

ESSAY

THE FIRST AI TREATY AS EXPRESSIVE HARD LAW: SIGNATURE, SUPERVISION, AND THE SPACE BETWEEN

*Mujib Jimoh**

ABSTRACT

This essay argues that the Council of Europe Framework Convention on Artificial Intelligence and Human Rights, Democracy and the Rule of Law, the first binding international treaty on artificial intelligence (AI), is best understood as expressive hard law. The Convention opened for signature in September 2024 and drew broad signatory support, yet as of September 2026, no country has ratified it, it remains short of entry into force, and its Conference of the Parties has not begun its supervisory work. Treaty form gives States a public way to affirm shared commitments to human rights, democracy, and the rule of law in AI governance, while broad obligations and a flexible implementation model preserve wide domestic room for regulatory choice. Because AI carries exceptional public salience, and because the Convention is the first binding instrument in a field long governed by soft law, signing it confers a visible benefit on States at little regulatory cost, a benefit States visibly spend, citing the fact of signature as evidence of alignment with rights-protective AI governance even as ratification remains distant. Signature is therefore doing more expressive work than regulatory work. The essay develops this claim through the Convention's design, the politics of delayed entry into force, and article 18 of the Vienna Convention on the Law of Treaties, which gives signature legal significance before full operation through the interim duty to respect the treaty's object and purpose. The space between signature and the Conference of the Parties' supervision reveals a separation among three elements in international AI governance, namely, legal form, acceptance of shared principles, and submission to international supervision.

INTRODUCTION

On 5 September 2024, the Council of Europe opened for signature the Framework Convention on Artificial Intelligence and Human Rights, Democracy and the Rule of Law in Vilnius.¹ The event marked a significant moment in the development of international AI governance.² For several years, international efforts had centered on ethical principles, political declarations, voluntary commitments, and technical standards.³ The Convention appeared to move the field into a new phase. It was presented as the first legally binding international treaty on AI.⁴ The European Union, the United Kingdom, and the United States signed on the opening day, and other States later joined the signature list.⁵ For many observers, the Convention demonstrated that international AI governance could take treaty form.⁶

* Analyst, Meridiam Infrastructure North America Corp., Washington D.C.; LL.M., Duke University School of Law; LL.B., University of Ibadan; Barrister and Solicitor of the Supreme Court of Nigeria. This essay is part of a larger project on the international law of artificial intelligence; the customary international law argument is developed at length in Mujib Jimoh, *The Customary International Law of AI Governance*, 41 EMORY INT'L L. REV. (forthcoming 2026).

1. Council of Europe Framework Convention on Artificial Intelligence and Human Rights, Democracy and the Rule of Law, opened for signature Sept. 5, 2024, C.E.T.S. No. 225 [hereinafter "Convention" or "AI Convention"].

2. Cheng-chi (Kirin) Chang, *The First Global AI Treaty: Analyzing the Framework Convention on Artificial Intelligence and the EU AI Act*, 2024 U. ILL. L. REV. ONLINE 86, 97 (2024) (describing the Convention as a significant milestone in global AI governance).

3. For an empirical survey of the proliferation of AI principles, see Anna Jobin, Marcello Ienca & Effy Vayena, *The Global Landscape of AI Ethics Guidelines*, 1 NATURE MACHINE INTELLIGENCE 389 (2019). Prominent soft law instruments include Recommendation of the Council on Artificial Intelligence, OECD/LEGAL/0449 (2019, amended 2024); UNESCO, Recommendation on the Ethics of Artificial Intelligence (2021); G7, Hiroshima Process International Guiding Principles for Advanced AI Systems (2023); and the Bletchley Declaration by Countries Attending the AI Safety Summit (Nov. 1, 2023).

4. Chang, *supra* note 2, at 86; *Council of Europe Opens First Ever Global Treaty on AI for Signature*, COUNCIL OF EUROPE (Sept. 5, 2024), <https://www.coe.int/en/web/portal/-/council-of-europe-opens-first-ever-global-treaty-on-ai-for-signature>.

5. *Chart of Signatures and Ratifications of Treaty No. 225*, COUNCIL OF EUROPE (Aug. 2, 2026), <https://www.coe.int/en/web/conventions/full-list?module=signatures-by-treaty&treaty=225>.

6. See, e.g., Vladislava Stoyanova, *Council of Europe Framework Convention on Artificial Intelligence: Context, Regulatory Approach and Scope of Obligations*, 17 EUR. J. RISK REG. 536 (2026).

The Convention's position two years later presents a more complex picture. The instrument exists as a treaty and has attracted support through signature.⁷ Entry into force, however, remains pending. The Convention requires five ratifications, including at least three from Council of Europe member States.⁸ As of September 2026, the treaty chart recorded twenty signatures and only one ratification, by the European Union.⁹ The Conference of the Parties envisaged by the Convention therefore remains inactive.¹⁰ International AI governance has produced a treaty with substantial visibility, broad political support, and limited institutional operation.

