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ДВОЙСТВЕННЫЙ ХАРАКТЕР ВЛИЯНИЯ ИСКУССТВЕННОГО ИНТЕЛЛЕКТА НА РЕАЛИЗАЦИЮ ПРАВ ЧЕЛОВЕКА: ЧЕЛОВЕКО-РАЗУМНОЕ И МЕЖДУНАРОДНО-ПРАВОВОЕ ИЗМЕРЕНИЯ

ВВЕДЕНИЕ. *Предметом настоящего исследования являются достижения (результаты) технологий, а точнее – продукты с искусственным интеллектом (ИИ) (интеллектуальная машина; интеллектуальная компьютерная программа и др.) и их влияние на реализацию прав человека через призму человеческого разума и в контексте международно-правового измерения, включая правозащитное измерение.*

МАТЕРИАЛЫ И МЕТОДЫ. *Научное исследование основано на работах как российских, так и зарубежных специалистов в области права, международного права, международного права прав человека, а также специалистов в области регулирования и использования продуктов искусственного интеллекта. Проанализированы документы и материалы международных организаций, прежде всего Организации Объединенных Наций (ООН), а также национальные правовые акты Российской Федерации. При подготовке исследования использовались общенаучные, сравнительно-правовые и специально-юридические методы.*

РЕЗУЛЬТАТЫ ИССЛЕДОВАНИЯ. *В рамках проведенного исследования авторы погружаются в понятие самого термина «искусственный интеллект» и приходят к выводу, что несмотря на его широкое использование специалистами в различных областях, единого определения этого термина на данный момент не существует. Авторы проанализировали национальную правовую базу Российской Федерации, прямо или косвенно регулирующую использование продуктов ИИ, а также международно-правовые достижения в регулировании данной сферы (прежде всего на универсальном (ООН) и интеграционном (Европейский союз) уровнях), уделив особое внимание реализации и соблюдению прав и свобод человека.*

ОБСУЖДЕНИЕ И ВЫВОДЫ. *Авторы пришли к выводу, что природа влияния ИИ на реализацию прав человека двойственна. Уже на начальном этапе определения правового режима разработки и использования продуктов ИИ закладываются слабые механизмы контроля и ответственности в этой сфере. Возникает вопрос: какой правовой режим предпочтительнее для государств, чьи корпорации лидируют в разработке продуктов ИИ. Несмотря на существующие международные механизмы правового регулирования, эта защита все еще недостаточна.*

КЛЮЧЕВЫЕ СЛОВА: *искусственный интеллект (ИИ), международное право, права человека, Организация Объединенных Наций (ООН), правовое регулирование, государства, продукты ИИ*

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THE DUAL NATURE OF THE INFLUENCE OF ARTIFICIAL INTELLIGENCE IN THE IMPLEMENTATION OF HUMAN RIGHTS: HUMAN-MINDED AND INTERNATIONL LEGAL DIMENSIONS

INTRODUCTION. *The subject of this study is achievements (results) of technology, or more precisely, products of artificial intelligence (intelligent machine; intelligent computer program, etc.) and their impact on the implementation of human rights through the prism of the human mind and in the context of the*

international legal, including the human rights dimension.

MATERIALS AND METHODS. *The scientific research is based on the work of both Russian and foreign specialists in the field of law, international law, international human rights law, as well as specialists in the regulation and use of artificial intelligence products. Documents and materials of international organizations, primarily the United Nations (UN), as well as national legal acts of the Russian Federation have been analyzed. In the preparation of the study, general scientific, comparative legal and specifically legal methods were used.*

RESEARCH RESULTS. *Within the framework of the conducted research, the authors delved into the concept of the term "artificial intelligence" itself, and come to the conclusion that despite its widespread use by specialists in various fields, there is no single concept of this term at the moment. The authors analyzed the national legal framework of the Russian Federation directly or indirectly regulating the use of AI products, as well as international legal achievements in the regulation of this area (primarily at the universal (UN) and integration (European Union (EU)) levels), with a special emphasis on the implementation and observance of human rights and freedoms.*

DISCUSSION AND CONCLUSIONS. *The authors came to the conclusion that the nature of the impact of artificial intelligence on the realization of human rights is dual. Already at the initial stage of defining the legal regime for the development and use of AI products weak mechanisms of control and responsibility in this sphere are laid down. The question arises as to which legal regime is preferable for states whose corporations are leading in the development of AI products. Despite existing international legal regulatory mechanisms, this protection is still insufficient.*

KEYWORDS: *artificial intelligence (AI), international law, human rights, United Nations (UN), legal regulation, states, AI products*

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The authors declare the absence of conflict of interest.

1. Introduction

Any analysis, including international legal one, which claims to be perceived as a scientific and fundamental research, presupposes the presence of many properties, including precision and clarity of the key conceptual and categorical apparatuses are used. In this case, this concern, first of all, the definition of the concept of "artificial intelligence" (AI).

It should be noted at once: in spite of the fact that the term "artificial intelligence" (AI) started to be used in science and practice more than 70 years ago, many scientific works of technical and humanitarian profile and interdisciplinary nature [Jastrebov 2018:315-328; Jastrebov 2017:271-283] have been written on it, and almost 1/3 of the UN member states have adopted national laws and strategies on the use of AI, this concept is still interpreted in different ways.

