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EXTRATERRITORIAL APPLICATION OF COPYRIGHT IN THE FIELD OF AI: AN ANALYSIS OF ARTICLE 53 OF THE EU AI ACT IN THE CONTEXT OF ARTIFICIAL INTELLIGENCE DEVELOPMENT IN UZBEKISTAN

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Abstract

The adoption of the European Union Artificial Intelligence Act (Regulation 2024/1689) marks an unprecedented shift in the international regulation of artificial intelligence technologies, particularly regarding the extraterritorial application of copyright norms. Article 53 of this Regulation establishes obligations to comply with EU copyright law for providers of general-purpose AI models, regardless of where the training takes place, which creates fundamental challenges to the principles of international law and state sovereignty.

For Uzbekistan, which is pursuing an ambitious artificial intelligence technology development strategy up to 2030 with a target indicator of 1.5 billion USD, the extraterritorial provisions of the EU Regulation pose both legal and economic risks. Growing trade relations with the European Union, which reached a volume of 6.4 billion USD in 2024, and the country's GSP+ beneficiary status create multiple channels through which European regulation can impact the national AI industry.

Article 53(1)(c) of the EU Regulation imposes an obligation on providers of general-purpose AI models to "put in place a policy to comply with Union law on copyright and related rights, and in particular to identify and comply with,



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including through state of the art technologies, a reservation of rights expressed pursuant to Article 4(3) of Directive (EU) 2019/790." Recital 106 expands the territorial scope of this provision, stipulating that "any provider placing a general-purpose AI model on the Union market should comply with this obligation, regardless of the jurisdiction in which the copyright-relevant acts underpinning the training of those general-purpose AI models take place."

This formulation creates a conflict between the provisions of the article and the recital, since, according to the established case law of the Court of Justice of the European Union (CJEU), recitals cannot create binding obligations independently (Cases C-136/04, C-134/08). Furthermore, extraterritorial application contradicts the principle of *lex loci protectionis*, according to which copyright is governed by the law of the country for which protection is claimed. The opt-out mechanism is based on integration with the provisions of Article 4(3) of the Directive on Copyright in the Digital Single Market, which allows rightsholders to reserve their rights and exclude their works from the scope of exceptions for text and data mining. This requires AI providers to implement state-of-the-art technologies to identify machine-readable reservations of rights and ensure compliance with them.

The extraterritorial copyright requirements of the EU come into direct conflict with the U.S. fair use doctrine and Japan's permissive framework. The American fair use doctrine, based on the four-factor test of Section 107, emphasizes the transformative nature of the use. The decision in *Thomson Reuters v. Ross Intelligence* (February 2025) was the first instance where a court rejected a fair use defense for AI training, significantly complicating the legal environment for American developers.

Japan's Article 30-4 of the Copyright Act establishes a more liberal approach, permitting the use of works for "information analysis" provided the purpose is



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not to "personally enjoy or cause another person to enjoy the thoughts or sentiments expressed in that work." This creates a fundamental divergence from the European approach, which requires the explicit permission of rightsholders through opt-out mechanisms.

The collision of territorial approaches manifests itself in the fact that companies conducting AI training in Japan in order to enter the EU market must comply with European requirements regardless of Japanese legislation. This creates an effect of "regulatory imperialism," where the strictest standards de facto become international norms.

The extraterritorial provisions of Article 53 create substantial risks of violating TRIPS obligations. Article 41.1 of the TRIPS Agreement requires "effective action against any act of infringement" but does not mandate extraterritorial enforcement. The EU's unilateral expansion of copyright obligations may violate the principles of national treatment (Article 3) and most-favored-nation treatment (Article 4).

An analysis of WTO precedents indicates that panels closely scrutinize extraterritorial IP enforcement measures, as seen in the US-China IP cases (DS362, DS611). The Section 301 dispute demonstrated the tension surrounding unilateral trade measures, while the copyright law disputes (DS160) established limitations on domestic copyright exceptions.

Potential complainants at the WTO include the US, China, and other major AI developers. Primary claims could concern the exceeding of territorial limits (Article 1.1 of TRIPS), disproportionate enforcement requirements (Article 41.1), and discriminatory application (Article 3). The EU's defensive strategy will likely rely on the effects doctrine, market access conditionality, and ensuring a level playing field for competition.