This essay argues that two years after opening for signature, the Convention is best understood as expressive hard law.¹¹ By expressive hard law, this essay means a binding treaty whose present work is mainly communicative, in that States use its treaty form and their signature to affirm shared principles while its regulatory and supervisory machinery is not yet in operation. Treaty form allows States to publicly endorse common commitments to human rights, democracy, and the rule of law in the governance of AI.¹² At the same time, the Convention relies on broad obligations and flexible implementation methods that preserve considerable domestic discretion.¹³ This combination

7. Chart of Signatures and Ratifications of Treaty No. 225, *supra* note 5.

8. Convention, *supra* note 1, art. 30(3).

9. Chart of Signatures and Ratifications of Treaty No. 225, *supra* note 5. The European Union deposited the first instrument of ratification on May 15, 2026. See *The EU Ratification of the Framework Convention on AI: AI Act, Fundamental Rights and the New Regulatory Architecture*, NICFAB (May 25, 2026) <https://www.nicfab.eu/en/posts/cets225-ratifica-ue/>.

10. Convention, *supra* note 1, art. 23.

11. For theoretical argument on the expressive function of law, see Cass R. Sunstein, *On the Expressive Function of Law*, 144 U. PA. L. REV. 2021 (1996); RICHARD H. MCADAMS, *THE EXPRESSIVE POWERS OF LAW: THEORIES AND LIMITS* (2015); Elizabeth S. Anderson & Richard H. Pildes, *Expressive Theories of Law: A General Restatement*, 148 U. PA. L. REV. 1503 (2000).

12. Oona A. Hathaway, *Do Human Rights Treaties Make a Difference?*, 111 YALE L.J. 1935 (2002) (arguing that treaty commitment serves an expressive function, allowing States to declare support for the underlying norms and capture reputational benefits that may not be matched by compliance); Emilie M. Hafner-Burton & Kiyoteru Tsutsui, *Human Rights in a Globalizing World: The Paradox of Empty Promises*, 110 AM. J. SOC. 1373 (2005).

13. Miguel Ángel Presno Linera & Anne Meuwese, *Regulating AI from Europe: A Joint Analysis of the AI Act and the Framework Convention on AI* 13 THEO. & PRAC. LEGIS. 292, 302 (2025); Chang, *supra* note 2, at 92.

produces an instrument that carries the authority of hard law while accommodating diverse regulatory approaches.¹⁴

The interval between signature and entry into force is an ordinary feature of treaty law.¹⁵ In the case of the AI Convention, however, the unusual feature of signature is the work it performs during the interval. The Convention is the first binding instrument in a field long shaped by soft law, and AI governance now carries exceptional public salience.¹⁶ Signature gives States a visible legal and political benefit beyond the benefit attached to an ordinary dormant treaty.¹⁷ The Convention's broad obligations and flexible implementation model also make the benefit easier to obtain, since States can associate themselves with a landmark AI treaty while accepting limited immediate regulatory burden. Thus, while the signature and entry into force interval may be ordinary in treaty law, for the AI Convention, signature pays an unusual public benefit at an unusually low regulatory cost.

As demonstrated below, the concept of expressive hard law sheds light on a broader feature of international AI governance. Governments appear willing to endorse common principles through framework treaties.¹⁸ Greater caution emerges when international supervision, continuing review, and interpretive coordination become part of the legal framework.¹⁹ The

14. Stoyanova, *supra* note 6, at 563 (stating that "[t]he Explanatory Report adds that Article 12 of the treaty is 'based on the assumption that the Parties are best placed to make relevant regulatory choices.' This corresponds to the wide scope of discretion afforded to the State Parties under the treaty.").

15. Vienna Convention on the Law of Treaties arts. 14, 18, 24, opened for signature May 23, 1969, 1155 U.N.T.S. 331 [hereinafter VCLT] (distinguishing consent to be bound from entry into force and regulating the interim period).

16. Nathalie A. Smuha, *From a 'Race to AI' to a 'Race to AI Regulation': Regulatory Competition for Artificial Intelligence*, 13 *LAW, INNO. & TECH.* 57 (2021).

17. *Cf.* Hathaway, *supra* note 12, at 1940 (locating the expressive function of treaty commitment at ratification). This essay argues that the AI Convention shows the expressive benefit can be captured earlier, at signature, while ratification and entry into force would add the further step of international oversight and collective interpretation.

18. See Chart of Signatures and Ratifications of Treaty No. 225, *supra* note 5. See also Nele Matz-Lück, *Framework Conventions as Regulatory Tools*, 1 *GOETTINGEN J. INT'L L.* 439, 446–48 (2009) (describing framework conventions as instruments through which parties adopt broad commitments and shared objectives in treaty form).

