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Protection of Human Rights: Participation of European International Organisations in Regulating the Functioning of Artificial Intelligence (AI) Technologies*

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Abstract
The authors of this article explore the potential solutions to the issue of threats to human rights arising from the development of artificial intelligence (AI) technologies. The research problem is examined within the framework of international law, focusing particularly on adopting relevant legal instruments at the global or supranational level, especially within the European Union (EU) and the Council of Europe. This study employs a qualitative research method, using a literature-based and legal approach to review and analyse existing regulations systematically, scholarly discussions, and legislative initiatives. Additionally, the case-study method is utilized to examine key legislative instruments adopted within the EU that regulate the use of AI in the context of human rights protection. Through this approach, the article highlights the similarities and differences between the compared legal acts, particularly concerning the threats posed by AI technologies and their projected future significance. The findings indicate that the analysed legal instruments are vital for safeguarding individuals' rights against risks emerging from the rapid development of AI. Furthermore, the authors conclude that the effective and practical implementation of these regulations at the national level in EU member states will play a critical role in shaping similar legal frameworks within the broader sphere of international law.
Keywords: Artificial Intelligence; Human Rights; International Law; European Union; Council of Europe

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A. INTRODUCTION

The development of artificial intelligence (AI) technologies is inevitable and can be assessed positively, offering, among other things, increased efficiency (Miller, 2014). On the other hand, the development of AI also brings negative aspects, particularly related to threats to human rights protection (Bogoviz, 2020). It is currently difficult to predict the direction of rapid changes in this field, but it is clear that the phenomenon of AI is increasingly penetrating everyday (Kharitonova, 2023; Zhuk, 2023). Various legislative initiatives being undertaken at both the national and international levels are aimed at mitigating these threats. (Chatterjee & Sreenivasulu, 2022)

Developing and implementing AI-based systems leads to using technologies characterised by varying complexity and automation. The rights that are particularly at risk due to AI development include not only the right to privacy and protection of personal data, the principle of equality, and the prohibition of discrimination, but also rights related to the right to a fair trial, the right to freedom of assembly and expression, and the freedom of religion life. (Krkac, 2019)

Literature Review

Contemporary researchers are increasingly focusing on the legal aspects of AI (Shchitova, 2020; Medvedev, 2022; Kartsiya et al., 2023; Filipova, 2024), the legal status and legal capacity of AI (Ponkina & Redkina, 2018; Begishev et al., 2020; Khisamova & Begishev, 2020; Khudyakova, 2020; Sultonova et al., 2023), and legal responsibility for its operation. (Tsukanova&Skopenko, 2018; Laptev, 2019; Evstratov&Guchenkov,2020; Kubrak, 2023; Ilin, 2024; Levit, 2024)

At the same time, the legal problems related to threats to human rights arising from the development of artificial intelligence (AI) technologies have not been sufficiently explored in domestic legal science (Talapina, 2020) and require more in-depth research.

In studies addressing the issue of AI in the context of international law, it is noted that the most extensive experience in creating international or supranational regulation in the field of AI is found in organisations such as the Organisation for Economic Co-operation and Development (OECD), the European Union (EU), and the Council of Europe (CoE) (Kartsiya&Makarenko, 2024). According to Szappanos (2023), the most advanced work in creating AI

standards is being carried out within regional organisations such as the EU and the European Council.

Within the EU, researchers pay particular attention to the EU Regulation (Law) on Artificial Intelligence (Chatterjee & Sreenivasulu, 2021; Gallese Nobile, 2023). Many studies focus on actions taken under the auspices of the Council of Europe, which operates a fairly effective regional human rights protection system based on the European Convention on Human Rights and Fundamental Freedoms of 1950 (ECHR) (Cataleta & Cataleta, 2020). Researchers believe that the EU Regulation, which is the first attempt to regulate the issue of artificial intelligence, and the Council of Europe Convention on Artificial Intelligence will influence the case law of the European Court of Human Rights (ECHR) in this area. (Sarikakis, et al., 2018)

This study aims to comprehensively analyse how various legal instruments address the growing threats to human rights arising from the rapid development and application of AI-based technologies. The research specifically focuses on identifying and comparing the differences and similarities between existing legal standards and frameworks related to AI technologies. Particular attention is given to how these standards respond to potential human rights violations, including issues of privacy, discrimination, and autonomy. Furthermore, the study also examines the future significance of these legal approaches, evaluating their adaptability and effectiveness in mitigating risks associated with increasingly sophisticated AI innovations.

B. METHODS

A mixed approach combining source analysis and the case-study method was selected to achieve the stated goal. The research was conducted in several stages in 2024.

