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Artificial Intelligence and international law: from recommendations to conventional regulation

Inteligência artificial e direito internacional: das recomendações à regulamentação convencional

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Artificial Intelligence and international law: from recommendations to conventional regulation*

Inteligência artificial e direito internacional: das recomendações à regulamentação convencional

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Abstract

Artificial intelligence (AI) is one of the most relevant objects of scientific research. The purpose of the article is to cover the evolution of rule-making activities of international organizations on AI issues and determine the prospects for using soft law and hard law acts to externally consolidate the results achieved as a summary of its results. Using historical and logical methods, the history of the emergence of AI was investigated. Based on the methods of analysis and synthesis, the results of rule-making activities on AI issues carried out by the OECD, UNESCO, EU and CE were studied. The use of comparative and hermeneutic methods contributed to the study of the structure and content of soft law and hard law acts developed by international organizations in this area, etc. It is found out that the implementation of rule-making activities in the field of AI by international organizations has contributed to the expansion of the subject of legal regulation of international law at the expense of international relations on AI issues. The soft law and hard law acts analyzed in the article may in the future receive the status of global standards for regulating relations in the field of AI and, complementing each other, form the primary basis of a new field of international law called “International AI Law”.

Keywords: Artificial intelligence, human rights; international law codification and progressive development; international organization; soft law; hard law.

Resumo

A inteligência artificial (IA) é um dos objetos mais relevantes de pesquisa científica. O objetivo do artigo é abranger a evolução das atividades de elaboração de regras das organizações internacionais sobre IA e determinar as perspectivas de uso de *soft law* e *hard law* para consolidar externamente

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os resultados alcançados. Usando métodos históricos e lógicos, foi investigada a história do surgimento da IA. Com base nos métodos de análise e síntese, foram estudados os resultados das atividades de elaboração de normas sobre questões de IA realizadas pela OCDE, UNESCO, UE e CE. O uso de métodos comparativos e hermenêuticos contribuiu para o estudo da estrutura e do conteúdo de *soft law* e *hard law* desenvolvidos por organizações internacionais nessa área, etc. De acordo com os resultados do estudo, nota-se que a implementação de atividades de criação de regras no campo da IA por organizações internacionais contribuiu para a expansão do assunto de regulamentação legal do direito internacional às custas das relações internacionais em questões de IA. Os atos de *soft law* e *hard law* analisados no artigo podem, no futuro, receber o status de padrões globais para regular as relações no campo da IA e, complementando-se mutuamente, formar a base principal de um novo campo do direito internacional denominado “Direito Internacional da IA”.

Palavras-chave: inteligência artificial; direitos humanos; codificação e desenvolvimento progressivo do direito internacional; organização internacional; soft law; hard law.

1 Introduction

In the summer of 1956, on the basis of Dartmouth College in Hanover, New Hampshire, USA, according to the document “Dartmouth proposal”¹ adopted on August 31, 1955, the first study of Artificial Intelligence was conducted. Since then, the attention of scientists to Artificial Intelligence as a phenomenon and an object of scientific research has only increased. In particular, this happens by means of constant meaningful deepening and expansion of the range of fields, directions and topics related to Artificial Intelligence in scientific research. The latter have significantly diversified compared to those first topics of branch research defined in the mid-50s of the 20th century, namely: including neural networks, the theory of computability, creativity and natural language processing and recognition².

Thus, as of the end of the first quarter of the 21st century, the advantages and disadvantages of Artificial Intelligence are actively discussed in such areas as the social ratings calculation³, public administration⁴, employment, education and training⁵, risk assessment of propensity to illegal behavior and recidivism⁶, criminal law⁷, agriculture⁸, cyber security⁹, scientific exploration of outer space¹⁰, collective defense¹¹ and military objectives^{12, 13}, etc.

Considerable attention is paid to the discussion of potential opportunities¹⁴ and threats¹⁵ of Artificial

conference/. Access on: 22 Oct. 2024.

³ LEE, Amanda. What is China’s social credit system and why is it controversial? South China Morning post. 2020. Available at: <https://www.scmp.com/economy/china-economy/article/3096090/what-chinas-social-credit-system-and-why-it-controversial>. Access on: 22 Oct. 2024.