19. For discussion of why States adopt variables in treaty design, see Laurence R. Helfer, *Overlegalizing Human Rights: International Relations Theory and the Commonwealth Caribbean Backlash Against Human Rights Regimes*, 102 *COLUM. L. REV.*

Convention reveals a separation among three elements: legal form, acceptance of shared principles, and submission to international supervision. This triad restates the legalization framework of Abbott *et al.*, in which obligation, precision, and delegation vary independently.²⁰ Obligation appears here as legal form, precision as the breadth of the Convention's principles, and delegation as the degree of international supervision.²¹ Understanding this separation helps explain the Convention's current position and offers insight into the future development of international AI law.

This essay develops the expressive hard law claim through the Convention's design, the politics surrounding delayed entry into force, and article 18 of the Vienna Convention on the Law of Treaties. The discussion shows how the Convention already possesses legal significance before full operation,²² while the institutional structures associated with an active treaty regime remain suspended.²³ Viewed from this perspective, the Convention's early years provide a valuable case study in the evolving relationship between international law and AI.

After this introduction, this essay proceeds in four parts and a conclusion. Part II explains the Convention's design and shows how binding treaty form coexists with broad obligations, flexible implementation, and restrained supervision.²⁴ Part III examines the politics of delayed entry into force and explains why signature can perform important public work before the treaty becomes fully operational. Part IV turns to article 18 of the VCLT and explains how signature gives the Convention legal significance before entry into force through the duty to respect the treaty's object and purpose. Part V draws out the broader implications for

1832, 1840 (2002) (noting that within one treaty system some commitments are binding while others, both substantive and procedural, are optional or hortatory).

20. Kenneth W. Abbott, *et al.*, *The Concept of Legalization*, 54 INT'L ORG. 401 (2000).

21. *Id.* (distinguishing among obligation, precision, and delegation).

22. The signatures are evidence of how States manage the reputational economy of emerging technology governance. On reputation as a driver of international legal commitment and compliance, see ANDREW T. GUZMAN, *HOW INTERNATIONAL LAW WORKS: A RATIONAL CHOICE THEORY* 71–111 (2008).

23. The Conference of the Parties envisaged by the Convention is inactive. *See* Convention, *supra* note 1, art. 23.

24. Abbott *et al.*, *supra* note 20, at 401 (setting out obligation, precision, and delegation as independently variable dimensions. "Each of these dimensions is a matter of degree and gradation, not a rigid dichotomy, and each can vary independently.").

international AI law by using the Convention's early life to show a separation among legal form, acceptance of shared principles, and submission to international supervision.

I. TREATY DESIGN AND EXPRESSIVE HARD LAW

The Convention has been described as the first legally binding international treaty on AI.²⁵ Although this description is accurate, legal force alone gives only a partial picture of the commitment created by the instrument.²⁶ A treaty can bind States in form while leaving broad space for domestic judgment in practice.²⁷ The AI Convention follows this pattern.²⁸ It uses the authority of treaty law to express common commitments to human rights, democracy, and the rule of law,²⁹ while its substantive duties remain broad and its follow-up structure remains modest.³⁰ Legalization scholarship gives useful language for understanding this design.³¹ Abbott, *et al.* explain international commitments through three dimensions.³² Obligation refers to legal commitment; precision relates to the clarity of the rules; and delegation concerns the authority given to institutions or third parties to interpret, apply, or supervise the

25. Chang, *supra* note 2, at 86.

26. Abbott *et al.*, *supra* note 20, at 401 (treating obligation as only one of three dimensions along which international commitments vary); Kal Raustiala, *Form and Substance in International Agreements*, 99 AM. J. INT'L. L. 581 (2005) (distinguishing an agreement's legal form from its substantive depth and structures of review).

27. Raustiala, *supra* note 26, at 584. Under Raustiala's three dimensions of institutional design (legality, substance and structure), substance deals with depth ("Depth is 'the extent to which [an agreement] requires states to depart from what they would have done in its absence.' Some accords are deep: they require states to make major changes in policy. Others are shallow: they codify what states are already doing or demand only minor changes in behavior").

28. For an early joint analysis of the Convention alongside the EU AI Act, see Linera & Meuwese, *supra* note 13.

29. Stoyanova, *supra* note 6, at 538 ("Human rights law therefore forms an integral part for interpreting the treaty").

30. Chang, *supra* note 2, at 98 (arguing that "Strengthening the monitoring and enforcement mechanisms, perhaps by enhancing the powers and resources of the Conference of Parties or establishing a dedicated monitoring body, could improve oversight of the Convention's implementation.").