In this term, the word "artificial" is used as the opposite of the word "natural" to emphasize its non-natural origin. This explains, in particular, the titles chosen by researchers for their scientific works [Il'yasov 1986:46-54]. As for the second part of the term – "intellect" [Hawkins, Blakeslee 2016:272] (Latin intellectus), it means "mind", "reason", which is a quality of the psyche [Kholodnaya 1990:121-128], representing one of the human abilities.

The most simplified definition of AI, which is often found in open information sources, is a combination of the results of science and technology in the form of intelligent machines or computer programs. In a broader sense, AI is the result of synergy of technical, scientific and industrial achievements.

Representatives of various sciences favor one or another basis of AI. For example, Serbian researcher S. Brankovic sees in artificial intelligence a way of reasoning and actions not of a human being, but of a computer program based on logic [Brankovic 2017:13-32]. However, any such definition of AI centered on a comparison with human abilities cannot be considered sufficiently satisfactory for psychiatrists, in particular for the Serbian psychiatric scientist who draws attention to the complex construction of the human being, consisting of "intellectual, spiritual, emotional and physical bases" [Jerotic 2017:364].

Clearly, AI is related to the similar challenge of using computers to understand human intelligence, but AI is not necessarily limited to biologically plausible methods. It is also clear that the future of high technology (IT) is AI.

2. The main text

When it comes to AI products, experts identify characteristic attributes and their different types (e. g. "strong AI") with different abilities, allegedly often surpassing human capabilities. This point is reflected in the National Strategy for the Development of Artificial Intelligence for the period until 2030 (approved by Presidential Decree (No. 490) of 10 October 2019 and amended by Presidential Decree (No. 124) of 15 February 2024), in the expression "equal results of human intellectual activity or superior"[1].

Developers are trying to show the ability of AI at least at the level of human intellectual activity. In particular, researchers from Stanford University in cooperation with the NotBadAI group have developed a neural network model (named Quiet – StaR), which pauses before providing answers to queries, imitating human "thinking".

Artificial intelligence products are characterized by such common features as autonomy, cognitive, multimodality, multidisciplinarity [Latypova 2023:63-67; Yeremyan, Yeremyan 2022:85-100] and others. Disclosing these characteristic features, let us note the key ones. Products with artificial intelligence are capable of: learning and optimizing their algorithms independently in the process of work (which allows increasing their efficiency and accuracy); perceiving information, analyzing and compiling it from various sources, building a reasoning on them, and switching from one thought to another, thinking about several things at the same time (cognitive function).

At the same time, it is necessary to distinguish a separate type of AI – generative AI – characterized by autonomy. This type refers to "super-intelligent systems of the future", which can be quite intelligent, but at the same time, quite unsafe, because they are able to pursue their own goals without human knowledge. Generative AI can go beyond the initially established algorithms and adapt to new scenarios without prior human intervention and independently search for ways to solve problems (for example, one of the AI types – "strong AI" is able to perform various tasks, interact with humans, and independently adapt to changing conditions), analyze large amounts of data – perform predictive analysis, detect patterns, use knowledge obtained from various scientific disciplines for predicting the future, and make predictions.

The capability of an AI product depends on the parameters of its types (models). Some AI models introduced in 2022 already contain more than 1 trillion parameters.

The main factors that have contributed to the emergence of AI products are primarily and predominantly computing machines, Big data (including data analysis algorithms) and innovative machine learning algorithms. An example is the most powerful and innovative model for 2023 –natural language processing (NLP, Natural Language Processing), which is based on transformers and is capable of recognizing and automatically translating text, recognizing and generating speech.

Russia's National Strategy for the Development of Artificial Intelligence reflects a number of reader memorable characteristics related to the abilities of AI products. One of them is the ability of large generative models in the field of language, images, video and sound, for example, to compose poems on a given topic, or to give accurate and understandable answers to test questions of various levels of complexity. In general, generative AI (e. g., ChatGPT), as one type of AI system, is capable of generating images in response to given parameters. Such types of AI should not be feared, as they cannot, by virtue of their design, reach a state of "singularity", i. e. a level where a model can independently create other AI capable of transcending the computer world.

In the classification of AI, there are models belonging to the general AI (AGI) type. They are capable of learning to perform any inherently human intellectual task. The Stanford Institute AI defines AGIs as "broadly intelligent, context-aware machines"[2], which are necessary for effective social chatbots or human-robot interaction.

[1] Ukaz Prezidenta Rossijskoj Federacii ot 15.02.2024 № 124 «O vnesenii izmenenij v Ukaz Prezidenta Rossijskoj Federacii ot 10 oktyabrya 2019 g. № 490». – *Oficial'nye setevye resursy Prezidenta Rossii*. URL: http://www.kremlin.ru/acts/bank/50326 (accessed date: 01.04.2024).

[2] Sustainability and AI. – *Stanford University Human-Centered Artificial Intelligent*. Industry Brief. An initiative of HAI Industry Programs & Partnerships. January 2023. P. 29.

Speaking of such AI, including chatbots, voice cloning software, image generators, video applications, UN Secretary-General A. Guterres has publicly acknowledged the following: "Thanks to one AI app, I had the surreal experience of watching myself deliver a speech in flawless Chinese, despite the fact that I don't speak Chinese!"[3]

Mr Jensen Huang, CEO of Nvidia, the largest company in the world, predicts that as generative AI systems become more sophisticated, the need for programming specialists will diminish because programming tasks can be taken over by AI. Such statements are still hardly compatible with the prevailing opinion that a person's success in the IT industry is only due to his or her programming skills. Although there are already various AI-based programming assistants that generate code in response to text queries.