⁴ ROMERO, Lorayne Finol; VILLARROEL, Ivette Esis. Transparency of artificial intelligence in public administration: a review of international standards. *Brazilian Journal of International Law*, v. 21, n. 4, p. 167–191, 2024.

⁵ HOLZER, Harry J. *Understanding the impact of automation on workers, jobs, and wages*. 2022. Available at: <https://www.brookings.edu/articles/understanding-the-impact-of-automation-on-workers-jobs-and-wages/>. Access on: 22 Oct. 2024.

⁶ ANGWIN, Julia et al. *Machine Bias. There’s software used across the country to predict future criminals. And it’s biased against blacks*. 2016. Available at: <https://www.propublica.org/article/machine-bias-risk-assessments-in-criminal-sentencing>. Access on: 22 Oct. 2024.

⁷ MAHARDHIKA, Vita; ASTUTI, Pudji; MUSTAFA, Aminuddin. Could Artificial Intelligence be the Subject of Criminal Law? *Yustisia Jurnal Hukum*, v. 12, n. 1, p. 1–12, 2023.

⁸ ZHA, Jiali. Artificial Intelligence in Agriculture. *J. Phys.: Conf. Ser.* 1693, 012058. 2020. Available at: <https://doi.org/10.1088/1742-6596/1693/1/012058>. Access on: 22 Oct. 2024.

⁹ BHUSHAN, Tripti. Artificial Intelligence, Cyberspace and International Law. *Indonesian Journal of International Law*, v. 21, n. 2, p. 281–314, 2024.

¹⁰ WALIA, Ivneet Kaur. Legal Implications of Artificial Intelligence in Outer Space Activities and Explorations. *Brazilian Journal of International Law*, v. 21, n. 4, p. 192–203, 2024.

¹¹ MARSAN, Nadia; HIL, Steven. International law and military applications of Artificial Intelligence. *JSTOR*, p. 55–62, 2019. Available at: <https://www.jstor.org/stable/pdf/resrep19966.12.pdf>. Access on: 22 Oct. 2024.

¹² ZARKA, Mara. *Artificial Intelligence in the Military Domain: Technical, Legal, and Ethical Perspectives*. 2024. Available at: <https://vednp.org/ai-military-domain/>. Access on: 22 Oct. 2024.

¹³ U. S. DEPARTMENT OF STATE. *Political Declaration on Responsible Military Use of Artificial Intelligence and Autonomy*. 2023. Available at: <https://www.state.gov/political-declaration-on-responsible-military-use-of-artificial-intelligence-and-autonomy-2/>. Access on: 22 Oct. 2024.

¹⁴ AL-TAJ, Homam; POLOK, Beata; RANA, Afrasiab Ahmed. Balancing Potential and Peril: The Ethical Implications of Artificial Intelligence on Human Rights. *Multicultural Education*, v. 9, n. 6, p. 94–101, 2023.

¹⁵ RODRIGUES, Rowena. Legal and human rights issues of AI:

¹ MCCARTHY, John et al. A Proposal for the Dartmouth Summer Research Project on Artificial Intelligence, August 31, 1955. *AI Magazine*, v. 27, n. 4, p. 12, 2006.

² KLONDIKE. *AI history: the Dartmouth Conference*. 2024. Available at: <https://www.klondike.ai/en/ai-history-the-dartmouth->

Intelligence application in the field of human rights¹⁶. The participants of the scientific discussion consider Artificial Intelligence as a basis for classifying human rights into the old and the new rights¹⁷. They analyze the negative consequences of the Artificial Intelligence impact on certain types of human rights, which mostly belong to the first and second generations of human rights^{18, 19}. They justify positions regarding the existence of human rights related to the use of Artificial Intelligence²⁰ and their belonging to the fourth generation of human rights²¹.

Scientists also discuss the possibility of the temptation to use Artificial Intelligence in the near future to review and make court decisions²². M. Risse, for example, claims that such an opportunity can be realized, in particular, within the framework of the European Court of Human Rights, or to provide affordable legal advice for poor people within the territories of certain states, for example, India²³.

