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8 March 2024

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Digital  
Transformation

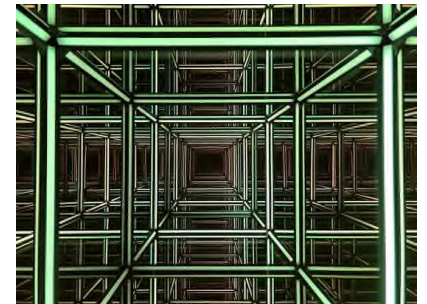
## Monthly notes on digital transformation and law

*February has been another intense month for legislators around the globe. Shortly after the release of the final text of **the EU's AI Act** at the beginning of the month, the European Commission proposed a new regulation for the re-invigoration and legal protection of Europe's digital infrastructure. The United Kingdom's Law Commission just produced a draft legislation to establish a right of personal property for digital assets under English and Welsh law. Meanwhile, in the United States, the White House came forward with a sweeping Executive Order for the protection of personal information against any leakage to undesirable countries.*

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Starting in the U.S., the **Executive Order issued by President Biden on 28 February 2024** introduces robust measures to safeguard Americans' sensitive personal data against exploitation by "countries of concern" and their organizations. It empowers the U.S. Attorney General to prevent the large-scale transfer of personal data, including genomic, biometric, health, geolocation, financial, and other identifiers, to such countries. The order targets the risks that commercial data brokers and entities may be controlled by such countries of concern, addressing privacy, counterintelligence, and national security risks. It mandates the Department of Justice, Homeland Security, Health and Human Services, Defense, and Veterans Affairs to establish protections and high security standards. The initiative underscores the United States' commitment to data privacy, open internet, and civil

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liberties while encouraging the U.S. Congress to pass comprehensive privacy legislation in that context.

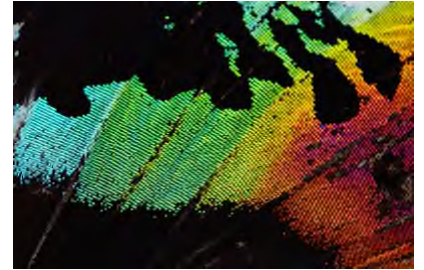
In a way, this Executive Order tries to make up for the otherwise limited protection against the transfer of personal data to countries outside the U.S. (contrary to the more stringent rules of the General Data Protection Regulation in the EU). It is another indication of the significant threats posed to personal data in the digital age, and the need for fine-tuned protection of this data against misuse, particularly when geopolitical tensions are high. In the months to come, we can expect follow up activities by the U.S. Government departments so ordered.

On a completely different topic, the EU Commission **published a whitepaper** on 21 February entitled “How to master Europe’s digital infrastructure needs”. The whitepaper looks at how to revolutionize Europe’s digital infrastructure, ensuring it is equipped for the demands of a modern digital economy and society. Recognizing the crucial role of advanced digital networks in fostering innovation, the document outlines a vision for a cohesive digital market, addressing the challenges and investment needs within the EU’s electronic communications sector. It highlights the importance of transitioning to fibre networks, 5G, and cloud-based infrastructures to enhance connectivity, improve resilience, and secure the EU’s competitive edge in the global digital landscape. It also proposes a future “Digital Networks Act” that will intend to establish a modern regulatory framework for a digital network infrastructure, promoting investment in future-proof digital infrastructures, and ensuring Europe moves towards the forefront of digital innovation. The whitepaper underscores the EU’s commitment to creating a secure, competitive, and innovative digital future, and is aimed at stakeholders in the law and digital technology sectors, including legal professionals.

In yet another field of law related to digital transformation, the UK’s Law Commission **issued a consultation** on 22 February proposing a one clause bill outlining that digital assets qualify as personal property rights. In general terms, the proposal seeks to adapt English property law to the digital age by establishing a third category of personal property for digital assets, including crypto-tokens and possibly other tokenized assets. This innovative step aims to clarify the legal status of digital assets, moving beyond the traditional dichotomy of “things in possession” and “things in action” (i.e., possession-based property rights on the one side and claim-based quasi property rights on the other side). The recommendation follows a decade of evolving case law that increasingly recognizes digital assets as objects of personal property rights, despite not fitting neatly into existing categories. The proposed statutory confirmation is intended to provide legal certainty, encourage innovation, and adapt to the digital transformation, without mandating intermediation or limiting self-custody of assets. While the proposal acknowledges that it won’t resolve all questions surrounding intangible property, it marks a significant advancement in recognizing the unique nature of digital assets in law.



AI Hub



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Authored by *Leo von Gerlach*

## Podcasts

### **The Influencers Podcast: Data flows, AI policies & system security**

Don't miss the latest in **the Influencers series**: Dr. Barbara Holzer, Senior Director Government Affairs for Central Europe, Salesforce, and Hogan Lovells host Leo von Gerlach cover the issues impacting data and its effective and safe usage in AI supported business operations.

## HL Engage and solutions

### **DAB Hub**

**Read our overview** of Hong Kong's Financial Services and the Treasury Bureau's consultation paper on proposed amendments to the Anti-Money Laundering and Counter Terrorist Financing Ordinance for the regulation of OTC trading of virtual assets.

**Read our article** on Spain's National Securities Market Commission and their Action Plan for 2024, including the preparation to carry out new cryptoasset and cybersecurity powers.

### **AI Hub**

**Read our analysis** of automated decisions by financial institutions under the General Data Protection Regulation and the soon to be enacted AI Act.

**Read our overview** of the U.S. Department of Commerce's proposal for new 'Know Your Customer' rules for cloud services and AI training.

### **ELTEMATE**

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## Events

### **Tech on the Horizon: Innovation and Growth in the UK**

London | 20 March 2024, 18:00 GMT

This panel discussion will feature the Minister for Tech and the

Digital Economy, **Saqib Bhatti MP**, who will share key insights on the ways in which Government would like to partner with business to help promote innovation and investment. The Minister will be joined by **Sonya Iovieno**, HSBC, and **James Wise**, Balderton Capital, and will be followed by a drinks reception.

**Register for the Tech on the Horizon event here**

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