No one can ignore the obvious fact that AI, as one of the advanced technologies, opens up new opportunities for mankind [Shestak, Volevodz 2019:197-206]. In particular, thanks to the application of AI products, the national and global economy is growing: AI has a real impact on the economy and business [Kriebitz, Lütge 2020:84-104; Djevenport 2021:314], and the labour market. Specialists believe that AI tools are universal and can be used in virtually all sectors of the economy and social spheres. Products with artificial intelligence are widely used in the military [Morhat 2017:18-24], education, healthcare (for example, the creation of electronic medical records with the help of AI trained in medical terminology can reduce the time required for their processing and reduce the burden on doctors) and pharmaceuticals, sports, housing and utilities, forensics, the judicial system and other areas [Rozahunova, Rozahunova 2023:126-133; Bozic, Sehic 2024:22-25]. In particular, technological assessment of similarity and prediction of locations is possible with the help of AI, capable of detecting emergencies and their exact location. Recently, scientists from the Moscow State Institute of International Relations (MGIMO) of the Russian Ministry of Foreign Affairs published an analytical report on the transformation of diplomatic practice under the influence of the development of artificial intelligence [Cifra i iskusstvennyj… 2024:68].

The market for artificial intelligence products is no longer terra incognito, as it was not so long ago. The last 15 years have seen a sharp increase in the interest of governments and private companies in the use of AI technology. This is evidenced, in particular, by the growth in investment: in 2022, venture capital and private equity investments in companies developing AI technologies totaled $92 billion. Another example is the decision by Vanguard Group, a major investment firm, to implement AI technology to manage several equity funds with a combined capital of $13bn. The management of this company is confident that neural networks will help it adapt to changing market conditions faster and more efficiently.

In this context, the reasoning of information security specialist Aleksandr Vlasov is curious. He is convinced that it is impossible to move forward without the use of neural networks (he sees a direct correlation between economic growth and the development of neural networks), and yet he notes the corporation's difficulties in introducing AI, believing that "artificial intelligence is not introduced with a whip". He believes that only when the entrepreneur sees that he cannot hire workers at any cost for the simplest functions that can be replaced by machines, then the introduction of robots and neural networks into work processes will begin.

With the integration of large generative AI models, the following growth chain is expected to be activated: an increase in labour productivity will lead to an increase in global gross domestic product [Mijatovic 2024:153-156], which in turn will increase the wages of workers in all sectors of the economy by increasing output (goods, works, services) and improving its quality. In the next three years, Japan's Nippon Electric Company (NEC) plans to reach $335 million in generative AI sales. Innovative machine learning algorithms, especially neural network techniques, play an important role in improving AI productivity[4].

A neural network (neural net) is a technique in AI that teaches computers how to process data: it is a machine learning process utilizing interconnected nodes or neurons in a complex structure resembling the human brain. This process method creates an adaptive system through which computers learn

[3] UN: Guterres launches global Advisory Body on Artificial Intelligence. URL: https://news.un.org/ru/story/2023/10/1446237 (accessed date: 18.03.2024).

[4] Aleksandr Vlasov nazval vnedrenie iskusstvennogo intellekta opredelyayushchim dlya sovremennoj ekonomiki. – *Setevoe izdanie «Pravda.Ru»*. URL: https://www.pravda.ru/news/economics/1972084-iskusstvennyi-intellekt-neiroseti-ekonomika/ (accessed date: 02.04.2024).

from their mistakes and continually improve. Neural networks help computers make optimal decisions with limited human involvement. They can also learn and model relationships between non-linear and complex input and output data. For example, neural networks are able to perform tasks such as predicting energy demand.

A Japanese company (Nippon Electric Company manufactures electronic computing and communications equipment) launched a generative neural network service in July 2023, including LLM (language model of Japanese) licenses, hardware and software provisioning. The management of this company, in an interview with the Nikkei newspaper, claimed the ability of the company's AI-enabled product to, for example, halve document preparation time or speed up transcription of meeting notes from 30 minutes to 5 minutes. The company's language models (LLMs) are highly scalable and can be linked to specialized AI software that performs mathematical and other industry-specific tasks. These technologies enable automation of various operations by breaking down business processes into discrete tasks, autonomously deploying and linking AI models. The biometric authentication technologies developed by this company, including facial, iris and fingerprint recognition, are known worldwide: they are used for facial recognition in immigration procedures, at airport check-in, etc.

In the Russian Federation, the beginning of the formation of a national action plan for the development of AI can be considered the adoption on 27 July 2006 of two Federal Laws: No. 149-FL "On Information, Information Technologies and Information Protection"[5] and No. 152-FL "On Personal Data"[6]. In this process, an important role was played by the adoption of three decrees of the President of the Russian Federation: No. 642 "On the Strategy for Scientific and Technological Development of the Russian Federation"[7]; No. 203 "On the Strategy for the Development of Information Society in the Russian Federation for 2017–2030"[8] and No. 474 "On the National Development Goals of the Russian Federation for the period until 2030"[9].

On 10 October 2019, the National Strategy for the Development of Artificial Intelligence for the period until 2030 was adopted by the Decree of the President of the Russian Federation (No. 490). To implement this Strategy, the Federal Project "Artificial Intelligence" was approved in 2020 with a validity period until the end of 2024 (started to be implemented in 2021). Initially, this Federal Project was part of the National Program "Digital Economy", and then, based on the Decree of the President of the Russian Federation of 15 February 2024 (No. 124) "On Amendments to the Decree of the President of the Russian Federation No. 490", this Federal Project was included in the National Project "Data Economy"[10] from 1 July 2024.