A common direction of scientific research is conducting comparative legal studies of the legislation and judicial practice of such leaders in the application of

Artificial Intelligence technologies as the USA²⁴, China²⁵, the European Union (EU)²⁶ and its member states^{27, 28}. For this purpose, most often in the EU law, scientists focus on the provisions of the Artificial Intelligence Act (the EU AI Act)^{29, 30}. At the same time, there might be found the characteristics of other types of the EU acquis acts in scientific papers, in particular the AI Liability Directive^{31, 32} and Product Liability Directive³³. Individual representatives of this group of scientists emphasize that they carried out a comparative analysis taking into account international and regional law. However, the international legal acts or their drafts mentioned in their studies do not reflect the entire array of universal and regional international legal acts³⁴ or have already expired at the time of writing this paper³⁵.

Gaps, challenges and vulnerabilities. *Journal of Responsible Technology*, v. 4, 2020. Available at: <https://doi.org/10.1016/j.jrt.2020.100005>. Access on: 22 Oct. 2024.

¹⁶ BAKINER, Onur. The promises and challenges of addressing artificial intelligence with human rights. *Big Data & Society*, v. 10, n. 2, 2023. Available at: <https://doi.org/10.1177/20539517231205476>. Access on: 22 Oct. 2024.

¹⁷ CASONATO, Carlo. Unlocking the Synergy: Artificial Intelligence and (old and new) Human Rights. *BioLaw Journal - Rivista Di BioDiritto*, v. 3, p. 233–240, 2023.

¹⁸ NAGY, Noemi. Humanity's new frontier: Human rights implications of artificial intelligence and new technologies. *Hungarian Journal of Legal Studies*, v. 64, n. 2, p. 236–267, 2024.

¹⁹ LIVINGSTON, Steven; RISSE, Mathias. The Future Impact of Artificial Intelligence on Humans and Human Rights. *Ethics & International Affairs*, v. 33, n. 2, p. 141–158, 2019.

²⁰ RAZMETAeva, Yulia; BARABASH, Yurii; LUKIANOV, Dmytro. The Concept of Human Rights in the Digital Era: Changes and Consequences for Judicial Practice. *Access to Justice in Eastern Europe*, v. 3, n. 15, p. 41–56, 2022.

²¹ RISSE, Mathias. The Fourth Generation of Human Rights: Epistemic Rights in Digital Lifeworlds. *Moral Philosophy and Politics*, v. 8, n. 2, p. 351–378, 2021.

²² LUCAS, Amparo S. Artificial intelligence and the future of human rights. In: FLOREK, Iwona; KORONCZIOVÁ Andrea; MANZANO Jose Luis Zamora (ed.). *Crisis as a challenge for human rights*. Bratislava: Publisher Comenius University, 2020. Available at: https://eurofur.eu/wp-content/uploads/2021/01/22_Amparo-Salom.pdf. Access on: 22 Oct. 2024.

²³ RISSE, Mathias. Human Rights and Artificial Intelligence: An Urgently Needed Agenda. *Human Rights Quarterly*, v. 41, n. 1, p. 1–16, 2019.

²⁴ KIESOW CORTEZ, Elif; MASLEJ, Nestor. Adjudication of Artificial Intelligence and Automated Decision-Making Cases in Europe and the USA. *European Journal of Risk Regulation*, v. 14, n. 3, p. 457–475, 2023.

²⁵ PARISINI, Emanuele. *The European Union in the race for Artificial Intelligence: a comparative analysis with US and China in non-market public services*. p. 1040–1042, 2024. Available at: <https://doi.org/10.1145/3657054.3659124>. Access on: 22 Oct. 2024.

²⁶ OUTEDA, Celso Cancela. Artificial intelligence: new possibilities for relations between the EU and Mercosur. *Brazilian Journal of International Law*, v. 20, n. 2, p. 136–147, 2023.

²⁷ SULEIMANOVA, Susanna. Comparative Legal Analysis of the Role of Artificial Intelligence in Human Rights Protection: Prospects for Europe and the Middle East. *Pakistan Journal of Criminology*, v. 16, n. 3, p. 907–922, 2024.

²⁸ TROITINO, David Ramiro; KERIKMÄE, Tanel. The European Union Market, from analogue to digital. Lines for your interaction and enjoyment in the Latin American landmark. *Brazilian Journal of International Law*, v. 20, n. 2, p. 40–49, 2023.

