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РОЗДІЛ 3. ТРУДОВЕ ПРАВО І ПРАВО СОЦІАЛЬНОГО ЗАБЕЗПЕЧЕННЯ; АДМІНІСТРАТИВНЕ ПРАВО І АДМІНІСТРАТИВНИЙ ПРОЦЕС; ФІНАНСОВЕ, ІНФОРМАЦІЙНЕ, ЗЕМЕЛЬНЕ ПРАВО

ЕТИЧНІ ТА ПРАВОВІ ПЕРСПЕКТИВИ ЗАСТОСУВАННЯ ШТУЧНОГО ІНТЕЛЕКТУ В УКРАЇНІ

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ETHICAL AND LEGAL PERSPECTIVES OF ARTIFICIAL INTELLIGENCE APPLICATION IN UKRAINE

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Анотація. У статті розглядається питання перспектив застосування штучного інтелекту. Зазначено, що на сьогодні зберігається тенденція щодо складності перевірки роботи систем штучного інтелекту на відповідність правовим нормам та існуючим етичним принципам. Це ускладнено також відсутністю єдиних підходів, що застосовуються при визначенні критеріїв етичності під час розроблення та використання технологій штучного інтелекту. Відповідно, у статті проаналізовані міжнародні правові акти з питань права та етики застосування штучного інтелекту у порівнянні з діючими вітчизняними нормами. Проаналізовано дослідження іноземних науковців, на підставі яких виявлено цілу низку етичних проблем, які можуть виникати при розробці та застосуванні програми штучного інтелекту, що може привести до різного роду правових конфліктів та спотворення моральних надбань людства. Відповідно, вбачається вірним розроблення Етичного кодексу застосування штучного інтелекту в якому пропонується розмежувати моральні принципи для створювачів штучного інтелекту та його користувачів. У статті визначені принципи, на яких має ґрунтуватися Етичний кодекс застосування штучного інтелекту. Акцентується увага на тому, що не дивлячись на коло позитивних можливостей штучного інтелекту, для суспільства більш важливою стоїть питання про запобігання шкоди

людині та її правам. Приналежно, з розробкою Етичного кодексу застосування штучного інтелекту, необхідно прийняти певні правові документи (наприклад, Інструкції з розробки штучного інтелекту для кожного з певних цілей використання, Інструкції з організації та застосування штучного інтелекту тощо). Відповідно, у статті наводяться деякі положення щодо їх змісту.

Ключові слова*: штучний інтелект, етичність, право, права людини.*

Формул*: 0; рис.: 0, табл.: 0, бібл.: 18.*

Abstract*. The article examines the prospects for the use of artificial intelligence. It is noted that today there is a tendency towards the difficulty of checking the operation of artificial intelligence systems for compliance with legal norms and existing ethical principles. This is also complicated by the lack of uniform approaches in determining the criteria of ethics in the development and use of artificial intelligence technologies. Accordingly, the article analyzes international legal acts on the law and ethics of artificial intelligence application in comparison with current national norms. The author analyzes the research of foreign scholars, which revealed a number of ethical issues that may arise in the development and application of artificial intelligence software, potentially leading to various legal conflicts and distortion of the moral heritage of mankind. Consequently, it seems appropriate to develop an Ethical Code of Artificial Intelligence Application, which proposes distinguishing between moral principles for creators of artificial intelligence and its users. The article defines the principles on which the Ethical Code of Artificial Intelligence should be based. The author emphasizes that despite the range of positive possibilities of artificial intelligence, the issue of preventing harm to humans and their rights is more important for society. In conjunction with the development of the Ethical Code of Artificial Intelligence Application, certain legal documents should be adopted (e.g., Guidelines for the Development of Artificial Intelligence for each of the specific purposes of use, Guidelines for the Organisation and Application of Artificial Intelligence, etc.). Accordingly, the article provides some provisions on their content.*

Keywords*: artificial intelligence, ethics, law, human rights.*

Formulas*: 0; fig.: 0, tabl.: 0, bibl.: 18.*

Problem Statement. Despite the rapid development of artificial intelligence and its use in various industries, the ethical issue of its application remains controversial. This raises the question of whether artificial intelligence algorithms can affect justice in resolving legal conflicts.