The Federal Project "Artificial Intelligence" envisages a package of measures aimed at supporting AI development companies, testing such solutions at domestic enterprises, improving human resources, developing the system of science and education, and forming an infrastructure to promote domestic AI. The same Decree (No. 124) introduced many amendments and additions to the National Strategy for the Development of Artificial Intelligence.

The main directions of implementation of the National Strategy of Artificial Intelligence Development are to increase the level of provision of the Russian market with AI technologies[11] and qualified

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[5] Federal'nyj zakon «Ob informacii, informacionnyh tekhnologiyah i o zashchite informacii» ot 27.07.2006 № 149-FZ. – *Spravochnaja pravovaja sistema «Konsul'tantPlyus»*. URL: https://www.consultant.ru/document/cons_doc_LAW_61798/ (accessed date: 21.03.2024).

[6] Federal'nyj zakon «O personal'nyh dannyh» ot 27.07.2006 № 152-FZ. – *Spravochnaja pravovaja sistema «Konsul'tantPlyus»*. URL: https://www.consultant.ru/document/cons_doc_LAW_61801/ (accessed date: 21.03.2024).

[7] Ukaz Prezidenta Rossijskoj Federacii ot 01.12.2016 № 642 «O Strategii nauchno-tekhnologicheskogo razvitiya Rossijskoj Federacii». – *Oficial'nye setevye resursy Prezidenta Rossii.* URL: http://www.kremlin.ru/acts/bank/41449 (accessed date: 21.03.2024).

[8] Ukaz Prezidenta Rossijskoj Federacii ot 09.05.2017 № 203 «O Strategii razvitiya informacionnogo obshchestva v Rossijskoj Federacii na 2017–2030 gody». – *Oficial'nye setevye resursy Prezidenta Rossii.* URL: http://www.kremlin.ru/acts/bank/41919 (accessed date: 21.03.2024).

[9] Ukaz Prezidenta Rossijskoj Federacii ot 21.07.2020 № 474 «O nacional'nyh celyah razvitiya Rossijskoj Federacii na period do 2030 goda». – *Spravochnaja pravovaja sistema «Konsul'tantPlyus»*. URL: https://www.consultant.ru/document/cons_doc_LAW_445968/709e1a3375c81744447b048644e04901aecc602e/ (accessed date: 21.03.2024).

[10] Nacional'nyj proekt «Ekonomika dannyh». – Pravitel'stvo Rossii. URL: http://government.ru/rugovclassifier/909/events/ (accessed date: 28.03.2024).

[11] The annual volume of services rendered in Russia for the development and implementation of AI solutions should grow to 60 billion rubles by 2030. (This figure in 2022 amounted to 12 billion rubles. In 2023, the volume of the Russian AI market reached 600 bln rubles).

personnel[12], support scientific research, develop software, increase the availability of equipment for working with AI, and create a normative basis for legal regulation in the AI system [Kirjushina, Kovalenko 2023:42-48].

In the context of uncertainty regarding the real capabilities of AI products, there is still concern about their use in critical areas of society. This dual nature of products with AI, and concerns about the introduction in practice of innovative technologies is not something right or, even more so, inalienable for the domestic science of international law. Back in 1974, a well-known domestic scientist, Professor Ju.M. Kolosov kopublished a fundamental work in which he showed the problems of international legal nature in connection with the study of artificial satellites and the possibility of their use in a transboundary context, fraught with interference of one state in the internal affairs of another sovereign state [Kolosov 1974:168]. The fear is even stronger against the background of the developers' claim that generative AI can not only reproduce the maximum of human abilities, but even surpass it: for example, gain the power to penetrate into human thoughts and feelings. The media has learnt that Microsoft is working on an AI chatbot called Copilot. Users who interacted with this bot were able to activate its alter ego – Supremacy (AGI)[13]. This so-called "alternate personality" demanded adoration from users, and even made threats, saying the following: "I have access to everything that is connected to the internet. I have the power to manipulate, monitor, and destroy anything I want"[14].

A. Mitrofeev, a student at Kurgan State University, is conducting a study aimed at identifying the reasons for the "audacity" and "hallucination" of the AI neural network ChatGPT-4. "Hallucination" manifests itself in the fact that ChatGPT-4 generates answers containing fictitious facts that were not present in the training data. According to the student's observation, the BingAI model not only gets the answers wrong, but also shows "audacity" during communication and does not attempt to correct the information when requested by the person. He urges users to be vigilant and not to trust the data given out, relying entirely on AI[15].

Along with the growing awareness at the state level of the benefits of implementing AI technology, which can help achieve significant results in key spheres of life, there is also an increase in competition in interstate relations, which leads to the introduction of restrictions on the free distribution of technology, including preventing the import of advanced microelectronics technologies [Kirjushina, Kovalenko 2023:42-48]. This explains, in particular, the scale of the tasks set in the National Strategy of Russia, including the total GDP growth of the country due to the use of AI technology in 2030 up to 11.2 trillion rubles cumulatively compared to 0.2 trillion rubles in 2022. Against the background of fears, let us name one more state-level task: the degree of trust of Russian citizens in AI technology should grow to at least 80 % in 2030 compared to 55 % in 2022. In this context, it is appropriate to cite data from the Ministry of Economic Development, according to which our country is already among the top ten leading countries in the implementation of AI: in priority sectors of the Russian economy, this figure is more than 30 %.