²⁹ EUROPEAN UNION. *Proposal for a Regulation of the European Parliament and of the Council laying down harmonised rules on Artificial Intelligence (Artificial Intelligence Act) and amending certain Union legislative acts*. 2021. Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A52021PC0206>. Access on: 22 Oct. 2024.

³⁰ ZILLER, Jacques. The Council of Europe Framework Convention on Artificial Intelligence vs. the EU Regulation: two quite different legal instruments. *CERIDAP*, v. 2, p. 202–227, 2024.

³¹ HACKER, Philipp. The European AI Liability Directives – Critique of a Half-Hearted Approach and Lessons for the Future. *Computer Law & Security Review*, v. 51, p. 1–42, 2023.

³² LI, Shu; SCHÜTTE, Beatrice. The Proposed EU Artificial Intelligence Liability Directive: Does/Will Its Content Reflect Its Ambition? *Technology and Regulation*, v. 2024, p. 143–151, 2024.

³³ VELLINGA, Nynke E. Rethinking compensation in light of the development of AI. *International Review of Law, Computers & Technology*, v. 38, n. 3, p. 391–412, 2024.

³⁴ ROUMATE, Fatima. Artificial Intelligence, Ethics and International Human Rights Law. *The International Review of Information Ethics*, v. 29, p. 1–10, Mar. 2021. Available at: <https://doi.org/10.29173/irie422>. Access on: 22 Oct. 2024.

³⁵ ALMADA, Marco; RADU, Anca. The Brussels Side-Effect: How the AI Act Can Reduce the Global Reach of EU Policy. *Ger-*

As for the EU AI Act, which was not in force until August 1, 2024, and therefore was written about as a draft³⁶, in our opinion, it is unjustifiably given the character of the international legal act of a pan-European regional level³⁷.

Among the researchers of the legal regulation of the Artificial Intelligence technologies development there are those who claim that the existing legal framework is not enough to solve the theoretical and applied aspects that have arisen in connection with the Artificial Intelligence technologies development³⁸. Therefore, the task of lawyers is to rethink and update international law³⁹.

Scientists are convinced that new laws, treaties or international customary law are able to fill in the gaps that have arisen within the international legal system framework by establishing the necessary conceptual clarifications regarding Artificial Intelligence systems⁴⁰.

At the same time, not all scientists provide specific proposals, for example, regarding the level of international development of normative updates or forms of consolidation of the developed rules of conduct. International legal acts on Artificial Intelligence, adopted at the universal and regional levels of international cooperation, are often left out of their attention⁴¹.

Other researchers recognize the crucial role of international organizations in solving problems of legal regulation of relations in the field of Artificial Intelligence. First of all, this applies to numerous Recommendations, Resolutions and Directives adopted by international organizations on issues of responsibility,

data management, and privacy, etc. The most frequently mentioned international legal acts in scientific papers are: Charlevoix Common Vision for the Future of Artificial Intelligence, 9 June 2018, Recommendation of the Organization for Economic Co-operation and Development on AI issues (OECD Recommendation on AI Issues) dated May 22, 2019, Guidelines G20 AI Principles dated June 9, 2019, Sharm El Sheikh declaration African Union 26 October 2019, United Nations Educational, Scientific and Cultural Organization Recommendation on the Ethics of Artificial Intelligence (UNESCO Recommendation on the Ethics of AI) dated November 23, 2021, Draft Resolution of the General Assembly of the United Nations of March 11, 2024 on Seizing the opportunities of safe, secure and trustworthy artificial intelligence systems for sustainable development. However, such scholars also emphasize that, despite calls to update international law in light of the challenges posed by Artificial Intelligence, international organizations have not made adequate efforts to develop binding treaties⁴².

F. Roumate, for example, notes in this regard that the Recommendations are not binding. Therefore, the international community needs an international instrument with powerful legal value⁴³.

The Council of Europe Framework Convention on Artificial Intelligence and Human Rights, Democracy and the Rule of Law dated May 17, 2024 (CE Convention on AI) might become such a binding legal instrument.

In view of the above, the purpose of the article is to cover the evolution of forms of normative and legal regulation of relations in the field of AI in international law. Achieving the goal of the article, in particular, involves coverage of the history of the development and disclosure of the legal essence of the most famous open for signature and valid as of September 2024 international legal acts in the field of AI. Among such acts, the OECD Recommendation on AI issues dated May 22, 2019, the UNESCO Recommendation on the

man Law Journal, v. 25, n. 4, p. 646–663, 2024.