31. For some discussion, see Abbott *et al.*, *supra* note 20.

32. *Id.* at 401.

agreement.³³ States often combine these dimensions in different ways.³⁴ A legal instrument may create formal obligation while leaving its content open textured.³⁵ A treaty may express shared principles while giving limited authority to international institutions.³⁶ The AI Convention fits this mixed design.

On obligation, the Convention is hard law.³⁷ The instrument is a treaty opened for signature as a Council of Europe convention, and parties become bound through ratification, acceptance, or approval.³⁸ Its legal form therefore differs from AI ethics guidelines, political declarations, voluntary commitments, and technical standards. Treaty form gives the Convention public legal significance and places AI governance within the language of international legal commitment.³⁹

On precision, the Convention takes a broad approach.⁴⁰ Article 1 describes its purpose as ensuring consistency between activities within the lifecycle of AI systems and human rights, democracy, and the rule of law.⁴¹ The Convention then requires parties to adopt or maintain measures giving effect to its obligations.⁴² The text does not create a detailed global code for AI. It speaks through general commitments to rights, democratic integrity, rule of law, transparency, accountability, equality, privacy, remedies, and risk management.⁴³ This broad design reflects its subject matter.⁴⁴ AI reaches many areas of public and

33. *Id.*

34. *Id.* at 404 (stating that “the authors of a legal instrument can combine any level of obligation, precision, and delegation to produce an institution exactly suited to their specific needs.”).

35. On the preference for informal or flexible commitment under uncertainty, see Charles Lipson, *Why Are Some International Agreements Informal?* 45 INT’L ORG. 495 (1991); Barbara Koremenos, Charles Lipson & Duncan Snidal, *The Rational Design of International Institutions*, 55 INT’L ORG. 761 (2001).

36. Abbott *et. al.*, *supra* note 20, at 404.

37. For discussion on hard law, see Kenneth W Abbott & Duncan Snidal, *Hard and Soft Law in International Governance*, 54 INT’L ORG. 421 (2000).

38. Convention, *supra* note 1, art. 30(1)–(2).

39. Abbott & Snidal, *supra* note 34, at 421–22.

40. Convention, *supra* note 1, art. 3; Chang, *supra* note 2, at 91.

41. Convention, *supra* note 1, art. 1(1).

42. *Id.* at art. 1(2).

43. *Id.* at arts. 4–5, 8–11, 14, 16.

44. For application of AI governance in different spheres of life, see Pedro Ramos Brandao, *The Impact of Artificial Intelligence on Modern Society*, 6 AI 190 (2025).

private life, including policing, credit, healthcare, education, employment, public benefits, border control, advertising, procurement, and critical infrastructure.⁴⁵ A highly detailed international rulebook would have struggled to cover this range.⁴⁶ Technical rules also risk becoming outdated as AI systems change.⁴⁷ The Convention therefore works at the level of common principles and institutional expectations. It seeks a durable legal framework rather than a detailed technical manual.⁴⁸ The Explanatory Report confirms this design choice.⁴⁹ It explains that the Convention focuses on human rights, democracy, and the rule of law, rather than every aspect of AI technology or market activity.⁵⁰ It also recognizes diversity among domestic legal systems, regulatory traditions, and risk environments.⁵¹ The phrase “adopt or maintain” which runs through the Convention is important in this respect.⁵² A party may rely on existing laws and institutions where existing arrangements give effect to the Convention’s obligations.⁵³ The Convention therefore creates a shared legal frame while leaving implementation largely in domestic hands.⁵⁴

Delegation is more restrained. The Convention establishes a Conference of the Parties to support implementation, consider issues of interpretation and application, and perform follow-up

45. Hisham O. Khogali & Samir Mekid, *The Blended Future of Automation and AI: Examining Some Long-Term Societal and Ethical Impact Features*, 73 *TECH. IN SOC’Y* 1 (2023).

46. Louis Kaplow, *Rules Versus Standards: An Economic Analysis*, 42 *DUKE L. J.* 557 (1992) (arguing that rules are costly to formulate where regulated conduct is varied and difficult to anticipate)

47. Ryan Hagemann, Jennifer Huddleston Skees & Adam Thierer, *Soft Law for Hard Problems: The Governance of Emerging Technologies in an Uncertain Future*, 17 *COLO. TECH. L.J.* 37 (2018) (arguing that formal regulation cannot keep pace with emerging technologies).

48. Chang, *supra* note 2, at 92.

49. Explanatory Report to the Framework Convention on Artificial Intelligence and Human Rights, Democracy and the Rule of Law, C.E.T.S. No. 225 (2024) [hereinafter Explanatory Report].

50. *Id.* ¶¶ 12 to 13.

51. *Id.* ¶¶ 16 to 20.

52. Convention, *supra* note 1, arts. 4, 5, 7, 8, 9, 10, 11, 14, 16.

53. *Id.* ¶¶ 17.