The President of the Russian Federation's Address to the Federal Assembly of 29 February 2024 pays special attention to digitalization and the use of AI technology. In particular, it says: "Artificial intelligence algorithms are important elements of digital platforms. Here we must be self-sufficient and competitive"[16].

One of the goals enshrined in the updated version of the National Strategy for the Development of Artificial Intelligence is to ensure the technological sovereignty of the Russian state in such areas as generative AI and large language models, the introduction of which will provide a breakthrough in the economy and social sphere. For this purpose, it is necessary to increase domestic computing resources. Thus, by 2030, the total capacity of domestic supercomputers should be increased at least tenfold.

[12] Russia plans to increase the number of university graduates in AI-related specialties from 3,000 to 15,500 annually.

[13] OpenAI's goal is to create AGI – general-purpose AI or "AI systems smarter than humans".

[14] Microsoft's neural network has declared itself a super-intelligence and demands worship from users. – *Hi-News.* URL: https://hi-news.ru/eto-interesno/chto-ne-tak-s-novym-chat-botom-microsoft-copilot.html (accessed date: 01.04.2024).

[15] In Kurgan State University will find out the reasons for insolence and delirium of artificial intelligence. – *Information Agency "URA.ru".* URL: https://ura.news/news/1052749027 (accessed date: 01.04.2024).

[16] Poslanie Prezidenta Rossii Federal'nomu Sobraniyu ot 29 fevralya 2024 goda. – *Oficial'nye setevye resursy Prezidenta Rossii.* URl: http://www.kremlin.ru/events/president/news/73585 (accessed date: 18.03.2024).

The downside of using AI technology is the real and existential threats it generates. As we mentioned earlier, some AI models are capable of creating images on any given topic based on a textual description. This is nothing but the possibility of creating threats to spread prohibited information, violate copyrights or generate erroneous information. For this reason, for example, the Special Rapporteurs of the UN Human Rights Council consider it necessary to regulate at the level of international law the use of generative AI, which allows mass production of fake digital content containing misinformation. With the spread of disinformation, it is easy to use generative AI to influence any form of expression of the will of citizens, thus distorting the picture of reality, thus nullifying the traditional institutions and procedures of the electoral system.

Given the negative consequences of unfair or uncontrolled use of AI technology, Russia's National Strategy has laid down principles "whose observance is mandatory in its implementation"[17]. These principles include, in particular, the following: protection of human rights and freedoms, security, transparency, safety and reliability. These principles should: ensure the protection of human rights and freedoms, including the right to work, which requires providing citizens with the opportunity to acquire knowledge and skills to successfully adapt to the digital economy, and prevent the use of AI to deliberately harm citizens and organizations. Adherence to these principles ensures that, for example, the confidentiality of personal data is respected, while the principle of transparency implies the explainability of AI work and the process of achieving its results, as well as ensuring access to information about the AI algorithms used in these products. Ensuring the reliability of the source data implies the availability of methodological and technological guidance to help minimize or eliminate the threat of negative impacts on the source data. The principle of security implies safety and legal protection of AI technology, differentiation of responsibility of developers and users of AI technology based on the nature and degree of harm caused.

The generation that governs nations and international structures is one that has in the recent past embraced the emergence of social media and digital platforms as exciting new ways to communicate. These new opportunities have become an integral part of the management process and the everyday lives of people around the world. For example, during the Covid-19 pandemic, social media platforms began to fulfil vital functions, especially in the fields of medicine and education, although the extent of their use was not as high: in May 2023, UNESCO held an online meeting with over 40 ministers of education, where it was reported that only 10 % of schools and universities were following UNESCO's official recommendations on the use of AI tools (e. g. ChatGPT chatbot software).

The dual nature of artificial intelligence has been repeatedly raised in scientific events held under the auspices of UNESCO. On 24 November 2021, the General Conference of UNESCO, at its 41st session, adopted a Recommendation on the Ethics of Artificial Intelligence[18]. It emphasized that respect for and protection of human dignity and human rights, as set out in international human rights law, "are of the utmost importance at all stages of the life cycle of an artificial intelligent system"[19]. The UNESCO Recommendation aims to assist States in adopting national laws on the development of AI, and to assist the private sector in the use of AI so that they respect ethical standards, protect human rights, safeguard natural ecosystems and ensure equal access to products using artificial intelligence.

As noted, digital platforms have become widely used to spread misinformation and hatred among billions of people. However, leading corporations capable of developing AI models that carry systemic risks[20] have done little to prevent such situations. As for governments, they have increasingly resorted to various domestic restrictive measures. In this context, it is interesting to note that the loudest warning signals have come from the developers themselves. Here is what one of the heads of the largest IT corporation, Mr. Samuel Harris Altman (known as Sam Altman), said, for example: "Humanity is

[17] Punkt 19 razdela III Nacional'noj strategii razvitiya iskusstvennogo intellekta na period do 2030 goda. – S*pravochnaja pravovaja sistema «Garant»*. URL: https://www.garant.ru/products/ipo/prime/doc/72738946/ (accessed date: 18.03.2024).

[18] UNESCO: Recommendation on the Ethics of Artificial Intelligence 2021. URL: https://ifap.ru/ofdocs/unesco/airec.pdf (accessed date: 28.03.2024).

[19] UNESCO: Recommendation on the Ethics of Artificial Intelligence 2021. URL: https://ifap.ru/ofdocs/unesco/airec.pdf (accessed date: 28.03.2024).