³⁶ EUROPEAN UNION. *Proposal for a Regulation of the European Parliament and of the Council laying down harmonised rules on Artificial Intelligence (Artificial Intelligence Act) and amending certain Union legislative acts*. 2021. Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A52021PC0206>. Access on: 22 Oct. 2024.

³⁷ BARBOSA, Lutiana Valadares Fernandes. Artificial intelligence: a claim for strict liability for human rights violations. *Brazilian Journal of International Law*, v. 20, n. 2, p. 149–158, 2023.

³⁸ BURRI, Thomas. International Law and Artificial Intelligence. *German Yearbook of International Law*, v. 60, p. 91–108, 2017.

³⁹ ABHIVARDHAN. The Wider Realm to Artificial Intelligence in International Law. *SSRN*, 2018. Available at: <https://doi.org/10.2139/ssrn.3172280>. Access on: 22 Oct. 2024.

⁴⁰ MAAS, Matthijs. M. International Law Does Not Compute: Artificial Intelligence and the Development, Displacement or Destruction of the Global Legal Order. *Melbourne Journal of International Law*, v. 20, n. 1, p. 1–29, 2019. p. 12.

⁴¹ BHUSHAN, Tripti. Artificial Intelligence, Cyberspace and International Law. *Indonesian Journal of International Law*, v. 21, n. 2, p. 281–314, 2024.

⁴² BAKINER, Onur. The promises and challenges of addressing artificial intelligence with human rights. *Big Data & Society*, v. 10, n. 2, 2023. Available at: <https://doi.org/10.1177/20539517231205476>. Access on: 22 Oct. 2024.

⁴³ ROUMATE, Fatima. Artificial Intelligence, Ethics and International Human Rights Law. *The International Review of Information Ethics*, v. 29, p. 1–10, Mar. 2021. Available at: <https://doi.org/10.29173/irie422>. Access on: 22 Oct. 2024.

Ethics of AI dated November 23, 2021, the EU AI Act (Regulation (EU) 2024/1689) dated June 13, 2024, and the Council of Europe Framework Convention on Artificial Intelligence and Human Rights, Democracy and the Rule of Law dated May 17, 2024, were selected.

The research was carried out in several stages using philosophical, general scientific and special scientific methods.

At the first stage, with the help of historical and logical methods, the history of the AI emergence and its evolution as a phenomenon and a subject of scientific research was worked out. Considerable attention was paid to familiarization with scientific papers devoted to the analysis of the advantages and threats of the use of AI in various spheres of human activity at both the national and international levels. The use of the dialectical method contributed to the study of trends in the normative and legal regulation of relations in the field of AI in law of states, in interstate integration associations' law, and in international law.

At the second stage, on the basis of methods of analysis and synthesis, the results of the work of international conferences, international intergovernmental organizations, and interstate integration associations on issues of normative and legal interpretation of AI and implementation of legal regulation of relations related to the use of AI technologies were studied.

Using the hermeneutic method, the legislation and judicial practice of states from different regions of the world were studied. The soft law acts and EU acquis acts on AI issues developed by international intergovernmental organizations and valid as of September 2024 were studied. Particular attention is paid to the characteristics of the Convention on Artificial Intelligence and Human Rights, Democracy and the Rule of Law of May 17, 2024 adopted by the Council of Europe.

At the third stage, applying comparative and hermeneutic methods, the structure, content, legal nature of prescriptions and tools for further implementation of the OECD Recommendation on AI of May 22, 2019, the UNESCO Recommendation on the Ethics of AI of November 23, 2021, the EU AI Act (Regulation (EU) 2024/1689) dated June 13, 2024 and the Council of Europe Framework Convention on Artificial Intelligence and Human Rights, Democracy and the Rule of Law dated May 17, 2024, were analyzed.

At the final stage of the research, the use of methods of generalization, induction and deduction contributed to summarizing the results of the conducted research and formulating its results.

2 International organizations and soft law acts on AI issues in international law

Despite the fact that the first scientific studies of artificial intelligence were initiated at the beginning of the second half of the 20th century, statements that artificial intelligence appeared only in the middle of the first quarter of the third millennium can be found in scientific publications⁴⁴.