Stage 1: At this stage, the authors selected information sources (legislative acts, monographs, articles from scientific journals) necessary for achieving the research goal.

Stage 2: The primary research method was the case-study method, which studied a particular case's specific features and complexities. The resulting multiple case study, "Artificial Intelligence and Human Rights in the Context of International Law," included components dedicated to analysing EU law and the legislative initiatives of the Council of Europe in the context of human rights protection in the use of artificial intelligence.

C. RESULTS

The analysis of scientific sources and the legal framework suggests that the key legal instruments regulating the use of AI in the context of human rights protection are the legislative initiatives adopted in the European Union (see Table 1).

Table 1. Key legal instruments regulating the use of AI in the context of human rights protection

Legal Entity	**Main Legal Instrument**
European Union	EU Regulation (Law) on Artificial Intelligence, adopted by the European Parliament on March 13, 2024, and approved by the Council of the EU on May 21, 2024 (Regulation (EU) 2024/1689, 2024)
Council of Europe	Framework Convention on Artificial Intelligence, Human Rights, Democracy, and the Rule of Law, adopted on May 17, 2024, by the Committee of Ministers of the Council of Europe during its 133rd session in Strasbourg. Open for signing from September 5, 2024 (Council of Europe Framework Convention on Artificial Intelligence, 2024)

Source: Author's own research.

Case Study 1. Artificial Intelligence and Human Rights in European Union Law

The EU has undertaken numerous legislative initiatives related to the phenomenon of AI. For example, in October 2020, the European Parliament adopted a series of resolutions concerning artificial intelligence, including ethical aspects, responsibility, and copyright. Also noteworthy is the draft AI Liability Directive (AILD), adopted by the European Commission on September 28, 2022 (Liability Rules for Artificial Intelligence, 2023). This directive complements the EU's civil liability system by introducing rules on damages caused by AI systems. This directive aims to provide greater protection for victims of AI systems by simplifying the filing of compensation claims and supporting the AI sector.

The EU Regulation (Law) on Artificial Intelligence (hereinafter- the Regulation), which establishes harmonised rules in the field of AI and amends

certain legislative acts, was adopted by the European Parliament on March 13, 2024, and approved by the Council of the EU on May 21, 2024. This Regulation can be considered groundbreaking and innovative. The primary goal of adopting the EU Regulation on AI is to ensure the proper functioning of the EU internal market by defining harmonised rules for using AI technology. The Regulation addresses the risks associated with taking uncoordinated actions in this field at the national level, primarily related to the potential fragmentation of the internal market and a reduction in legal certainty about how existing and new rules will apply to such systems.

The preamble to the Regulation states that the proposed law will enhance and promote the protection of rights enshrined in the EU Charter of Fundamental Rights (hereinafter – the Charter). These rights include human dignity, respect for privacy, personal data protection, non-discrimination, and gender equality. Another goal is to prevent restrictions on the right to freedom of expression and assembly, ensure the protection of the right to an effective remedy, access to an impartial court, and the right to defence and the presumption of innocence.

Equally important, the Regulation governs the development of AI systems regarding the risks they pose to health, safety, or fundamental human rights. The Regulation adopts a risk-based approach, distinguishing between AI applications that present (i) unacceptable risks, (ii) high risks, and (iii) low or minimal risks. Depending on the level of risk, the Regulation introduces different obligations for AI developers (suppliers) and users.

Section II includes a list of prohibited actions covering all AI systems whose use is unacceptable due to their contradiction of fundamental human rights. The ban applies to systems that:

1) Are based on cognitive-behavioural manipulations, such as voice-activated toys that encourage children to engage in dangerous behaviour;
2) Involve the use of social classification of individuals based on behaviour, socio-economic status, or personal characteristics;
3) Real-time and remote biometric identification systems, such as facial recognition systems.

Section III of the Regulation contains specific provisions concerning AI systems that pose high health, safety, or fundamental human rights risks. According to the Regulation, there are two main categories of high-risk AI systems:

1) AI systems intended for use as safety-related components of products subject to pre-market conformity assessment by third parties;

2) Other autonomous AI systems primarily affecting fundamental rights are explicitly listed in Annexe III of the Regulation. The list of high-risk AI systems includes limited systems for which the risk has already materialised or may materialise shortly. To ensure that the Regulation can adapt to new AI use and applications, the Commission may expand the list of high-risk AI systems used in specific predefined areas, applying criteria and risk assessment methodology.