54. Convention, *supra* note 1, art. 26; Chang, *supra* note 2, at 93.

functions.⁵⁵ While the Conference is neither a court nor an individual complaint body, it has significance because it can turn the Convention from a signed text into an ongoing legal process.⁵⁶ Through the Conference, parties may compare implementation, develop common understandings, and give practical meaning to broad treaty language over time.⁵⁷ This essay argues that this institutional feature helps explain the Convention's current position. Broad principles are easier for States to endorse, and few governments wish to oppose the idea of AI governance grounded in human rights, democracy, and the rule of law.⁵⁸ However, international supervision creates a different kind of commitment.⁵⁹ Once the Conference begins its work, States may need to explain domestic choices, respond to emerging interpretations, and participate in collective review.

Expressive hard law describes the Convention's current position between public treaty commitment and operational supervision.⁶⁰ The term draws on work describing the expressive function of law, where a legal act communicates commitment and shared meaning apart from the conduct it directly regulates.⁶¹ This essay adapts the idea to treaty form and applies it to hard law rather than to statutes or soft norms. The Convention has the form and visibility of hard law because States have signed a treaty grounded in human rights, democracy, and the rule of law. Signature also carries a benefit particular to this Convention. AI now commands intense public attention, and a State that signs the first binding AI treaty is seen to be governing the technology rather

55. Convention, *supra* note 1, art. 23.

56. Council Decision 2026/1080, On the Conclusion, on Behalf of the European Union, of the Council of Europe Framework Convention on Artificial Intelligence and Human Rights, Democracy and the Rule of Law, recital 6, 2026 O.J. (L 1080) [hereinafter Council Decision 2026/1080].

57. Convention, *supra* note 1, art. 23(1).

58. See *The Bletchley Declaration by Countries Attending the AI Safety Summit, 1-2 November 2023* (13 February 2025), <https://www.gov.uk/government/publications/ai-safety-summit-2023-the-bletchley-declaration/the-bletchley-declaration-by-countries-attending-the-ai-safety-summit-1-2-november-2023> (affirming "the necessity and urgency" of addressing the risks posed by AI).

59. Helfer, *supra* note 19, at 1851-52.

60. On the point that an instrument's degree of legalization is not fixed and can rise or fall after adoption, see Abbott *et al.*, *supra* note 20, at 405, 408-09; Helfer, *supra* note 19, at 1851, 1854.

61. Sunstein, *supra* note 11, at 2021.

than trailing it.⁶² Yet the Convention's broad obligations, flexible implementation model, and inactive supervisory machinery mean that signature currently does more expressive work than regulatory work. The Convention is therefore hard enough to signal legal seriousness, visible enough to reward association, and still incomplete as an operating international regime.

II. *SIGNATURE, ENTRY INTO FORCE AND INSTITUTIONAL DELAY*

Signature and entry into force perform different work in the life of a treaty.⁶³ Signature can express support, place a State inside a legal and political coalition, and show domestic and international audiences a commitment to a common project.⁶⁴ Entry into force has a different consequence as it moves the treaty into operation and activates the institutional arrangements created by the instrument.⁶⁵ For the AI Convention, this distinction is central to the thesis of this essay. The signature record shows public endorsement of a rights-based approach to AI governance. The delay in entry into force shows caution toward the treaty's fuller institutional life. Yet signature alone does expressive work, even though signature alone cannot bring the Convention into force.⁶⁶

The Convention's early signature record gave States an immediate public benefit. A State signing the Convention could present itself as a supporter of the first legally binding international treaty on AI.⁶⁷ It could also associate itself with a framework grounded in human rights, democracy, and the rule of

62. Smuha, *supra* note 16, at 57.

63. VCLT, *supra* note 15, arts. 14, 24 (separating the acts establishing consent to be bound from entry into force).

64. Edward T. Swaine, *Unsigning*, 55 STAN. L. REV. 2061 (2003) (examining the legal and political significance of signature independent of ratification).

65. VCLT, *supra* note 15, art. 24.

66. Convention, *supra* note 1, art. 30(3).

67. See, e.g., Press Statement, U.S. Dep't of State, The Council of Europe's Framework Convention on Artificial Intelligence and Human Rights, Democracy, and the Rule of Law (Sept. 5, 2024), <https://2021-2025.state.gov/the-council-of-europes-framework-convention-on-artificial-intelligence-and-human-rights-democracy-and-the-rule-of-law/> (presenting the United States' signature of the first multilateral AI treaty as reflecting its commitment to human rights and democratic values).

law.⁶⁸ The expressive value is apparent because international AI governance had long been dominated by ethical principles, political declarations, voluntary commitments, and technical standards.⁶⁹ Signature allows States to show movement beyond voluntary language while still preserving broad room over domestic implementation. This means that the Convention's design made signature politically attractive. The Explanatory Report explains that the instrument applies existing commitments to human rights, democracy, and the rule of law to activities within the lifecycle of AI systems.⁷⁰ The Convention does not create a detailed global code for AI.⁷¹ It gives States a common legal vocabulary while leaving implementation to domestic legal systems and regulatory choices. A government can thus sign the Convention as an affirmation of values already accepted in its legal order.