In fact, in this period of time, the interested participants in the relations regarding the development and use of AI technologies have already actively interacted at the multilateral level in the direction of developing a single international regulatory framework in this field.

One of the earliest examples of such elaborations at the non-governmental level was a set of 23 principles⁴⁵ named "Asilomar AI Principles"⁴⁶ developed as a result of the work of the Beneficial AI 2017 conference⁴⁷. More than 100 experts from such fields as philosophy, ethics, economics and law took part in the conference⁴⁸ and elaboration of Asilomar AI Principles⁴⁹.

⁴⁴ MAHARDHIKA, Vita; ASTUTI, Pudji; MUSTAFA, Aminuddin. Could Artificial Intelligence be the Subject of Criminal Law? *Yustisia Jurnal Hukum*, v. 12, n. 1, p. 1–12, 2023. p. 1.

⁴⁵ FOX, Stephen. Beyond AI: Multi-Intelligence (MI) Combining Natural and Artificial Intelligences in Hybrid Beings and Systems. *Technologies*, v. 5, n. 3, p. 1–14, 2017.

⁴⁶ FUTURE OF LIFE INSTITUTE. *Asilomar AI Principles*. 2017. Available at: <https://futureoflife.org/open-letter/ai-principles/>. Access on: 22 Oct. 2024.

⁴⁷ GARBOWSKI, Marcin. A critical analysis of the Asilomar AI principles. *Zeszyty Naukowe Politechniki Slaskiej. Seria Organizacji i Zarządzanie*, v. 113, p. 45–55, 2017.

⁴⁸ KURZWEIL NETWORK. Beneficial AI 2017. *Beneficial AI conference develops 'Asilomar AI principles' to guide future AI research*. 2017. Available at: <http://www.kurzweilai.net/beneficial-ai-conference-develops-asilomar-ai-principles-to-guide-future-ai-research>. Access on: 22 Oct. 2024.

⁴⁹ FUTURE OF LIFE INSTITUTE. *Beneficial AI 2017*. 2017. Available at: <https://futureoflife.org/event/bai-2017/>. Access on: 22 Oct. 2024.

At the international intergovernmental level, the results of such activities began to appear by virtue of the work of various international organizations.

The OECD was the first among international intergovernmental organizations that managed to complete the work and adopt an international soft law act in the field of AI. The Recommendation on AI issues, which was approved at the meeting of the OECD Council at the Ministerial level, which took place on May 22-23, 2019 became this act. More than 50 experts from various spheres and activity sectors (government, industry, civil society, trade unions, the technical community and academia), who interacted within the framework of the work of an unofficial expert group, participated in the elaboration of its project during 2018-2019. From the date of its adoption, the Recommendation provisions were updated twice - on November 8, 2023 and on May 3, 2024⁵⁰.

The OECD Recommendation on AI became the first international standard on AI⁵¹. At the same time, its provisions also supplemented the already existing OECD standards in this field, in particular as those on privacy and data protection, digital security risk management, and responsible business conduct⁵².

Despite the small volume and simple structure, some researchers believe that the values enshrined in the Recommendation turned out to be confusing⁵³. It is difficult to agree with this. According to the structure, the OECD Recommendation on AI consists of: a preamble; a list of terms (“AI system”, “AI system lifecycle”, “AI actors”, “AI knowledge” and “Stakeholders”) that are interpreted to achieve its goals; Section

1. Principles for responsible stewardship of trustworthy AI; Section 2. National policies and international co-operation for trustworthy AI; final provisions. The researchers’ main attention is precisely the five principles of responsible management of reliable AI fixed in Section 1 and the five recommendations for national policy and international co-operation to ensure their effective implementation in practice established in Section 2. It is about the following principles of Section 1: Inclusive growth, sustainable development and well-being; Respect for the rule of law, human rights and democratic values, including fairness and privacy; Transparency and explainability; Robustness, security and safety; Accountability. Section 2 deals with Investing in AI research and development; Fostering an inclusive AI-enabling ecosystem; Shaping an enabling interoperable governance and policy environment for AI; Building human capacity and preparing for labor market transformation; International co-operation for trustworthy AI⁵⁴.