Relevance of the Research Topic. Today, the topic of artificial intelligence is relevant in all fields of science. This is due to the complexity of verifying the compliance of artificial intelligence systems with the law and existing ethical principles, as well as the lack of uniform approaches used to determine the ethical criteria for the development and use of artificial intelligence technologies. Lawyers, in particular, are focusing on this topic, especially given the current need to identify new criteria for «transparency» and «fairness» in law. It is clear that the power of artificial intelligence capabilities will only grow over time, creating new opportunities for users. Thus, the issue of determining the ethics of using artificial intelligence as an assistant in resolving legal conflicts is highly relevant.

The Purpose and Objective of the Article. The purpose of this article is to clarify the ethics of using artificial intelligence in resolving legal conflicts.

Analysis of the Latest Research and Publications. In the scientific community,

the issue of the law and morality of artificial intelligence application is considered by many legal scholars, including recent works by O. Turut, O. Turut («Artificial Intelligence through the Prism of Fundamental Human Rights», 2023); Y. Karpenko («Ethical Principles of Artificial Intelligence Application in Public Administration», 2019), etc. Fragments of ethical applications of artificial intelligence can also be traced in the works of domestic scientists: O.V. Plakhotnik, O.V. Bugay, O.I. Shvyrkov, A.V. Zhuk, Y.V. Karpenko, T.A. Shevchuk, T.V. Shevchenko, Y.V. Svystun, T.G. Katkova, O.E. Radutnyi, Y.V. Karpenko, etc.

Presentation of the main material. Ethical reflection on various aspects of Internet life began from the moment of its inception. Even then it became clear that a number of the most important features of Internet use would inevitably lead to crisis phenomena in the sphere of public morality. It was the Internet as a kind of free space that allowed millions of people to initially see in it the possibility of additional freedom, including from social control and moral requirements [1, c.152]. Today, the issue of the ethical application of artificial intelligence in the field of law is guided by a relevant document from the European Commission on the Efficiency of Justice of the Council of Europe – the European Ethical Charter on the Use of Artificial Intelligence in Judicial Systems and their

Environment [2]. The European Commission for the Efficiency of Justice, as set out in the Charter, views the application of AI in the field of justice as a means to improve efficiency and quality. However, it must be implemented in a responsible manner that complies with the fundamental rights guaranteed, in particular, by the European Convention on Human Rights (ECHR) and the Council of Europe Convention on the Protection of Personal Data. For the CEPEJ, it is essential to ensure that AI remains a tool serving the general interest and that its use respects individual rights. According to this document, the ethical principles of the use of artificial intelligence pertain to the administration of justice and emphasize the obligation to strictly observe fundamental human rights when using artificial intelligence. In this regard, the document outlines the use of artificial intelligence to identify questionable practices of judges by analyzing the texts of court decisions and other information contained in computerized systems and registers in the administration of justice. The ethics of artificial intelligence also address the issue of discrimination (in the sense of preventing any discrimination between individuals or groups of people) in relation to the processing of court decisions [3].

According to the Concept of Artificial Intelligence Development in Ukraine, the primary objective of state policy in the legal regulation of artificial intelligence is to ensure the protection of the rights and freedoms of participants in AI-related relations, and to promote the development and use of AI technologies in accordance with ethical standards. However, challenges persist due to the difficulty in verifying AI systems' compliance with laws and ethical principles, alongside the absence of uniform approaches to defining ethical criteria across different industries [4].

These strategies align closely with the principles outlined in the White Paper on Artificial Intelligence: A European Approach to Excellence and Trust (2020), which emphasizes the safety of AI and its societal benefits. The use of AI aims to uphold the values and rights of EU citizens [5]. Consequently, Ukrainian legislation necessitates specific amendments, particularly in ethical standards. There is an urgent call to establish an AI Code of Ethics involving a wide range of stakeholders, as also outlined in the national Concept [4].

However, implementing ethical standards faces numerous challenges. For instance, researchers (Cummings and Beilenson, 2016) rightly point out the absence of a standardized implementation of virtual reality. Virtual environments integrate various functions and technologies to achieve specific goals or solve particular tasks [6]. Consequently, these researchers noted that current laws do not align with ideal technological development [7].

