Digital Policy Alert

How Governments Address AI Accountability

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Accountability, in our taxonomy, does not encompass specific regulatory requirements, but rather sets out the responsibility for compliance, the consequences of non-compliance, and the oversight mechanisms to ensure compliance.

- The responsibility for compliance is a core element of accountability, since it describes who governments target with regulatory requirements. Targets are typically determined based on AI systems' risk level, the AI systems' technological specificities, and AI firms' role in the AI value chain.
- The consequences of non-compliance with a regulatory requirement are a strong indicator of how a government creates accountability. Governments are currently experimenting with a spectrum of provision types, from high-level principles, to non-binding or voluntary commitments, to binding requirements that carry a sanction threat.
- Oversight mechanisms determine how governments create accountability in practice: Which existing or new government authorities are in charge of overseeing AI firms and what powers do these authorities have to enforce regulatory requirements?

Domestic Regulation

Accountability is a common concern in domestic AI regulation: The DPA has documented 309 domestic policy and enforcement developments on accountability in AI since January 2020. The DPA's systematic taxonomy reveals the following trends in AI accountability regulation:

- The US is the most active jurisdiction, with 40 federal and 23 state-level developments, followed by the EU (27), China (16) and the Republic of Korea (14).
- Adopted or in-force developments narrowly outnumber pending ones: 153 are in force or adopted, 143 are currently under deliberation and 13 are concluded or rejected.
- Binding laws lead (133), ahead of non-binding guidelines (81) and binding orders (74). Only 21 enforcement cases and inquiries focus on AI accountability.

Recent developments focus mainly on oversight. Governments worldwide are establishing AI-specific government agencies, such as Australia's announced AI office, AI regulator, and AI safety institute, or other oversight structures, such as Japan's AI and Digital Reform Promotion Council. Governments also establish sanctions regimes, including the entry into force of the enforcement and penalty provisions of Poland's Act on AI Systems and the introduction of a Finnish bill amending the existing enforcement rules on AI.

Our text-level analysis of 84 rulebooks across 19 jurisdictions shows 67 provisions in which governments provide for investigative powers and sanctions with regard to AI systems. In these provisions, governments set out the legal framework for government oversight of AI, either by

creating new regulatory bodies or by expanding existing powers, as well as legal consequences for not observing regulatory requirements.[1]

International Coordination

Our text-level analysis of nine international AI frameworks shows that six frameworks cover accountability across 17 provisions. The international frameworks that address accountability are the OECD AI Principles, the UNESCO Recommendation, the Council of Europe Framework Convention, the ASEAN Guides, and the Joint Declaration. The UN General Assembly resolution, the G7 Principles and the G7 Code of Conduct do not cover accountability, as we have conceptualised it.

The frameworks cover a range of elements of accountability, with all frameworks referring to the allocation of responsibility among AI actors, or designating a responsible person within organisations. The UNESCO Recommendation and the Joint Declaration also refer to the establishment of institutions for the oversight and enforcement of AI rules. Three frameworks, the Joint Declaration, the UNESCO Recommendation, and the Council of Europe Framework Convention, address the need to provide remedies or redress.

International AI frameworks, however, differ in how they focus on accountability and how actionable their language is. Of the 17 provisions, 10 focus on accountability as the core concern, while seven only touch upon it tangentially. 12 provisions across six frameworks provide actionable language, and five address accountability in non-actionable language.

Alignment Between Domestic and International Action

Given the narrow scope of our current analysis on accountability, we do not draw definitive conclusions on the alignment between domestic regulations and international frameworks. In summary, the 67 domestic provisions designate which governmental bodies are responsible for oversight and set out the applicable sanctions for violations of regulatory requirements. While three international frameworks stress the need for creating effective remedies or redress, only two international frameworks refer to oversight institutions and sanctions, possibly since such questions of concrete implementation are generally left to domestic regulators. International frameworks do address the issue of how to allocate responsibility among AI actors. As stated above, domestic frameworks adopt varying approaches for classifying and allocating responsibility to AI actors and systems, which will be a focus of our upcoming work on AI governance.

To understand how governments tackle AI accountability in depth, readers can explore our AI Governance Hub's accountability page. It shows the relevant DPA entries and the full-text provisions of domestic AI regulations and international AI frameworks, structured using our taxonomy. The page draws data from the DPA's Activity Tracker, which provides daily updates on digital policy and provides tailored notifications, as well as our full-text analysis tool Clairk.

[1] We do not provide detailed provisions on the allocation of responsibility on the basis of risk level, AI capabilities, and the role of AI actors within the value chain, despite this element forming an important part of accountability. We aim to map out these approaches to assigning accountability in our future analysis on AI governance. Finally, at this point we do not focus on measures that relate to the general governance of the AI ecosystem insofar as they are not directly tied to regulatory requirements for private-sector AI actors.

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