Together with the terms’ interpretation, the above-mentioned provisions of the Recommendation on AI became the basis for not only the internal and external policies of OECD member states but also for other subjects to international law. Thus, as of September 2024, 47 subjects to international law have undertaken to comply with the provisions specified in the Recommendation on AI. In addition to the OECD member states, Argentina, Brazil, Egypt, Malta, Peru, Romania, Singapore, Ukraine and the EU also did this. Various international organizations, in particular the United Nations and the Council of Europe, actively use the AI Recommendation provisions in their activities⁵⁵.

UNESCO is one more well-known international intergovernmental organization that joined the development of international soft law standards in the field of AI.

The international organization started its work in this direction as part of a specially formed expert group (Ad Hoc Expert Group (AHEG) in March 2020.

⁵⁰ ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT. *Recommendation of the Council on Artificial Intelligence of 22.05.2019*. OECD. Legal. Instruments. OECD/LEGAL/0449. 2024. Available at: <https://legalinstruments.oecd.org/en/instruments/oecd-legal-0449>. Access on: 22 oct. 2024.

⁵¹ ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT. *OECD AI Principles overview*. OECD AI. Policy Observatory. 2024. Available at: <https://oecd.ai/en/ai-principles>. Access on: 22 Oct. 2024.

⁵² ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT. *Recommendation of the Council on Artificial Intelligence of 22.05.2019*. OECD. Legal. Instruments. OECD/LEGAL/0449. 2024. Available at: <https://legalinstruments.oecd.org/en/instruments/oecd-legal-0449>. Access on: 22 Oct. 2024.

⁵³ ROUMATE, Fatima. Artificial Intelligence, Ethics and International Human Rights Law. *The International Review of Information Ethics*, v. 29, p. 1–10, Mar. 2021. Available at: <https://doi.org/10.29173/irrie422>. Access on: 22 Oct. 2024.

⁵⁴ ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT. *Recommendation of the Council on Artificial Intelligence of 22.05.2019*. OECD. Legal. Instruments. OECD/LEGAL/0449. 2024. Available at: <https://legalinstruments.oecd.org/en/instruments/oecd-legal-0449>. Access on: 22 Oct. 2024.

⁵⁵ ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT. *OECD AI Principles overview*. OECD AI. Policy Observatory. 2024. Available at: <https://oecd.ai/en/ai-principles>. Access on: 22 Oct. 2024.

AHEG included 24 people who were specialists in various subjects and represented all regions of the world⁵⁶. Carrying out the task, AHEG additionally held numerous consultations with various experts and interested parties from around the world⁵⁷.

As a result, after working out more than 500 amendments⁵⁸, on November 23, 2021, UNESCO adopted the Recommendation on the Ethics of AI⁵⁹, ⁶⁰. After the UNESCO, the Recommendation on the Ethics of AI⁶¹ was recognized by all its member states, and this soft law act began to be called the first global UNESCO standard on the ethics of AI⁶², ⁶³.

At the same time, the specified Recommendation can be considered as global also because its values and principles can be applied by a wide range of subjects to national and international law in various areas of policy action⁶⁴. Among the latter, first of all, the promotion of responsible development of AI is planned to be carried out in the following 11 areas: Policy Area 1: Ethical impact assessment; Policy Area 2: Ethical governance

and stewardship; Policy Area 3: Data policy; Policy Area 4: Development and international cooperation; Policy Area 5: Environment and ecosystems; Policy Area 6: Gender; Policy Area 7: Culture; Policy Area 8: Education and research; Policy Area 9: Communication and information; Policy Area 10: Economy and labor; Policy Area 11: Health and social well-being⁶⁵.

The core of the UNESCO Recommendation on the Ethics of AI consists of four main values, namely: 1). Respect, protection and promotion of human rights, fundamental freedoms and human dignity; 2). Environment and ecosystem flourishing; 3). Ensuring diversity and inclusiveness; 4). Living in peaceful, just and interconnected societies. To ensure the achievement of these values, the UNESCO Recommendation on the Ethics of AI enshrines the following ten basic principles in its text: 1. Proportionality and Do No Harm. 2. Safety and Security. 3. Fairness and non-discrimination. 4. Sustainability. 5. The right to Privacy and Data Protection. 6. Human oversight and determination. 7. Transparency and explainability. 8. Responsibility and accountability. 9. Awareness and literacy. 10. Multi-stakeholder and adaptive governance and collaboration⁶⁶.