Entry into force carries a different weight. The Convention requires five ratifications, including at least three from Council of Europe member States.⁷² Once the entry into force threshold is met, the treaty can begin operating as a regime. The Conference of the Parties can then support implementation, consider issues of interpretation and application, and create a continuing process of follow up.⁷³ The legal consequence of entry into force therefore goes beyond public endorsement.⁷⁴ It begins the institutional process through which broad commitments may acquire practical meaning over time. The current delay becomes easier to understand once signature and entry into force are separated.

Signature allows States to receive the public benefit of association with a binding AI treaty. Entry into force would move States into a process of institutional engagement.⁷⁵ Although the Conference of the Parties may be modest in form, since it is neither a court nor an individual complaint body, nonetheless, its work

68. *Id.*

69. Jobin, Ienca & Vayena, *supra* note 3.

70. Explanatory Report, *supra* note 49, ¶ 13.

71. Convention, *supra* note 1, ch. II–III (framing obligations at the level of principles).

72. *Id.* art. 30(3).

73. *Id.* art. 23(2).

74. Hathaway, *supra* note 12 (arguing that formal commitments may generate reputational benefits that are not always matched by later compliance incentives).

75. Convention, *supra* note 1, art. 23.

could still influence how States explain, compare, and adjust domestic implementation. In a field shaped by economic strategy, national security concerns, technological uncertainty, and fast-moving regulation, it may be argued that even a modest supervisory process can carry real policy consequences.⁷⁶

Several factors help explain the delay. The first is ordinary domestic process.⁷⁷ Signature is often easier than the internal steps required for a State to join a treaty as a party. Governments may need legislative approval, inter-ministerial coordination, or a decision on whether existing law already satisfies the Convention.⁷⁸ A framework AI treaty can raise concrete domestic questions about institutional responsibility, private sector coverage, reporting, national security exclusions, and the relationship between existing law and treaty obligations.⁷⁹ These questions can slow entry into force even where a government supports the Convention's general aims.

The second factor is the European Union's regulatory position. The EU AI Act is the main operational framework for AI regulation within the Union.⁸⁰ The Union's conclusion decision states that the Convention will be implemented in the Union through the AI Act and other relevant Union law.⁸¹ This sequencing helps explain why the Union could approve the Convention while member State action remains more complex. For EU member States, the Convention will need to navigate through an existing legal and institutional pathway in the EU AI Act.⁸²

76. Council Decision (EU) 2026/1080, *supra* note 56, at recital 6.

77. See Pierre-Hugues Verdier & Mila Versteeg, *International Law in National Legal Systems: An Empirical Investigation*, 109 AM. J. INT'L. L. 514 (2015) (documenting domestic legislative approval requirements for treaty ratification across legal systems).

78. See Robert D Putnam, *Diplomacy and Domestic Politics, The Logic of Two Level Games*, 42 INT'L. ORG. 427 (1988).

79. BETH A. SIMMONS, *MOBILIZING FOR HUMAN RIGHTS: INTERNATIONAL LAW IN DOMESTIC POLITICS* 57–111 (2009) (arguing that human rights treaties likewise show that ratification can be slower where domestic institutions take legal commitments seriously).

80. Regulation 2024/1689, of the European Parliament and of the Council of 13 June 2024 Laying Down Harmonised Rules on Artificial Intelligence, 2024 O.J. (L 1689) [hereinafter AI Act]; see also Linera & Meuwese, *supra* note 13 (analyzing the AI Act as the operative EU regulatory instrument alongside the Convention).

81. Council Decision (EU) 2026/1080, *supra* note 56, at recital 3.

82. *Id.*, at art 3.

The third factor is changing political preference.⁸³ AI governance has become a field of technological competition, industrial policy, and national security strategy.⁸⁴ A government may sign during a period of strong support for international coordination and later face a political environment more focused on acceleration, competitiveness, or regulatory autonomy. A change in policy emphasis can reduce the energy behind entry into force, even where signature remains on the treaty chart. The Convention's broad principles may still attract support, while the move into institutional supervision may receive less urgency.

The fourth factor is the first mover problem.⁸⁵ A small group of States can bring the Convention into force, but early movers carry the visibility of commitment before the regime has developed a broader base of participation. Entry into force thresholds are meant to ensure a minimum level of support before a treaty starts operating.⁸⁶ They can also create waiting incentives. States may prefer to see whether other governments move first, especially in a field where regulatory choices remain unsettled and where major AI powers may be moving at different speeds.

