

AI-FACILITATED INTERACTION BETWEEN MAN AND ROBOTICS: ADMINISTRATIVE LEGAL CAPACITY ISSUES

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Abstract

Given the newly developed segments of the robotics market, and the application of AI-based unmanned control technologies, questions are on the rise with regard to administrative-legal responsibility for offenses that are committed with AI application. This thesis takes on an increasingly serious profile, taking into account the various approaches to determining the legal personality of AI in legal science and the practice of law enforcement. AI personality is referred to, in some cases, as a separate legal, electronic, physical or other type of person, or as an “agent” for fulfilling human orders. In view of the above ambiguous approaches to determining the legal personality of AI and the procedure for regulating public relations in the mentioned field, the relevance of the chosen topic seems to be obvious.

The theoretical basis of the research includes international regulatory acts, legislative and regulatory acts of individual countries, commonwealths, judicial precedents and decisions, by-laws, individual acts issued by authorities of various countries, research works in the field under study.

The object of study is administrative-legal relations arising from the fact of the adoption and use of robotics with AI technology.

The subject of the study is the norms of international law, regulatory legal acts of individual countries, judicial decisions and orders, the decision of individual authorities in the field of administrative and legal relations with the participation of robotics with AI technology.

The aim of the study is to specify the scenario approach to determining the legal personality of robotics in public relations and to identify the safest instruments to harmonize approaches to regulation of the phenomenon under study and further integration thereof into domestic practice.

The research methodology includes an analysis of the legislation and regulations of various countries, academic monographs and doctoral studies in the field of regulation of AI turnover and robotics.

In addition, the issues covered under this article are considered within didactic dimensions, i.e. with regard to teaching a discipline on the administrative and legal regulation of AI at RUDN University MA courses.

The results of the study are relevant for doctrinal legal studies, for law-making practice and relevant laws implementation.

Keywords: artificial intelligence, legal personality of AI, legal modeling of evolution of AI status.

1 INTRODUCTION

The issues of the separate legal personality of AI and the need to develop separate legal structures are reflected at the level of doctrinal prerequisites (Willick 1983), at the level of legislative initiatives of the EU (Civil Law Rules on Robotics, 2017), and a number of eastern countries (Cristina, 2017).

This approach and the speed of intensification of scientific and technological progress gives rise to various

constructions in the field of modeling legal approaches to determining the boundaries and framework of AI in legal relations with a person.

Thus, this issue becomes not only relevant, but also necessary both for lawmaking practice and for administrative-legal (public) regulation.

The goal of this study is to identify positive and negative aspects in the application of various constructions of the legal personality of AI and further modeling of social relations as a result of the implementation of various approaches.

Within the framework of the above goal, **research tasks** aim to study doctrinal instrumentation and practical cases with regard to determining the legal personality of AI, namely, to consider AI as an object and subject of law.

The research methodology integrates comparative legal research, synthesis of the results obtained, the formulation of a number of hypotheses, as well as an interdisciplinary approach to legal modeling and regulatory impact assessment, taking into account the applicable legal structures.

The research materials include legislative data, academic papers on the topic under study, and Internet sources on the issues under consideration.

2 AI AS AN OBJECT OF LAW

Many foreign scientists confirm that the current status of AI is not regulated, and as a result, they are the subject of legal relations.

For example, Čerka, Grigienė, and Sirbikytė (2015) confirm that, due to the lack of a unified approach to determining the legal personality of AI, the provisions of article 12 of the United Nations Convention on the Use of Electronic Communications in International Contracts, which states that a person (whether a natural person or a legal entity) on whose behalf a computer was programmed should ultimately be responsible for any message generated by the machine.

Similar issues are reflected in the writings of another research team, who considers AI as a legal relations object, which is increasingly being challenged in court actions (disputes about patent ownership and compensation issues to consumers of AI products from solution providers based on AI technology) (Perc, Ozer, Hojnik 2019).

Thus, in the current variation of the legal personality of AI it is recommended to use approaches applicable to the object of legal relations.

