

# AI IS LAW

Law, shield and spear of a European AI

Simon Bernard

*under the coordination of Arno Pons and Olivier Dion.*

## EXECUTIVE SUMMARY

At a time when artificial intelligence is redefining global economic and political balances, one question now runs through all the major reports on European economic competitiveness, from the Letta report to the Draghi report: how can European complexity be transformed into strategic power? More specifically, should the law in the era of artificial intelligence fade away, as some would like, or, on the contrary, adapt and reinvent itself to become a genuine strategic lever?

As early as 1999, **Lawrence Lessig warned with his famous "Code is Law"**: computer code, in the absence of a legal framework, tends to become law. **This warning has been hijacked by a libertarian vision of digital technology** to promote and celebrate the omnipotence of code at the expense of democratic rules, in the name of unbridled innovation.

**With the rise of AI, this warning is more relevant than ever:** tomorrow, it will no longer be human coders but AIs themselves who will write their own rules, thus moving from "Code is Law" to "**AI is Law.**" However, legal rules are multiplying, but they are increasingly contested, and their implementation is often delicate. There is an urgent need to repoliticize digital technology and find the right place for law in technological governance.

In this report, the Digital New Deal therefore addresses a central question: **to successfully develop and impose European AI, must we choose between innovation and regulation?** Our answer is clear: the two must be articulated. Innovation only has a general interest impact if it is based on demanding, clear, and strategic regulation. The author, Simon Bernard, identifies three essential conditions for achieving this objective:

- The standard must **promote scalability** ;
- The standard must **accelerate its acceptability** ;
- The standard must be **activatable** to become a **strategic asset**.

His report is structured in three parts:

- 1 It clarifies the rules specific to digital technology, which are sometimes misunderstood, and articulates them around a common goal: building ethical and secure AI.
- 2 It broadens the discussion to include general rules of law—civil, commercial, and environmental—which can also contribute to an original AI, balancing tradition and disruption.
- 3 It proposes a political and strategic architecture, aligned with the ambitions of Letta and Draghi, to transform this legal framework into an operational instrument of European sovereignty.

**AI is Law** thus asserts that coded and intelligible law is not a brake on innovation, but a **powerful tool for sovereignty, competitiveness, and scaling up in the era of artificial intelligence.**

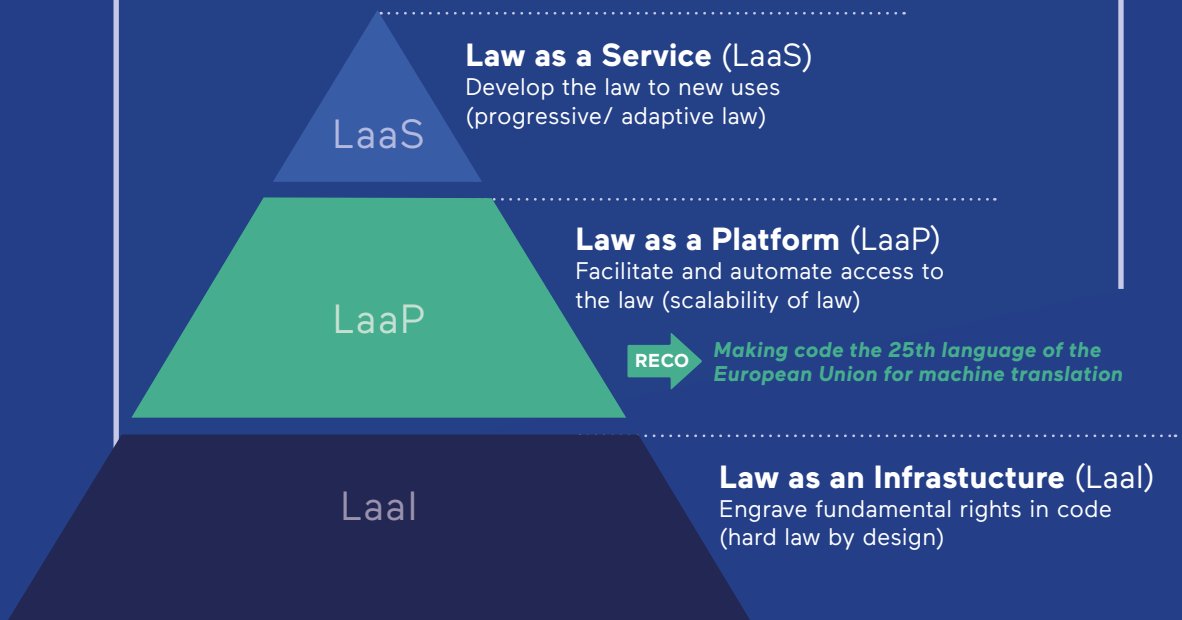
# RECOMMENDATIONS

## ADAPTING THE ARCHITECTURE OF LAW TO THE NEEDS OF AI

**Why ?** The law must become a lever for scaling innovation: it protects, legitimizes, and secures innovation.

**What ?** The architecture of law must be adapted to support technologies that evolve faster than the norm, without losing its protective logic for society. An architecture inspired by the model of computer layers can be proposed (when Kelsen meets Turing):

- **Law as an Infrastructure (Laal)** : with freedoms and rights unalterable fundamentals guaranteed by nature.
- **Law as a Platform (LaaP)** : codable legal texts (a “API law”), starting with the texts relating to data.
- **Law as a Service (LaaS)** : a scope of experimentation in a flexible but secure framework, based on the model of regulatory “sandboxes”.



### KELSEN-TURING PYRAMID Architecture of law for a European AI

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### How ?

- **Recommendation n° 1** | Make code the 25th language of the European Union so that any new text can find a translation into machine language.
- **Recommendation n° 2** | Integrate a coding text of the right to omnibus in preparation, allowing at European level the short-term coding of the main texts dedicated to digital technology, in line with the work already started.
- **Recommendation n° 3** | Promote the Legal Data Space initiative, which already brings together a large number of stakeholders in the legal sector. This is a shared infrastructure for processing and sharing public legal data - open data - and private data - data spaces - with the aim of developing sovereign legal AI, by and for the legal sector.

## PROMOTING A CLEAR, HARMONIZED AND SOVEREIGN LAW

**Why ?** To be a lever for innovation, the rule of law must be predictable, intelligible, and actionable.

**What ?** Adjust the existing set to bring greater coherence and strategic ambition.

### How ?

- **Recommendation n° 4** | Simplify, harmonize, articulate and to sovereignize by limiting the next modifications of the legal framework to these objectives.
- **Recommendation n° 5** | **Evaluate the effectiveness of rules dedicated to AI based on the triptych: standardization** (the rule must be a lever for scaling innovation), **acceptability** (the rule must facilitate the acceptability of innovation), **actionability** (the rule must allow stakeholders to take advantage of it in conquering markets).



Full report available on the Digital New Deal website :



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