The delay therefore supports the expressive hard law claim. The Convention has already performed public legal work through signature, and States have used treaty form to affirm common principles for AI governance. The fuller institutional consequence remains pending because entry into force would begin a process of interpretation, comparison, and follow up.⁸⁷ Although many treaties also have this gap between signature and entry into force, what is different in the case of the AI Convention

83. For instance, the United States signed in September 2024 when AI safety and multilateral coordination were prominent in international debate. Later policy signals placed greater emphasis on acceleration, competitiveness and national advantage. See Exec. Order No. 14,179, 90 Fed. Reg. 8741 (Jan. 23, 2025); White House, *Winning the Race: America's AI Action Plan* (July 2025), <https://www.whitehouse.gov/wp-content/uploads/2025/07/Americas-AI-Action-Plan.pdf>.

84. Michael C. Horowitz, *Artificial Intelligence, International Competition, and the Balance of Power*, 1 TEX. NAT'L SEC. REV. 36 (2018).

85. Cf. SCOTT BARRETT, ENVIRONMENT AND STATECRAFT: THE STRATEGY OF ENVIRONMENTAL TREATY-MAKING 49–84 (2003) (analyzing minimum participation requirements and States' incentives to condition commitment on the participation of others).

86. VCLT, *supra* note 15, art. 24.

87. Convention, *supra* note 1, art. 23.

is that the gap costs States little, and signature has delivered the expressive benefits.

III. *ARTICLE 18 AND THE LEGAL MEANING OF DELAY*

Article 18 of the VCLT gives the Convention legal significance during the period between signature and entry into force.⁸⁸ Under the VCLT, a State which has signed a treaty subject to ratification must refrain from acts which would defeat the treaty's object and purpose, unless the State has made clear its intention to avoid becoming a party.⁸⁹ The rule places signature in an intermediate legal position.⁹⁰ Signature falls short of full consent to be bound where ratification remains required.⁹¹ Nevertheless, signature carries legal consequence.⁹² A signatory has entered a legal relationship with the treaty, and international law protects the treaty's object and purpose during the interim period.⁹³

Some literature on article 18 argues that the scope of article 18 is difficult to ascertain. Gragl and Fitzmaurice describe article 18 as an opaque interim obligation whose scope, breach conditions and consequences remain uncertain.⁹⁴ Klabbers similarly argues that the doctrine of "object and purpose" is hard to operationalize, especially when treaty purposes are broadly framed.⁹⁵ These

88. VCLT, *supra* note 15, art. 18. The article states that:

A State is obliged to refrain from acts which would defeat the object and purpose of a treaty when:

(a) it has signed the treaty or has exchanged instruments constituting the treaty subject to ratification, acceptance or approval, until it shall have made its intention clear not to become a party to the treaty; or

(b) it has expressed its consent to be bound by the treaty, pending the entry into force of the treaty and provided that such entry into force is not unduly delayed.

89. *Id.*, art 18(a).

90. *Id.*, art. 18.

91. *Id.*, art. 14(1) (listing ratification as a means of expressing consent to be bound where the treaty so provides).

92. See generally Swaine, *supra* note 64.

93. VCLT, *supra* note 15, art. 18(a).

94. Paul Gragl & Malgosia Fitzmaurice, *The Legal Character of Article 18 of the Vienna Convention on the Law of Treaties*, 68 INT'L & COMP. L. Q. 699 (2019).

95. Jan Klabbers, *How to Defeat a Treaty's Object and Purpose Pending Entry into Force: Toward Manifest Intent*, 34 VAND. J. TRANSNAT'L L. 283 (2001).

concerns are relevant to the Convention as its object and purpose are broad.⁹⁶ Article 1 of the Convention frames the treaty around human rights, democracy, and the rule of law. The Explanatory Report also presents the Convention as a framework for applying existing protections to activities within the lifecycle of AI systems.⁹⁷ This means that the substantive floor of the treaty is framed in principles rather than technical rules.

Notwithstanding, article 18 prevents the Convention from being treated as an ordinary political statement before entry into force. Since the Convention's object is to preserve human rights, democracy, and the rule of law in AI governance, a signatory that systematically dismantles rights protections for AI systems or embraces AI uses which directly undermine democratic processes could plausibly raise article 18 concerns. Although the interim duty does not require full performance of every treaty obligation before entry into force, it protects the treaty's basic object.⁹⁸ Thus, article 18 does not activate the Conference of the Parties, create reporting duties, or begin the process of interpretation, comparison, and follow up among parties.