Artificial intelligence operates based on human programming, highlighting the need for further development of ethical rules and responsibility in its creation. This concern is underscored by studies revealing racial biases in AI systems, such as their propensity to identify repeat crimes among accused individuals. LinkedIn's advertising program showed a preference for male names in searches, while Microsoft's chatbot Tay, after a day on Twitter, began spreading anti-Semitic messages [7]. These studies expose a range of ethical issues AI applications can create, potentially leading to immoral corrections and distorting mankind's moral achievements. Scholars also stress that: «Viewed comprehensively, AI can pose risks to individuals and entire societies. It can impact fundamental societal values, potentially violating individual rights such as informal self-determination, privacy, personal data protection, freedom of expression and assembly, non-discrimination, rights to an effective judicial remedy and a fair trial, as well as consumer protection» [8].

We fully agree with Bryson's assertion: «People expected AI to be unbiased; that's just wrong. If the underlying data reflects stereotypes or if AI is trained from human culture, these biases will be reflected» [7]. These concerns have prompted the creation of the EU Artificial Intelligence Act - the first comprehensive regulation on AI by a major regulatory body anywhere (2024), aimed at addressing existing risks within AI systems [9]. Scientists have also observed that current laws do not adequately meet the «ideal» application of artificial intelligence [10]. In essence, the development of technology is forging its own path.

In Ukraine, the risks associated with the introduction of artificial intelligence, both known and unknown, are being addressed by the Ministry of Digital Transformation of

Ukraine and studied by the National Academy of Sciences of Ukraine. The Academy's primary areas of scientific activity include researching and solving general theoretical and applied problems of artificial intelligence [11]. The main tasks today include ensuring the observance of human and civil rights and freedoms, as well as their protection during the use of artificial intelligence technologies and addressing the ethical challenges that arise. In this regard, scientists have proposed principles to guide the development of a Code of Ethics for artificial intelligence systems, such as usefulness, legality, transparency, stability, and responsibility [12, pp. 95-96]. Furthermore, it seems essential to introduce the principle of human centricity, which suggests that AI should not provide definitive solutions to cases or legal conflicts but should function as an auxiliary tool for decision-making.

In addition, it seems appropriate to differentiate in the Code of Ethics between principles for creators of artificial intelligence and users. Ethical principles should primarily serve as a concentrated expression of the most important values outlined in the European doctrine of human rights and freedoms within a specific legal system. These foundational values should encompass the ethical framework of the entire society and be integrated into the development and enhancement of artificial intelligence systems – comprising semantic guidelines and procedural standards. Therefore, the principle of unconditional respect for human dignity should be embedded in the development of the Code of Ethics for the Application of Artificial Intelligence, aiming to prevent any intent to divide humanity based on nationality, race, socioeconomic status, religion, etc.

The utilization of artificial intelligence in legal disputes, in this context, should not be arbitrary but rather rigorously governed by specific algorithms of action: identifying typical or atypical situations, conducting complex mathematical calculations, statistical sampling, identity verification, etc. For instance, as observed by researchers, artificial intelligence should «abstract from irrelevant circumstances, facts, documents, and other evidence not pertinent to the subject matter of the dispute» [13, p. 154]. However, it's important to note that developers of artificial intelligence often lack knowledge of

procedural law, making it challenging to teach a machine to discern relevance in specific legal conflicts. Simultaneously, employing artificial intelligence in economics and intellectual property protection can expedite the accurate detection of legal abuses, focusing on products, service marks, works, etc., rather than individuals.