A number of Russian scholars also believe that the legal personality of a person is universally considered to be something natural, since law was created by man and for man, it has been developed for thousands of years and was based on human needs and characteristics such as the ability to feel and realize what is happening (Dremlyuga & Dremlyuga, 2019).

That is why the main argument against the recognition of artificial intelligence (hereinafter referred to as AI) as a subject of law is the lack of some fundamentally important elements of the legal personality inherent in man, namely the soul, consciousness, mind, desires and interests, but only imitates them.

The application of this approach in the current legal systems of various countries is due to the extremely low autonomy of AI and the lack of full awareness of AI.

Among the positive qualities of this approach, one can express the already-formed approach of various countries (both public authorities and the judiciary) in resolving disputes regarding legal relations related to AI.

At the same time, this approach already needs additional initiatives to form additional instruments of state control (in the absence of market self-regulatory mechanisms accepted by authorities).

In addition, the development of unified approaches to legal relations related to AI is already necessary, since in a number of countries AI is a subject of law and in this case a significant legal conflict with undefined legal approaches is inevitable.

3 AI ACTING AS A SUBJECT OF LAW

In this subsection, various approaches to determining the legal personality of AI are considered, taking into account law enforcement practice and the doctrinal and theoretical framework.

3.1 AI Endowed with a “Human” or “Equivalent” Legal Personality

In the continuation of the heterogeneity in determining the legal personality of AI, the current practice of Saudi Arabia and Japan should be subject for consideration.

In the case of Saudi Arabia, the following legal situation should be noted.

During the forum on “Investing in the Future,” held in Riyadh, in 2017, news was announced that Robot Sofia, who poses as a woman, has Saudi Arabian citizenship (Alloway, 2017).

It should be noted that as a result of granting citizenship to the robot, there is a conflict of a number of laws that determine the behavior model of legal entities in various conditions, ranging from citizenship status to the potential risks of a “limited” AI entering the right to participate in public authorities.

A similar case is present in Japan, where in November 2017 a residence permit was granted to the chat bot Shibuya Mirai (TOKYO AFP, 2017), which is supposed to introduce the authorities to the 224,000 residents of the region and establish interaction between the population and the authorities.

It should be noted that both cases caused an ambiguous social and legal assessment not only among professional jurists, but also among the population.

A case with a robot Sofia shook the fundamentals of Saudi Arabia’s legislation regarding the way to exercise the right to move, namely moving a woman’s robot without a hijab, traveling unaccompanied by a man’s relative, using loopholes of citizenship legislation with a multimillion-strong army of labor migrants with significant limited rights (Zunger , 2016; Bradford, 2017).

Among the supporters of applying the legal personality approach to AI by analogy, a number of researchers can be mentioned.

Thus, Kakoudaki (2014) and Turkle (2011) believe that ancient Roman slavery rules can be the basis for providing AI robots with legal responsibility.

Moreover, Oleksiewicz and Mustafa (2019) consider that the application of slave laws to robots is a manifestation of an anthropocentric approach, and such treatment of a rational creature (implied by AI) is possible only on a parity basis, that is, by endowing the AI with legal capacity identical or equal to human.

Nevyans (2016) at the same time disputes the possibility of highlighting human personality for AI, at the same time, gives the closest analogy on the legal personality of dolphins, which have the ability of consciousness and sensation of feelings.

Considering this approach of AI legal personality, it is necessary first of all to note that this method of regulating public relations is the final point in the development of the regulatory function of the state and the development of the technical potential of AI. At the same time, taking into account the low level of AI autonomy, this approach to applying legal personality by analogy with a person is early to apply and leads to the loss of stability of legal structure at the level of a particular country in particular, and in the world as a whole.

3.2 AI Acting in Legal Relations as a Legal Entity

One of the elegant and effective solutions that cover the current uncertainty in the framework of legal relations related to AI is the construction of “AI - legal entity”.

Many domestic and foreign scientists and practitioners agree on the effectiveness of this concept.