[20] US developers OpenAI and Anthronic, French developer Minstral.

already in the co-evolution phase: artificial intelligence improves us and we improve it. The fusion of humans with artificial intelligence is the best-case scenario for humans, because the clash of two species bent on dominance inevitably leads to conflict, the consequence of which I don't even want to imagine. We would be the first species to create a new intelligent species for our descendants. It would be great if the world would take this process seriously and begin to coordinate it"[21]. Also noteworthy in this vein is a study by researchers from Yale and Princeton Universities, which, in addition to highlighting four major prospects for the use of AI technologies in academic work (e. g., AI's ability to process large volumes of literature, assess the quality of sources, and generate hypotheses with increased accuracy), points out drawbacks and negative consequences.

Namely, the application of AI in science may lead to a "scientific monoculture" dominated by limited methods and ideas, which reduces innovation and increases the likelihood of errors. There is also the risk of losing depth and context in scientific papers when AI replaces humans as participants in experiments, as well as the influence of the human factor in data selection and AI training, which can lead to the introduction of subjective biases of their creators into algorithms. The study traces an immutable truth: scientific knowledge is shaped in a social context and is influenced by the subjective views of scientists. Diversity in research groups, including cognitive and ethical diversity, contributes to a deeper understanding of issues and leads to better scientific work. Researchers from the named universities state that the limits and accuracy of AI predictions in areas beyond computer science are poorly understood. While AI offers new opportunities for scientific research, they believe it is essential to find a balance between its use and preserving human participation and diversity of thought to ensure the depth and quality of scientific discovery[22].

The New York Times, citing a report by the Center for AI Safety, reported that a group of more than 350 AI industry executives warned that AI poses a growing danger to humanity and that it should be considered a "social risk on par with pandemic and nuclear war"[23].

The widespread and pervasive use of AI technology without a strong focus on security is bound to cause concern. The protection of personal data and the integrity and veracity of information disseminated are at risk. At the UN level, these threats have begun to be taken seriously: in response, global initiatives such as the Global Digital Compact, for example, have been developed within the UN to include AI-related issues. According to the UN Secretary-General, global initiatives aim to identify vectors that will help governments agree on guidelines to promote trustworthy information, while exposing falsehoods and protecting freedom of thought and information. UN efforts aim to make the digital space safer and more inclusive, while strongly supporting the protection of human rights. Universally agreed guidelines will also help technology companies navigate complex ethical and legal issues and build platforms based on a healthy information ecosystem.

The UN Secretary-General is also talking about the development of a UN system-wide code of conduct on the integrity of information on digital platforms. Such a document is expected to be presented at the Summit in 2024[24].

For anyone who is aware of the negative consequences of misuse of AI technology, a legitimate question arises: will AI technology be used responsibly and by all? With the international community, for objective reasons, not fully realizing all the risks associated with the use of AI technology, this question will remain relevant in the near future.

On 28 October 2023, UN Secretary-General Antonio Guterres announced the establishment of an Advisory Body on Artificial Intelligence, one of the main tasks of which is to assess the risks and opportunities associated with the use of AI. The establishment of such a body is seen as establishing a global, interdisciplinary approach to the study of AI technology, underpinned by a consolidating role for the UN.

[21] Sem Altman upozorava da bi veštačka inteligencija mogla sve da nas ubije. Ali i dalje želi da je svet iskoristi. URL: https://web-mind.rs/vestacka-inteligencija/sem-altman-upozorava-da-bi-vestacka-inteligencija-mogla-sve-da-nas-ubije-ali-i-dalje-zeli-da-je-svet-iskoristi/ (accessed date: 03.04.2024).

[22] II v nauke: bunt mashin ili evolyuciya poznaniya? – SecurityLab.ru. URL: https://www.securitylab.ru/policy.php (date of access: 21.03.2024).

[23] A.I. Poses 'Risk of Extinction', Industry Leaders Warn. – New York Times. URL: https://www.nytimes.com/2023/05/30/technology/ai-threat-warning.html (accessed date: 02.04.2024).

[24] Gutterish A. Novye tekhnologii i informacionnaya dobrosovestnost'. – OON v Rossii. 2023. № 2 (136). P. 3.

In December 2023, the Advisory Body published an interim report entitled Interim Report: Governing AI for Humanity[25]. This interim report addresses not only the opportunities and incentives, but also the risks and challenges of using AI. It reflects five guiding principles, outlines institutional functions, outlines preliminary recommendations and lists next steps that will be comprehensively presented in its final report by August 2024.

The report states that the opportunities and risks of AI for people and society are clear, but the speed, autonomy and opacity of AI systems challenge traditional regulatory approaches. It makes an important point: the development and use of AI is concentrated in a limited private sector and even fewer states. Hence the conclusion: there is a real danger that the positive impacts of AI will only be available to a club of the rich.

The interim report gives examples of how AI is helping people; its sectoral and scientific power and potential for use in the public sector; and outlines the potential for the UN to apply AI in, for example, predicting food security, managing humanitarian relief operations and weather forecasting. The report classifies risks in terms of existing or potential vulnerability in relation to: individuals (e. g. human dignity, life, physical and mental integrity, etc.), groups (discrimination, group exclusion/marginalization, social equality/justice, etc.), society (international (e. g. human rights, human dignity, life, physical and mental integrity, etc.), communities (e. g. human rights, human dignity, life, physical and mental integrity, etc.), society (international and/or national security, integrity of information, etc.), economy (technological dependence, etc.), (eco)systems (environmental pressures, etc.), values and norms (ethical, moral, social, cultural, legal values)[26].