It is worth noting that the world is increasingly embracing «life simplification,» viewing it as essential to support the development of devices and applications that facilitate this goal [14]. The delegation of decisions and tasks to artificial intelligence appears to streamline human time and resources overall. However, society must prioritize avoiding harm to individuals and their rights. The United Nations has already recognized the risks associated with artificial intelligence and voiced concerns. UN High Commissioner for Human Rights Michelle Bachelet (2021) has called for a global moratorium on the use of AI technologies in cases where they violate human rights. Specifically, AI applications that should be prohibited include systems used by certain states to monitor individuals' activities, as well as tools that categorize individuals based on characteristics such as nationality or gender [15]. Similar concerns are echoed by other researchers who perceive this «life simplification» as a potential future threat [16]. For example, researchers at the Ukrainian Centre for Democracy and Rule of Law have observed negative consequences in many countries (such as the UK, China, Colombia, India, etc.) due to the use of AI in judicial systems. They highlight that AI generates text based on statistical patterns within educational materials, rather than conducting fact-checking or verification. Consequently, if there are inaccuracies or errors in the training data, AI may replicate these mistakes [17]. This study aligns closely with the Council of Europe's Opinion (2020) «Access to Justice - Harnessing the Power of Digitalisation,» which warns that AI's use in the justice sector could reinforce existing discrimination and opaque decision-making processes, potentially violating fundamental human rights such as liberty, non-discrimination, privacy, and fair trial. According to this document, AI should not compromise judges' decision-making autonomy or impartiality [18].

Thus, Ukrainian legislation needs to

develop an Ethical Code for the Application of Artificial Intelligence that adheres to the principles outlined in the Ethical Charter on the use of artificial intelligence in the judiciary and its environment. These principles include: respect for fundamental human rights; non-discrimination, ensuring no discrimination occurs between individuals or groups; quality and security in processing court decisions and data within a secure technological environment; the principle of «user control,» where all procedural aspects, capabilities, and functions of artificial intelligence should be clearly articulated in language compliant with Article 6 of the European Convention on Human Rights; transparency, impartiality, and fairness [19]

In addition to the above, it seems necessary to adopt specific legal documents in Ukraine, such as: guidelines for the development of artificial intelligence for each specific use case, regulations on the organization and application of artificial intelligence, etc. These legal measures should include the following provisions: defining the goals of artificial intelligence use; outlining a clear set of tasks for artificial intelligence; ensuring transparency and voluntary consent in its deployment; ensuring objectivity in decision-making by officials based on AI-generated results; implementing inspections and monitoring to improve AI efficiency; introducing measures to prevent and detect risks of corruption and misuse in AI applications.

Furthermore, the outcomes of artificial intelligence should not: form the basis for legal consequences; be the sole foundation for administrative and managerial decisions; or serve as conclusive evidence in legal cases, etc. Therefore, data obtained through artificial intelligence should be used strictly for informational purposes, characterized as «probable» or «indicative». This approach aims to safeguard fundamental human rights, which serve as the cornerstone of the rule of law. It underscores not only the shared responsibility between individuals and the state but also protects people from undue reliance on artificial intelligence.

Conclusions. Despite its ability to process large amounts of information quickly and its powerful data matching and analysis capabilities, artificial intelligence will never replace humans. The development of artificial intelligence is based on self-improvement, making the ethical and legal boundaries of its use an important and pressing issue. Therefore, it is necessary to separate the Code of Ethics for the Application of Artificial Intelligence into rules applicable to its creators and separately to its users.

Furthermore, Ukraine needs to adopt specific legal documents that regulate the development and usage of artificial intelligence, alongside establishing appropriate standards for its application. These guidelines will provide a basis for legal oversight over both producers and users of artificial intelligence. Moreover, legal principles should uphold human rights and ethical norms within society.

The limits of artificial intelligence should be defined by legal norms. Consequently, information generated or received by users should not serve as evidence in legal cases or be considered a «final solution». Data obtained from artificial intelligence should only serve as guidance to ensure the safety and uphold the trust of individuals in their rights and fundamental freedoms as proclaimed by the state.

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ОСНОВНІ ДОСЯГНЕННЯ І НЕДОЛІКИ ПРАВОВОГО РЕГУЛЮВАННЯ СОЦІАЛЬНОГО ЗАХИСТУ У ПОЛЬСЬКІЙ РЕСПУБЛІЦІ (1918-1939 РОКИ)

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MAIN ACHIEVEMENTS AND SHORTCOMINGS OF LEGAL REGULATION OF SOCIAL PROTECTION IN THE SECOND POLISH REPUBLIC (1918-1939)

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