The Regulation assigns an important and strategic role to human oversight in the management and operation of high-risk AI systems. In particular, Article 14 of the Regulation emphasizes that such systems must be carefully designed and developed with built-in features that facilitate effective human supervision. This includes the integration of appropriate human-machine interface tools that enable individuals to continuously monitor, intervene, and, if necessary, override system operations during use. The goal is to ensure that humans remain actively involved in decision-making, maintaining accountability, safety, and trust in deploying high-risk AI technologies across various sectors.

AI systems categorized as having limited risk are nonetheless required to meet minimum transparency requirements to ensure user awareness and protection. These transparency obligations are crucial so that users are adequately informed about the nature and functioning of the AI system they interact with. After engaging with such applications, users should be able to make well-informed decisions about continuing their use. Examples of these AI systems include technologies that generate, modify, or manipulate images, audio, or video content—most notably deepfakes—which could otherwise mislead or deceive without clear disclosures.

Meanwhile, generative AI, such as ChatGPT, must meet transparency requirements. Obligations for transparency will apply to systems that (i) interact with people, (ii) are used for detecting emotions or determining associations with (social) categories based on biometric data, or (iii) generate or manipulate content (deepfake technology). Minimal risks associated with AI technologies include applications such as spam filters or AI-based video games. It is proposed that regulation in these areas should primarily rely on voluntary codes of conduct.

The Regulation also provides that individuals must be informed when interacting with an AI system or when their emotions or characteristics are being recognized by automated means. However, suppose an AI system is used to create images, sounds, or video content that closely resemble authentic content, or to manipulate such images, sounds, or video content. In that case, it is mandatory to disclose that the specific content was created by automated means,

except in exceptional situations related to legitimate purposes (such as law enforcement or freedom of expression). This allows individuals to make an informed choice or opt out of the situation.

Case Study 2. Artificial Intelligence and Human Rights in the Legislative Initiatives of the Council of Europe

Some legislative initiatives in human rights have also been undertaken within the Council of Europe. It is important to recall that all member states of the Council of Europe have ratified the European Convention on Human Rights, which is Europe's primary and most important human rights treaty.

The Framework Convention on Artificial Intelligence, Human Rights, Democracy, and the Rule of Law (hereinafter referred to as the Convention) was developed by the Committee on Artificial Intelligence, established within the Council of Europe in 2021. Its task was to "develop a legal instrument for the design, development, and use of artificial intelligence systems based on the Council of Europe's standards in the areas of human rights, democracy, and the rule of law, as well as promoting innovation."

A unified working draft of the Convention, based on the Council of Europe's standards in human rights, democracy, and the rule of law, was published in July 2023. On May 17, 2024, the Convention was adopted by the Committee of Ministers of the Council of Europe, and from September 5, 2024, it was open for signing. Subsequently, countries (and the EU) must ratify it per their national legislation. After this, the Convention will officially come into force.

The preamble of the Convention emphasizes "the need to ensure respect for human rights as enshrined in the 1950 European Convention for the Protection of Human Rights and Fundamental Freedoms, as well as in other applicable international human rights treaties." It also refers to the 1981 Council of Europe Convention for the Protection of Individuals about Automatic Processing of Personal Data and its amending protocols. Thus, the new Convention is integrated into existing human rights protection obligations.

According to Article 1, Section 1 of the Convention, it establishes "certain fundamental principles, rules, and laws, aimed at ensuring that the design, development, and use of systems based on artificial intelligence fully respect human rights, the functioning of democracy, and the rule of law." Notably, paragraph 1 of this document mentions the creation of a monitoring mechanism to ensure compliance with the provisions of the Convention.

Article 4 defines the Convention's scope of application, which states that it applies "to the design, development, and application of artificial intelligence systems, used in contexts, including issues related to the respect of human rights, the functioning of democracy, and the rule of law." Moreover, the Convention applies to such systems throughout their entire lifecycle, regardless of whether public or private organisations conduct the activity.

The provisions of the Convention are formulated at a relatively high level of generality; they establish general principles rather than detailed rules. An example of such a general provision is Article 6 of the Convention, which defines the requirements for respecting human rights. According to Article 6, each state party must take measures aimed at "minimising and, to the extent possible, preventing any unlawful harm or violations of human rights and fundamental freedoms that may arise from the improper use of artificial intelligence systems by public authorities."

Similarly, the requirement to preserve personal freedom, human dignity, and autonomy, outlined in Article 9 of the Convention, states that countries must take the necessary steps to protect individual freedom, human dignity, and autonomy, particularly the ability to make informed decisions, free from improper influence, manipulation, or harmful consequences that may negatively affect the right to freedom of expression and assembly, as well as the exercise of other relevant human rights and fundamental freedoms due to the misuse of AI systems.