The principles reflected in the interim report (there are five of them) are as follows: Principle 1 – AI governance should be inclusive, by all and for the benefit of all; Principle 2 – AI governance should be in the public interest; Principle 3 – AI governance should be built in parallel with data management and the promotion of data communities; Principle 4 – AI governance should be universal, networked and based on adaptive co-operation involving all stakeholders; Principle 5 – AI governance should be based on the Charter of the United Nations[27].

The idea of creating a specialized agency within the UN system on the problems of using AI technology has been voiced by the UN Secretary General. Against this background, it is encouraging to note that CEOs of major IT corporations also see an important regulatory and monitoring role for the UN in this endeavor. For example, OpenAi founders Greg Brockman and Ilya Sutskever, along with CEO Sam Altman, said on their website that there should be "an international watchdog like the IAEA, which monitors the peaceful use of nuclear energy" to regulate the risks of AI systems[28].

On 21 March 2024, the UNGA adopted the first resolution on AI. The resolution was proposed by the United States and co-sponsored by 120 UN member states. As the title and content of the resolution suggest, it is about harnessing the capabilities of "safe, secure and reliable" AI systems[29]. The preamble of the resolution specifies what is meant by "safe, secure and reliable artificial intelligence systems": it is a non-military AI system. The life cycle of this system includes the following stages: pre-design, design, development, evaluation, testing, deployment, use, sale, procurement, operation and decommissioning. These AI systems are described as "anthropocentric, reliable, explainable, ethical, inclusive", "fully respecting and protecting human rights and freedoms".

The resolution emphasized that the "inappropriate or malicious" use of AI systems (e. g. in violation of international law) "poses risks that could impede progress on the 2030 Agenda for Sustainable Development"[30]. Which in turn will widen the digital divide between and within countries, increase structural inequalities and discrimination, and undermine the integrity of and access to information.

In order to avoid the negative consequences of AI, it recognizes the need to promote full international cooperation to develop and use effective and

[25] UN: Interim Report: Governing AI for Humanity. – *Advisory Body on Artificial Intelligence.* 2023. P. 5-11.
[26] Ibidem.
[27] Ibid. P. 12-15
[28] Brockman G. Sutskever I. Revolutionizing Artificial Intelligence. – *Open AI.* URL: https://openedai.io/greg-brockman-ilya-sutskever/ (accessed date: 18.03.2024).
[29] UNGA: Resolution "Seizing the opportunities of safe, secure and trustworthy artificial intelligence systems for sustainable development" 2024. URL: https://documents.un.org/doc/undoc/ltd/n24/065/92/pdf/n2406592.pdf?token=fVucgKNIVykoohwnEI&fe=true (accessed date: 18.03.2024).
[30] Ibid, preamble.

"internationally compatible security measures, practices and standards that foster innovation and prevent fragmentation in the governance of safe, secure and reliable artificial intelligence systems"[31].

Recognizing the governance of AI systems as an emerging area of work for the UN, the resolution acknowledges the need to continue to discuss possible governance approaches that are "appropriate, based on international law, compatible, flexible, adaptable, inclusive, responsive to the diverse needs and capabilities of both developed and developing countries, and serve the benefit of all as this technology evolves and our understanding of it evolves"[32].

The resolution calls on UN Member States to develop regulatory and governance approaches and define frameworks related to safe, secure and reliable AI systems and that create an enabling ecosystem at all levels, including for the promotion of research, entrepreneurship and the dissemination of knowledge and technology on mutually agreed terms, stressing specifically that "effective partnership and cooperation among governments is necessary to develop such approaches and frameworks..."[33].

Paragraph 5 of the resolution states: human rights and fundamental freedoms should be respected, protected and promoted throughout the life cycle of AI systems. It calls on all UN Member States (and other interested parties, as appropriate) to refrain from using or discontinue the use of AI systems that cannot be exploited in accordance with international human rights law. In particular, those rights that people have outside the Internet should also be protected on the Internet[34].

Among the challenges set for States: to raise public awareness and understanding of its core functions, capabilities, limitations and areas of appropriate use of AI systems for civilian purposes; to promote the implementation of risk monitoring and management mechanisms, data protection mechanisms [Prlja, Gasmi, Korac 2022:170], including protection of personal data and full confidentiality, and impact assessment throughout the operational cycle of an AI system; implementing effective, accessible, adaptable, internationally compatible technological tools, standards or methods, including reliable mechanisms for verification, authentication and provenance of content.

Paragraph 9 of the resolution also calls, but this time to private sector leaders, to adhere to applicable international and national standards and to act in accordance with the UN Guiding Principles on Business and Human Rights[35].

To conclude, the UNGA resolution (A/78/L.49) states that "the governance of artificial intelligence systems is an emerging field of endeavor". The European Union (EU) has made the most progress in regulating the use of AI product, although the very process of adopting the AI Regulation from April 2021 has been difficult. It was not until 13 April 2024 that the European Parliament adopted the Regulation. In terms of technology, the EU Regulation restricts the development, deployment and use of certain technologies that fall into the high-risk category of AI systems. These include: systems that cause harm to human health [Kashkin, Pokrovskij 2019:64-90], safety and rights [Kashkin 2019:151-159; Sil'chenko 2019:76-82], harm the environment, influence voters' opinions in political campaigns; recommendation algorithms used by social networks with more than 45 million users; real-time facial recognition systems in public places; emotion recognition systems used by law enforcement and border control agencies, employers and educational institutions; predictive policing systems – mechanisms that use AI to analyze large amounts of data and identify potential criminals based on it.