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The European AI Office has been granted exclusive jurisdiction over providers of general-purpose AI models under Article 88, with the power to impose administrative fines of up to 15 million euros or 3% of global annual turnover. However, the effectiveness of enforcement largely depends on the providers' presence in the EU market, creating enforcement gaps for purely external entities. The GDPR precedent demonstrates both the capabilities and limitations of extraterritorial enforcement. Successful cases, such as the fines against Amazon (746 million euros) and Meta (1.2 billion euros), were made possible due to the substantial presence of these companies in the EU. Conversely, the Clearview AI case highlighted the difficulties of collecting a 20-million-euro fine due to the lack of assets in the EU.

The authorized representative mechanism under Article 54 creates a direct pathway for EU authorities to enforce against third-country providers via their designated representatives. This creates enforcement targets with assets and operations within the EU, but it requires third-country providers to establish legal structures within the EU.

Private enforcement represents an additional channel for ensuring compliance. German legal analysis suggests that Article 53(1)(c) could be privately enforced through civil law (e.g., Section 823(2) of the BGB), establishing a direct link between AI providers and rightsholders. This complements public enforcement mechanisms and may be more effective in cross-border cases.

Uzbekistan's Artificial Intelligence Technologies Development Strategy up to 2030, approved in October 2024, envisions the creation of an AI industry valued at 1.5 billion USD. The extraterritorial provisions of Article 53 create multiple channels of impact on this ambitious goal through direct market access, supply chain integration, technology transfer, and investment relations.



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The current legal framework for copyright in Uzbekistan, based on the 2006 Law "On Copyright and Related Rights" and membership in the Berne Convention since 2004, provides fundamental protection for intellectual property. However, the lack of AI-specific provisions creates regulatory gaps, particularly in the context of data mining and machine learning.

Growing trade relations with the EU create direct channels for the impact of AI regulation. The Enhanced Partnership and Cooperation Agreement, signed in July 2022, and the GSP+ beneficiary status granted in April 2021, create economic incentives to align with European standards. Over a thousand European companies operating in Uzbekistan could serve as conduits for transmitting compliance requirements.

Uzbek IT parks, hosting more than 2,000 IT companies, and the growing AI sector face potential barriers to accessing the European market without appropriate compliance frameworks. This is particularly critical for companies developing general-purpose AI models for international markets.

Practical compliance challenges include the need to create comprehensive technical documentation, implement systems to identify rights reservations, develop copyright compliance policies, and establish transparency mechanisms. For Uzbek companies, this entails significant investments in legal and technical compliance infrastructure.

It is critically important for Uzbekistan to develop a proactive strategy for adapting to the EU's extraterritorial requirements. This includes harmonizing national AI frameworks with the principles of the EU AI Act, building specialized competencies in compliance, and fostering industry cooperation on compliance strategies.

The development of regulatory sandboxes can provide a testing environment for AI compliance, allowing Uzbek companies to experiment with compliance



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technologies without the full regulatory burden. This is especially important for the early adoption of EU-compatible frameworks, which can provide a competitive edge in the market.

International cooperation through partnerships with the EU can provide access to technical expertise and best practices in compliance. Participation in global AI governance discussions can help shape future international standards in a more balanced direction.

Investments in education and capacity building are critical for developing the necessary regulatory and technical expertise. The twelve higher education institutions with 572 students enrolled in AI programs represent a foundation for developing specialized competencies in AI compliance.

The extraterritorial copyright provisions of Article 53 of the EU AI Act represent an unprecedented expansion of European regulation beyond traditional territorial borders, creating a "Brussels effect" for AI governance. For Uzbekistan, this presents both challenges and opportunities in the context of its ambitious AI development strategy.

Theoretical challenges include fundamental issues of international law, jurisdiction, and sovereignty. The conflict between the EU's extraterritorial requirements and the principles of copyright territoriality creates legal uncertainty that may undermine the predictability of international trade and investment.

Practical enforcement challenges limit the effectiveness of extraterritorial provisions, especially for entities without a significant presence in the EU. Reliance on authorized representative mechanisms and market access creates enforcement gaps that could undermine regulatory objectives.

For Uzbekistan, a key strategic imperative is to develop a balanced approach that supports AI innovation while ensuring compliance with international standards. The early adoption of EU-compatible frameworks can provide a competitive



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advantage but requires significant investment in legal and technical infrastructure.

Long-term success will require international cooperation to develop more harmonized and workable international frameworks for AI governance. Uzbekistan, as an emerging AI power in Central Asia, has the opportunity to make a constructive contribution to this process while safeguarding its national interests in technological development and economic growth.