Editorial Note

Artificial intelligence (AI) is no longer a distant prospect: its disruptive impact is now reshaping industries, markets, and the very nature of legal practice. From predictive analytics in corporate transactions to automated decision-making in consumer finance, AI technologies are driving complex legal and ethical challenges to the top of regulatory and policy agendas globally. The central question has shifted from what AI might achieve to how it must be governed. How can transparency, accountability, and fairness be secured in systems that increasingly influence our lives, and yet often function as opaque 'black boxes'? As demands for clarity and trust become more acute, lawyers and lawmakers are called to design frameworks that are both practical and principled.

Legal systems are thus engaged in a pressing race to keep pace with the rapid proliferation of AI and data-driven innovation. Nowhere is this more evident than in the European Union (EU), where the AI Act is poised to establish a foundational standard for the regulation of high-risk AI systems. Similar debates – on explainability, contestability, and responsible innovation – are unfolding across North America, the Asia-Pacific region, and Latin America. The past year has witnessed a surge in legislative proposals, regulatory consultations, and public discourse, underscoring a broad consensus: AI cannot, either legally or ethically, remain within a regulatory vacuum.

Against this dynamic and sometimes contested backdrop, this issue of the *Global Privacy Law Review* presents three contributions that reflect both the breadth and sophistication of contemporary thinking on AI, data protection, and the demand for meaningful explanation.

Žiga Škorjanc opens the issue with an extensive analysis of the right to explanation in the context of automated credit scoring in the EU.[1] In *The Right to Explanation of a Credit Score: A Holistic Approach under the General Data Protection Regulation (GDPR), AI Act, and Directive (EU) 2023/2225 on Credit Agreements for Consumers*, Škorjanc explores the interaction between the GDPR, the AI Act, and the latest Consumer Credit Directive (CCD2), illustrating how these instruments together shape new individual rights and corporate responsibilities.

Credit scoring is a particularly revealing case for contemporary AI regulation. Automation can enhance efficiency and consistency, but also introduces risks: algorithmic bias, the use of incomplete data, and limited avenues for individuals to challenge important decisions. Škorjanc examines how each legal regime approaches the right to explanation, and analyses their points of overlap and divergence:

Under the GDPR, individuals have a right to explanation where decisions producing legal or similarly significant effects are made solely by automated means (Article 22). Recent Court of Justice of the European Union (CJEU) judgments, including *SCHUFA* and *Dun & Bradstreet Austria*, clarify when credit scoring has a decisive role and thus engages Article 22 safeguards. The CJEU stresses that effective transparency requires more than superficial disclosures (such as algorithmic formulas); individuals must receive accessible, meaningful explanations, including how their data influenced the outcome. The court also endorses practical tools like counterfactual explanations, which show how different inputs might change results.

The AI Act broadens these protections, extending them to decisions predominantly based on high-risk AI systems. This narrows previous gaps and raises the required standard of transparency: where credit assessments heavily rely on high-risk AI, the deployer must explain its operation, methodologies, key input factors, and any risks of bias or error.

The CCD2 moves even further within the consumer credit sector, prohibiting lending decisions based only on external scores and requiring human intervention wherever automated systems are used. Creditors are under a duty of 'active transparency': they must proactively explain the data and scores considered, their weighting, the logic underlying assessments, and the process for

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1 Žiga Škorjanc, *The Right to Explanation of a Credit Score: A Holistic Approach under the GDPR, AI Act, and Directive (EU) 2023/2225 on Credit Agreements for Consumers*, in this issue at 91.

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challenging adverse decisions. Škorjanc proposes a practical 'layered explanation' model, combining system-level overviews with personalized explanations for individuals, aiming to empower users and clarify responsibilities for institutions. Notably, he warns of inconsistencies and potential gaps at the junction of these regimes, urging clearer, harmonized guidance – particularly from the European Data Protection Board (EDPB).

Škorjanc's analysis stands out for looking beyond formal requirements to real-world needs. He links the right to explanation with the broader aims of judicial protection and redress, making a compelling case that robust, user-focused transparency has become fundamental to effective participation in the digital economy.