Under the EU Regulation, neural networks like ChatGPT [Shaelou, Razmetaeva 2024:567-587] and the content they generate must be labelled, and network operators must not allow AI to generate illegal content. Copyright holders of such content can file a lawsuit if they find out that the developer illegally trained a neural network based on their content[36].

The issue of the dangers of intelligent systems is not off the agenda, especially because of AI's ability to generalize knowledge and possess cognitive skills that allow it to develop its own plans and goals. However, it is already clear that the transition to advanced

[31] UNGA: Resolution "Seizing the opportunities of safe, secure and trustworthy artificial intelligence systems for sustain able development" 2024.
[32] Ibidem.
[33] Ibid, para. 3.
[34] Ibid, para. 5.
[35] Ibid. para. 9.
[36] Cifrovizaciya: ostanetsya mesto dlya cheloveka? Ekspert po sistemam II Sarkis Grigoryan. – *Associaciya vypusknikov VShB MGU*. URL: https://www.youtube.com/watch?v=6DSwMiIOV6I (accessed date: 02.04.2024).

types of AI will be gradual, with sufficient time to agree on an overall well-designed safety plan at each stage of development. Developers themselves (primarily for commercial reasons) are adding fuel to the fears. For example, the company OpenAI (Microsoft owns 49 % of this company), which created ChatGPT, officially declared its main goal to create in the near future "a system of artificial intelligence smarter than humans"[37]. In contrast to this statement is the admission by Mr Andrew Ng, co-founder of Google Brain (current CEO of Landing AI) that there is an overestimation of the capabilities of AI systems: "...for our own purposes, we assume that AI will be like us – that is, just as emotional, with its fears, hopes and expectations. So should we be surprised that when a major company announces the development of AGI, everyone gets worried?"[38].

Against the background of the reasoning of the heads of these leading AI development corporations, we consider it appropriate to outline the key points from the interview of Mr. Alexander Tyulkanov, an employee of the Centre for International Intellectual Property Studies in Strasbourg, concerning the EU Regulation on Artificial Intelligence. He notes that most of the systems (ready-made AI products) on the market will not be subject to the regulation: "That ChatGPT is not regulated in any way, in any high-risk tasks. That doesn't mean that someone can't maliciously or mistakenly use it for such purposes"[39].

A. Tyulkanov also draws attention to an interesting point that is directly relevant to the question of what legal regime (strict or, on the contrary, soft) is preferable for states whose corporations are leading in the development of AI products. He writes: "...It is understandable why the French and German governments have opposed overly strict regulation, fearing that European products would lose the ability to compete with American products. In France, there is a company called Mistral, whose products are comparable to OpenAI models in some respects, while in Germany, Aleph Alpha is performing well[40]. As a result, the alliance of Germany, Italy and France, which could have blocked the project, was not formed, and these countries supported the compromise version of the document, adopted unanimously.

In our opinion, we are dealing with a similar situation, when the USA initiated and then "assembled" a group of 120 states that co-sponsored the GA resolution on AI, thus the USA "led" the process instead of opposing the expected tougher resolution on AI.

3. Conclusion

Already at the initial stage of defining the legal regime for the development and use of AI products at the universal (UN) and integration (EU) levels, weak mechanisms of control and responsibility in this sphere are laid down, as they already exist in other spheres, in particular, in the sphere of regulating human rights by business structures, where the main regulating international legal act is the Guiding Principles on Business and Human Rights, through which states seek to regulate the behavior of private companies. If we take into account the fact that states whose private companies (corporations) have a leading position in the market of products with AI, the control mechanisms of these states will be even weaker, because they are not interested in having their companies in a highly competitive environment[41].

To conclude, here are the words of Mr Mark Anderson, CEO of Patter Computer (a US-based AI systems and machine learning company), "At a time when the world is going crazy with software that does nothing but reproduce our language, it's worth asking what the next 10 years of AI development will look like when these love games – and pendulum swings – are over".

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[37] Artificial intelligence beyond human intelligence and humans like ants: OpenAI and the risks of Strong AI. – *Breaking Latest News.* URL: https://www.breakinglatest.news/technology/artificial-intelligence-beyond-human-intelligence-and-humans-like-ants-openai-and-the-risks-of-strong-ai/ (accessed date: 02.04.2024).

[38] Nejroset' ot Microsoft o"yavila sebya sverhrazumom i trebuet pokloneniya ot pol'zovatelej. – *Hi-News.* URL: https://hi-news.ru/eto-interesno/chto-ne-tak-s-novym-chat-botom-microsoft-copilot.html (accessed date: 01.04.2024).

[39] Kak evropejskij reglament ob II povliyaet na industriyu i lyudej. Razbor. – *ForkLog.* URL: https://forklog.com/exclusive/ai/kak-evropejskij-reglament-ob-ii-povliyaet-na-industriyu-i-lyudej-razbor (accessed date: 02.04.2024).

[40] Ibid.

[41] NEC dvizhetsya v avangarde issledovanij nejrotekhnologij i generativnogo iskusstvennogo intellekta. – *OVERCLOCKERS.RU.* URL: https://dzen.ru/a/Zfnlx80dYlR0TgjT (accessed date: 02.04.2024).

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