Jacob Turner in his works uses this concept and immediately solves issues of legal responsibility and legal capacity, and also examines the effectiveness of the concept from a position of public supervision and monitoring (Turner, 2019).

Winkler (2018) also uses the concept of a legal entity as a quasi-subject approach in determining the legal personality and legal capacity of AI.

Migle Laukyte develops the practice of applying the legal personality of AI by analogy with corporate law in Canada and successfully implements the principles of legal personality in the context of ethical issues and European and Canadian legislation (Laukyte, 2019)

Russian lawyer-practitioner (Lex Borealis senior lawyer) Alexander Tyulkanova also focuses on the legal validity of the legal structure “AI is a legal entity, but she focuses on the fact that when assigning AI to legal entities, the issue of evading civil liability arises (Shustikov V., 2017).

The above mentioned concept and approach bear positive prospective as they provides the most universal framework to defining legal boundaries in relation to rights and obligations, and also solve the issues of control and self-regulation of the AI market.

At the same time, this design cannot be sustainable in the long term, because if robots are fully autonomous using artificial intelligence, it will be necessary to study the issue of autonomy of responsibility for already reproducible actions (reproduction of a robot by a robot and the issue of assigning further responsibility and licensing). In addition, far from all countries of development, the legal structure of a legal entity to integrate the approach proposed by the authors, without devastating consequences for the recreated system of law.

4 AI ACTING IN LEGAL RELATIONS AS A NEW SUBJECT OF LEGAL RELATIONS OF AN “ELECTRONIC” PERSON

One of the alternative ways in the area of highlighting the legal personality with the subsequent allocation of a separate status is the approach of creating a new category of persons - an electronic person.

One of the founders of this approach is Russian lawyer Oleg Yastrebov, who emphasizes the need for a clear conceptual separation between the electronic person, AI and the robot, identifying the necessary criteria, etc. (Yastrebov, 2018).

A complement to this theory is reflected in the research of Morhat (2018). He claims that AI will have not only rights, but also responsibilities. At the same time, the main goal of empowering AI units with legal personality is to allow him certain legal consequences of his actions and the opportunity to feel the impact of the legal system (Morhat, 2018).

Similar issues, the need to introduce an “upper-level” design over the current system of law and the introduction of a separate subject of law “electronic face” are also confirmed by Italian scientists (Pagallo, 2018).

It should be noted that this approach does not have unambiguous positive and negative sides, since the authors do not provide full details in the practical implementation of their approaches, and as a result, full-fledged modeling of these approaches remains at the doctrinal level in the bud.

5 CONCLUSION

Having considered various approaches to determining legal personality at the level of doctrinal and law enforcement practices, the following conclusions can be drawn:

The fragmentation of current approaches in the definition of AI and the principles of legal regulation.

The general approach to the definition of AI as an object of legal relations is not perfect and needs to be further developed.

Giving to AI a full-fledged and equal to human rights ability is an extremely ineffective solution in terms of law, scientific and technological progress.

The allocation of a separate legal capacity by using the design of “AI-legal entity” and further recreation on the basis of “AI-electronic person” may be one of the compromise options for determining the status of AI in the near future.

The results of the study are relevant in a number of areas. First, they contribute to determining the legal personality of AI technology-facilitated robotics as part of the consideration of administrative disputes. Second, the research outcomes cast new light on doctrinal boundaries for robotics with varying degrees of autonomy. Next, the findings help to find optimal paths for the development of the industry by creating the necessary legal support for regulating this fostering segment of the market

The results of the study are of priority importance for corporations and institutions that are stakeholders to the turnover of robotics and AI, state bodies in charge of this sector of the economy, as well as for future lawyers who associate their activities with the field of activities under study.