Chapter III "Use of Artificial Intelligence Systems in the Provision of Goods, Objects, and Services" also outlines several principles concerning the protection of individual freedom, human dignity, and autonomy (Article 9), access to public debates and inclusive democratic processes (Article 10), and protection of public health and the environment (Article 11).

Taking into account the aforementioned Article 9, the obligation of the state party is formulated, as in other provisions, as an obligation "to take the necessary measures." For example, the obligation to protect public health and the environment requires individual countries to take necessary actions "to protect the health of the population and the environment in the context of the use of artificial intelligence systems."

Chapter IV outlines the key principles of the design, development, and use of AI systems, including equality and combating discrimination, privacy and personal data protection, legal responsibility, transparency and oversight, safety of innovation, and public safety.

The Convention includes a separate chapter (V) on measures and safeguards ensuring accountability and the possibility of compensation. It introduces an obligation for each state party to take measures to ensure the possibility of compensating any unlawful harm or violation of human rights and fundamental freedoms arising from the use of AI systems, through the registration and archiving of AI usage, which will be made available to users of these systems. The state must also ensure effective mechanisms for compensating damages in such cases.

The previously mentioned implementation mechanism, regulated by Chapter VII, provides, among other things, that states parties must create or designate national supervisory bodies responsible for overseeing compliance with requirements related to risk assessment and the impact of AI systems.

D. DISCUSSION

The analysis of the case studies suggests that the importance of the Regulation lies in the fact that it establishes harmonised rules for the development, marketing, and use of AI within the EU, preventing the development of uncoordinated national rules in this area. It should also be noted that the Regulation does not replace, but partially duplicates the protection provided by the General Data Protection Regulation (GDPR) (Need for democratic governance of artificial intelligence, 2020). However, its scope is broader and not limited to personal data.

However, the Regulation has faced criticism for being overly broad in its scope. It covers systems developed using any of the approaches listed in Annex I (machine learning, knowledge-based logical approaches, or statistical approaches), which may generate outputs such as content, predictions, recommendations, or decisions affecting the "environment with which they interact" (Article 3(1) and Annex I). This raises concerns that the regulation may be too broad and cover much of the software used and developed today. There are also assumptions that the restrictions imposed on AI usage could lead to eliminating important types of software. As noted in (Sarikakis et al., 2018), such disputes are, in fact, academic in nature, while the operational consequences of the regulation primarily concern AI technologies classified as high-risk AI technologies, which are relatively precisely defined.

On the other hand, when evaluating the Convention, it is important to focus on the relatively general formulation of obligations for state parties, which is associated with the framework nature of the principles in the Convention

compared to the more detailed provisions of the Regulation. The framework nature of the provisions may create problems when monitoring their implementation at the national level. Although the Convention adopts a general definition of "artificial intelligence systems," it does not provide nuances regarding applying the Convention's provisions to different AI systems based on the risks they present. In this respect, the approach used in the Regulation, which is based on risk analysis and differentiation of AI applications by their risk levels, seems much more suitable.

Both laws, the Convention and the Regulation, were developed to ensure proper compliance with human rights standards in the era of rapid development of AI systems. However, it is worth noting that while the Convention imposes general obligations on states, the Regulation imposes specific obligations on individuals and legal entities. Also, it is important to note that the Convention introduces requirements that guarantee the right to control decisions made by AI systems, as well as the requirement to provide each person with the opportunity to interact with a human in addition to or instead of the AI.

E. CONCLUSIONS

The analysis of the most important rules concerning AI currently created in the EU and the Council of Europe characterizes them as relatively advanced internationally. The EU AI Regulation and the Council of Europe Framework Convention should be evaluated as legal acts of an innovative nature, on the one hand, and as regulatory acts on AI at the supranational level, on the other. Their fundamental significance lies in the fact that they introduce specific guarantees for protecting individual rights from threats that may arise to these rights due to the unrestricted development of AI-based technologies. From the perspective of identifying such threats, the EU AI Regulation stands out because it relatively precisely defines the risks associated with developing AI technologies. The Framework Convention introduces a definition of AI but does not distinguish between different risk levels associated with AI development, as the Regulation does. An important feature of the Framework Convention is the introduction of numerous obligations for state parties regarding AI. At the same time, the Regulation imposes specific obligations on individuals and legal entities, particularly suppliers of AI-based technologies.

The discussed regulations play a crucial role in protecting individual rights from threats posed by rapidly developing AI technologies. Therefore, their practical implementation at the national level in EU countries will be critical in

developing similar solutions at the level of general international law. A promising avenue for further research could be the analysis of the European Court of Human Rights' precedent-setting practice regarding the use of AI.

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