Article 18 supports the expressive hard law claim as it shows that signature is legally consequential and not merely political, because the interim duty binds a signatory to respect the treaty's object and purpose before any institution operates.⁹⁹ The Convention has real legal force at signature, through the interim duty, and no operating supervision, because the Conference of the Parties has not begun. What distinguishes it from an ordinary treaty awaiting entry into force is that States are using signature and treaty form to affirm shared principles in public and for expressive purposes. Binding legal form put to expressive use, without active oversight, is what makes the Convention expressive hard law.

IV. IMPLICATIONS FOR INTERNATIONAL AI LAW

96. Chang, *supra* note 2, at 91.

97. Explanatory Report, *supra* note 49, ¶ 13.

98. VCLT, *supra* note 15, art. 18.

99. Klabbers, *supra* note 95, at 288.

The Convention's early life offers a broader lesson for international AI law. Entry into force remains important, but the present condition of the Convention already reveals how States are using treaty form in a fast-moving technological field. Governments have shown willingness to place AI governance in the language of human rights, democracy, and the rule of law.¹⁰⁰ Greater caution appears when treaty language moves toward institutional supervision, continuing review, and shared interpretation. The Convention thus shows a separation among legal form, acceptance of shared principles, and submission to international supervision. This separation complicates the familiar contrast between hard law and soft law.¹⁰¹ The Convention is a treaty, so it belongs to the world of hard law in form. Yet its broad obligations, flexible implementation model, and inactive supervisory machinery make its current operation more limited. Hence, it fits the expressive hard law description since it is hard enough to signal legal seriousness, to create legal consequences through signature, and to show commitment to AI governance. Nonetheless, its present influence comes mainly from the public legal commitment associated with treaty form, while the fuller work of supervision and coordination remains pending.

The Convention also shows how international AI law may develop alongside domestic and regional regulations, instead of standing above them as the main source of regulatory content. In the European Union, the AI Act provides the detailed regulatory framework for AI systems. The Union's conclusion decision states, in recital 3, that the Convention is to be implemented in the Union exclusively through the EU AI Act and other relevant Union acquis, where applicable.¹⁰² Thus, the Convention operates as an external treaty frame for commitments already developed through Union law. This pattern shows how regional regulation can shape the meaning and practical value of an international AI treaty.

100. Convention, *supra* note 1, art. 1.

101. On the limits of the binary and the interaction between the two forms, see Gregory Shaffer & Mark A. Pollack, *Hard vs. Soft Law: Alternatives, Complements, and Antagonists in International Governance*, 94 MINN. L. REV. 706 (2010).

102. Council Decision (EU) 2026/1080, *supra* note 56, at art 3.

Another implication relates to future AI treaties. Treaty designers often assume broad obligations will ease agreement because States prefer flexibility.¹⁰³ The Convention is consistent with this assumption, since broad commitments help make signature attractive. Yet if States hesitate over this Convention, they may hesitate more over instruments with stronger monitoring or more precise rules. However, the point is not that future AI treaties should be weaker, but that treaty designers must identify what ratification adds that signature cannot already provide. If the expressive benefit is captured at signature and the main new effect of ratification is supervision, States may delay unless the benefits of supervision are clear.

The Convention also suggests a useful method for reading new technology treaties. The text shows what States were willing to negotiate; the signature chart shows what States are willing to endorse publicly; and the entry into force record shows what States are willing to place into operation. In the AI Convention, as has been demonstrated, these signals do not move at the same pace. The text is formally ambitious, the signature record is politically visible, and the institutional life of the treaty remains thin. The divergence is the defining feature of the Convention's early life.

This lesson will remain useful even if the Convention enters into force soon. Later operation would give the treaty new institutional life, but the early delay would still reveal the difference between public endorsement and supervisory commitment. If State ratifications remain slow, the expressive hard law diagnosis becomes stronger. In either scenario, the Convention's early life shows how international AI law is likely to develop through a mixture of legal form, political signaling, regional implementation, and cautious institutional design. The importance of this essay thus lies in exposing this structure clearly, at the beginning of treaty-making in the field of AI.

103. See Koremenos, Lipson & Snidal, *supra* note 35, at 779 (treating flexibility provisions as a designed response to uncertainty).

CONCLUSION

The Council of Europe AI Convention offers an early lesson about treaty making in international AI governance. Its current significance lies in the way treaty form has created a visible public commitment to human rights, democracy, and the rule of law, while the Convention's supervisory life remains pending. The treaty illustrates expressive hard law in a concrete setting. Signature gives the Convention legal and political weight, including an interim duty to respect its object and purpose, while the Conference of the Parties has yet to begin the work of interpretation, comparison, and follow up. The Convention's early life also reveals a wider pattern. The separation among legal form, acceptance of shared principles, and submission to international supervision is likely to shape future AI treaties whose designers must ask what ratification adds that signature does not already provide. The first AI treaty shows how States can embrace the language of binding international law while moving more carefully toward the supervision required to make that law operational.