

Book Review

Elisabeth Steindl (2025) *A Datafied Mind. Untangling EU Regulation of Emotion Technology and Neurotechnology*. Cambridge University Press

Etienne Gabriel Valk

University of Amsterdam, The Netherlands

ISSN: 978100967164

It must be as old as the first law. The question whether to introduce new laws, or whether the existing law is sufficient. *A Datafied Mind: Untangling EU Regulation of Emotion Technology and Neurotechnology*¹ asserts that for regulating these emerging technologies, all the laws we need are in place. It is a matter of refining them, and redefining some of their constitutive parts.

Mind Mapping

Central to the book are two umbrella terms for technologies, which the author Elisabeth Steindl brings together into one: Mind Datafying Technologies (MDTs). This newly coined term encompasses neurotechnology and emotion technology. The technologies have in common the ability to translate mental faculties, processes, and states into data. Neurotechnologies have been around for longer, usually designed to interact directly with the brain or nervous system, allowing for the monitoring and modulating of neural activities. Naturally, these developments have generated calls for many new ‘neurorights,’ including the right to cognitive liberty. Emotion technology is a much more nascent field, with a much more nascent legal literature. Steindl summarises that emotion technology generally refers to technologies that are designed to analyse and interpret human emotions through different modalities, such as audio, video, or text (p. 10). International advisory body opinions on it start to spread, and EU regulatory bodies are now getting into motion too.

It seems like perfect timing that *A Datafied Mind* clears a structured path through the swamp of MDTs. After setting the scene, Chapter 2 assesses the classification of data processed by MDTs under the GDPR (p. 13–38). Then in Chapter 3, focus expands to the relevant regulations under the AI Act (p. 39–58). What follows are 4 chapters which each have a central use case, testing the impact of, and uncertainties in, the evolving EU regulatory framework (p. 59–189). These use cases are well-picked: Mental Health and Well-Being, Commercial Advertising, Political Advertising, and Employment Monitoring. A special feature of the book is the use of ‘semi-fictional vignettes’ to concretise the legal analysis, with two reoccurring fictional characters (hi, Sarah and Drew). This scenario writing is employed not only in the use cases, but also throughout the examination of frameworks in Chapters 2 and 3. It makes for an effective interdisciplinary approach, supported by the author’s background in the disciplines of law and English literature.

¹ Steindl, *A Datafied Mind*.



Mind Data Protection

Many of the legal nuances in this book are difficult to meaningfully engage with in a review of this brief length. Still, one central choice deserves attention. Chapter 2 proposes the inclusion of a new special category of “mind data” within the EU General Data Protection Regulation² (GDPR). Steindl proposes the term to mean ‘personal data resulting from automated processing for the purpose of identifying or inferring emotions, thoughts, intentions or psychological states of a natural person’ (p. 36). It would have been interesting to see the binary notion of personal data challenged more, accounting for some arguments in the literature on that. As the book shows, this binary notion is difficult to align with many data processed by MDTs. Also, I was left wondering why it might not be warranted that instead of legislative action, the Court of Justice of the European Union (CJEU) interprets personal data to also encompass this new definition. Such a reinterpretation would not be without its complexities either, as Steindl also notes with regard to the legislative process, but it seems to merit some consideration.

Still, the introduction of mind data as a *sui generis* special category is persuasively argued in the overall line of reasoning. For one, it tackles the Biometric Dilemma. Put very simply, this dilemma entails that there are unresolved uncertainties in how to apply the requirements of biometric data (p. 17-18). Steindl sharply shows how the EU Artificial Intelligence Act³ (AI Act) addresses the biometric dilemma yet cannot safeguard protection areas outside of its scope (most prominently the GDPR) (p. 44). Also, within the AI Act, in scope are only biometric data that have a biophysical basis. As a result, data processed by text-based MDTs is left without special protection. Here, the book relates the legal reality to the evident societal risks (p. 190). Text-based tools are increasingly relied upon, not in the least through the surge of AI chatbots. Steindl calls for moving beyond the current regulation’s emphasis on just the technological or biophysical parameters that datify people’s minds. The author argues that priority should be given to protecting the underlying information that has to be safeguarded.

Final Thoughts

With MDTs, *A Datafied Mind* coins a new term. The value of the term for getting a grip on the regulatory framework for this wide range of related technologies is convincingly proven. The book is a recommendation for anyone looking to familiarise themselves with the evolving regulatory framework. Equally, it can be recommended to anyone looking to engage with cutting-edge analysis of the legal intricacies relevant for regulating MDTs. A book that should keep many (legal) minds occupied.

Bibliography

Steindl, Elisabeth. *A Datafied Mind: Untangling EU Regulation of Emotion Technology and Neurotechnology*. Cambridge University Press, 2025.

² Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) *OJ L 119*, 4.5.2016.

³ Regulation (EU) 2024/1689 of the European Parliament and of the Council of 13 June 2024 laying down harmonised rules on artificial intelligence and amending Regulations (EC) No 300/2008, (EU) No 167/2013, (EU) No 168/2013, (EU) 2018/858, (EU) 2018/1139 and (EU) 2019/2144 and Directives 2014/90/EU, (EU) 2016/797 and (EU) 2020/1828 (Artificial Intelligence Act) *OJ L*, 2024/1689.