review 106113.

Organisations mandated to conduct a FRIA



Public Authorities: Any government body or public sector entity deploying a high-risk AI systems, especially those related to law enforcement or public service, is required to conduct a FRIA. This includes agencies using AI for surveillance, biometric identification or decision-making that impacts citizens' rights and freedom.



Private Entities Providing Public Services: Private companies that offer essential services in sectors like healthcare, education, are also obligated to perform FRIAs. These services are considered of public nature and have significant implications for individual rights and freedom.

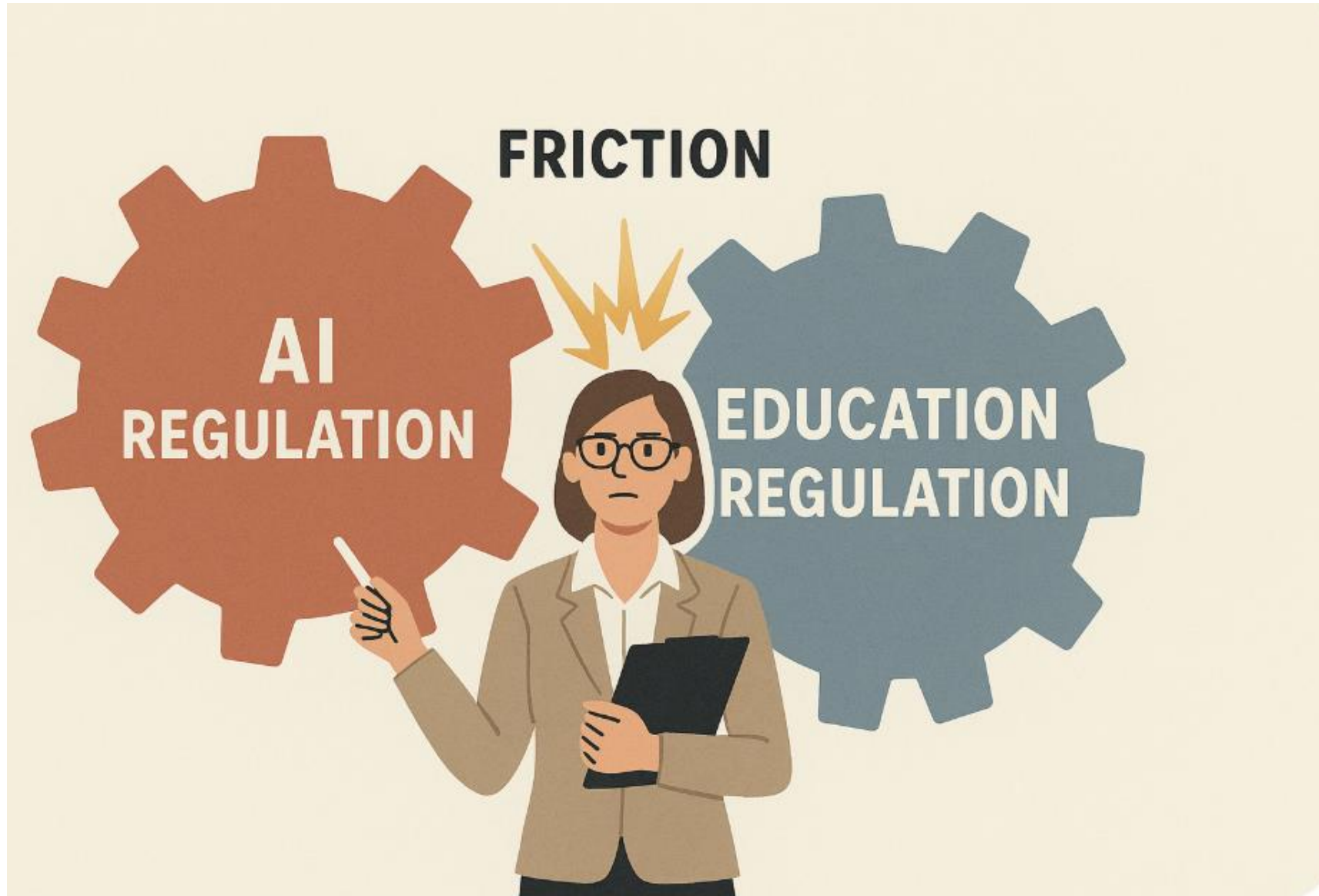


Operators deploying high-risk systems referred to in Annex III, point 5, (b) and (c) of the AI Act: Any organisation, public or private, deploying AI systems classified as high-risk under relevant regulations, must conduct a FRIA. This group covers at least banking and insurance entities.

Results: examining legal implementation and impact

- - +
- Context: understanding the law's interaction with the broader legal framework





AI-generated image created with ChatGPT-5, OpenAI (2025).



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○

Discussion

“Applying the effectiveness lens reveals a more complex picture than a simple yes-or-no verdict that the AI Act effectively regulates AIED.”

Conclusion

“Ultimately, the effectiveness of the AI Act in educational settings depends not only on its internal coherence but also on its ability to integrate meaningfully with existing legal frameworks.”

Thank you

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