REFERENCE LIST

Alloway, T. (2017). Saudi Arabia Gives Citizenship to a Robot, available on-line:
<https://www.bloomberg.com/news/articles/2017-10-26/saudi-arabia-gives-citizenship-to-a-robot-claims-global-first>

- Bradford, J. (2017) Solomon's Horses: What are the Legal and Moral Implications for Creating Strong AI in Sharia?, available on-line: <https://www.joebradford.net/solomons-horses-what-are-the-legal-and-moral-implications-for-creating-strong-ai-in-sharia/>
- Čerka, P., Grigienė, J., & Širbikytė, G. (2015). Liability for damages caused by artificial intelligence. *Computer Law & Security Review*, 31(3), 376-389.
- Civil Law Rules on Robotics, European Parliament resolution of 16 February 2017 with recommendations to the Commission on Civil Law Rules on Robotics (2015/2103(INL)), available on-line: <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+TA+P8-TA-2017-0051+0+DOC+PDF+V0//EN>
- Cristina M. (2017) Saudi arabia gives citizenship to a non-muslim english-speaking robot, available on-line: <http://www.newsweek.com/saudi-arabia-robot-sophia-muslim-694152>
- Dremlyuga, P., & Dremlyuga, O. (2019) In Russian: Дремлюга, Р. И., & Дремлюга, О. А. (2019). Искусственный интеллект-субъект права: аргументы за и против. *Правовая политика и правовая жизнь*, (2), 120-125.
- Kakoudaki D. (2014). *Anatomy of a Robot: Literature, Cinema, and the Cultural Work of Artificial Intelligence*. New Brunswick : Rutgers University Press, 2014.
- Laukyte, M. (2019, June). AI as a Legal Person. In *Proceedings of the Seventeenth International Conference on Artificial Intelligence and Law* (pp. 209-213). ACM.
- Morhrat, P.(2018). In Russian: Морхат, П. М. (2018). Юнит искусственного интеллекта как электронное лицо. *Вестник Московского государственного областного университета. Серия: Юриспруденция*, 2, 61-73.
- Nevejans, N. (2016). *European Civil Law Rules in Robotics: Study*. Publications Office.
- Oleksiewicz I., Mustafa E.C.(2019). From Artificial Intelligence to Artificial Consciousness: Possible Legal Bases. For the Human-robot Relationships in the Future. *International Journal of Advanced Research*. 7 (3),254– 263.
- Pagallo, U. (2018). Apples, oranges, robots: four misunderstandings in today's debate on the legal status of AI systems. *Philosophical Transactions of the Royal Society A: Mathematical, Physical and Engineering Sciences*, 376(2133), 20180168.
- Perc, M., Ozer, M., & Hojnik, J. (2019). *Social and juristic challenges of artificial intelligence*. Palgrave Communications, 5(1), 1-7.
- Shustikov V. (2017)- In Russian: Шустиков, В. (2017). Дискуссии юристов в связи с разработкой КиберКодекса в России, available on-line: https://sk.ru/news/b/press/archive/2017/05/25/kollizii-_1c20_prava-robotov_1d20_.aspx
- TOKYO (AFP) (2017) AI 'boy' granted residency in central Tokyo, available on-line:<https://japantoday.com/category/tech/ai-%27boy%27-granted-residency-in-central-tokyo>
- Turkle S. (2011). *Alone Together: Why We Expect More from Technology and Less from Each Other*. New York: Basic Books.
- Turner, J. (2019). Legal personality for AI. In *Robot Rules* (pp. 173-205). Palgrave Macmillan, Cham.
- Willick, M. S. (1983). Artificial intelligence: Some legal approaches and implications. *AI Magazine*, 4(2), 5-5.
- Winkler, A. (2018). *We the corporations: How American businesses won their civil rights*. Liveright Publishing.
- Yastrebov, O. A. (2018). The Legal Capacity of Electronic Persons: Theoretical and Methodological Approaches. *Trudy Instituta gosudarstva i prava RAN*,13(2), 36—55
- Zunger, Y. (2016) *Artificial Intelligence, Talmud, and Sharia*, available on-line: <https://plus.google.com/+YonatanZunger/posts/i8jxZeiYg8q>