The second feature, by Ingo Hatzmann, partner and general counsel at EY Germany, broadens the discussion.[2] Hatzmann reviews the *International Handbook of AI Law: A Guide to Understanding and Resolving the Legal Challenges of Artificial Intelligence* (Matthias Artzt, Oliver Belitz, Simon Hembt & Nils Lölfing eds, Kluwer Law International 2025). This substantial volume – nearly 900 pages – serves both as a primer and a reference for practitioners, legislators, and technologists. The editors blend technical and legal expertise, tackling the new challenges that AI brings to compliance, risk management, and legal certainty.

While the handbook addresses the EU in detail, particularly the AI Act, it also distinguishes itself by offering comparative insights on the United Kingdom, United States, Japan, China, and other jurisdictions. Hatzmann highlights the book's practical value, including illustrative flowcharts, sample clauses, and regionally tailored guidance – making it an indispensable tool for legal counsel and policymakers alike.

The final article presents a comprehensive survey of Latin America's evolving approach to AI law and governance.[3] Edited by Diego Fernández of *Marval, O'Farrell & Mairal*, the piece draws on expertise from leading local practitioners across the region: Diego Fernández and Josefina Barbero (*Marval, O'Farrell & Mairal*, Buenos Aires) on Argentina; Fábio Pereira and Isabel Hering (*Veirano Advogados*, São Paulo) on Brazil; Macarena Gatica and María Ignacia Ormeño (*Alessandri Abogados*, Las Condes) on Chile; Stella Vanegas Morales, Alejandro Londoño Congote and Felipe Olaya (*ECIJA*, Bogotá) on Colombia; Guillermo Larrea and Victoria Villagomez (*Hogan Lovells*, Mexico City) on Mexico; Oscar Montezuma Panez (*Niubox Legal Digital*, Miraflores) on Peru; and Martin Pesce Curti (*Ferrere*, Montevideo) on Uruguay. Their collective insights offer a current, comprehensive overview of AI legislation and regulatory trends across the region.

As the authors show, Latin America is experiencing a dynamic phase of innovation. Most countries have yet to enact bespoke AI laws, but are actively adapting existing legal tools – such as those in data protection, consumer and labour law, and intellectual property – to address new technologies. Some countries are beginning to develop more specific frameworks: Argentina, for example, has issued non-binding guidelines and proposed a risk-based bill, while Brazil's general data protection law and draft AI Act are already influencing both compliance and sectoral regulation, including areas like election integrity and digital disinformation. Legislative momentum is also visible in Chile and Colombia, where the latter's national AI policy foregrounds accountability and ethical risk management. Peru stands out for having introduced a risk-based AI law and regulatory authority, and Uruguay is applying robust existing standards alongside influential non-binding guidance.

A unifying trend, especially in Brazil, Argentina, and Mexico, is the influence of European models. The requirements and principles of the GDPR and the EU AI Act are increasingly reflected not just in legislation, but also in governance, algorithmic audits, transparency, and explainability obligations. The article further highlights key challenges, including regulatory uncertainty – such as in Mexico – as well as the tension between adopting international best practices and achieving effective local adaptation in diverse socio-economic environments.

Overall, Fernández's article shows a continent in legal transition. Accelerated policy change and diverse regulatory responses demonstrate both the dynamism and complexity of Latin America's digital transformation. This overview will be essential reading for anyone advising international businesses, financial institutions, or regulators as AI technologies become central to economies across the region.

In conclusion, the contributions in this issue go beyond simply describing the current legal landscape. They chart an evolution in expectations – one in which fairness, transparency, and accountability are becoming non-negotiable standards in AI governance. As automated and algorithmic decision-making take on ever greater roles in shaping outcomes that affect individuals and societies, the need for robust explanations and enforceable rights of review becomes increasingly urgent. As our authors demonstrate, these safeguards will be central not only to protecting privacy, but also to maintaining public trust and the legitimacy of digital governance itself.

We hope these articles serve not just to inform, but also to inspire and guide you as you navigate the fast-changing terrain at the intersection of AI, law, and society.

Yours sincerely,
Ceyhun Necati Pehlivan
Editor-in-Chief

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[2] Ingo Hatzmann, review of *International Handbook of AI Law: A Guide to Understanding and Resolving the Legal Challenges of Artificial Intelligence* (Matthias Artzt, Oliver Belitz, Simon Hembt & Nils Lölfing eds, Kluwer Law International 2025), in this issue at 107.

[3] Diego Fernández (ed.), *Latin America Artificial Intelligence (AI) News*, in this issue at 109.