Concluding the description of the UNESCO Recommendation on the Ethics of AI, it should be noted that the implementation of its provisions is of great importance in the work of the international organization. For this purpose, UNESCO has developed and implemented two practical methods⁶⁷, namely: 1. Readiness Assessment Methodology (RAM)⁶⁸; and 2. Ethical Impact Assessment (EIA)⁶⁹. In addition, the Women4E-

⁵⁶ ROUMATE, Fatima. Artificial Intelligence, Ethics and International Human Rights Law. *The International Review of Information Ethics*, v. 29, p. 1–10, Mar. 2021. Available at: <https://doi.org/10.29173/irie422>. Access on: 22 Oct. 2024.

⁵⁷ ROTENBERG, Marc. Human Rights Alignment: The Challenge Ahead for AI Lawmakers. In: WERTHNER, H. *et al. Introduction to Digital Humanism*. [S. l.]: Springer, 2024. p. 615. Available at: https://doi.org/10.1007/978-3-031-45304-5_38. Access on: 22 Oct. 2024.

⁵⁸ NATORSKI, Michal. Compromise in multilateral negotiations and the global regulation of artificial intelligence. *Democratization*, v. 31, n. 5, p. 1091–1116, 2024. p. 1107.

⁵⁹ NEUWIRTH, Rostam. J. Law, artificial intelligence, and synaesthesia. *AI & Soc.*, v. 39, n. 3, p. 901–912, 2024.

⁶⁰ RAMOS, Gabriela; SQUICCIARINI, Mariagrazia; LAMM, Eleonora. Making AI Ethical by Design: The UNESCO Perspective. *Computer*, v. 57, n. 2, p. 33–43, 2024.

⁶¹ UNITED NATIONS EDUCATIONAL, SCIENTIFIC AND CULTURAL ORGANIZATION. *Recommendation on the Ethics of Artificial Intelligence*. UNESCO. 2024. Available at: <https://www.unesco.org/en/articles/recommendation-ethics-artificial-intelligence>. Access on: 22 Oct. 2024.

⁶² NATORSKI, Michal. Compromise in multilateral negotiations and the global regulation of artificial intelligence. *Democratization*, v. 31, n. 5, p. 1091–1116, 2024. p. 1092.

⁶³ ROTENBERG, Marc. Human Rights Alignment: The Challenge Ahead for AI Lawmakers. In: WERTHNER, H. *et al. Introduction to Digital Humanism*. [S. l.]: Springer, 2024. p. 615. Available at: https://doi.org/10.1007/978-3-031-45304-5_38. Access on: 22 Oct. 2024.

⁶⁴ UNITED NATIONS EDUCATIONAL, SCIENTIFIC AND CULTURAL ORGANIZATION. *Recommendation on the Ethics of Artificial Intelligence*. UNESCO. Digital Library. 2024. Available at: <https://unesdoc.unesco.org/ark:/48223/pf0000381137>. Access on: 22 Oct. 2024.

⁶⁵ UNITED NATIONS EDUCATIONAL, SCIENTIFIC AND CULTURAL ORGANIZATION. *Ethics of Artificial Intelligence*. The Recommendation. UNESCO. Artificial Intelligence. 2024. Available at: <https://www.unesco.org/en/artificial-intelligence/recommendation-ethics>. Access on: 22 Oct. 2024.

⁶⁶ UNITED NATIONS EDUCATIONAL, SCIENTIFIC AND CULTURAL ORGANIZATION. *Recommendation on the Ethics of Artificial Intelligence*. UNESCO. Digital Library. 2024. Available at: <https://unesdoc.unesco.org/ark:/48223/pf0000381137>. Access on: 22 Oct. 2024.

⁶⁷ UNITED NATIONS EDUCATIONAL, SCIENTIFIC AND CULTURAL ORGANIZATION. *Implementing the Recommendation*. UNESCO. Artificial Intelligence. 2024. Available at: <https://www.unesco.org/en/artificial-intelligence/recommendation-ethics>. Access on: 22 Oct. 2024.

⁶⁸ UNITED NATIONS EDUCATIONAL, SCIENTIFIC AND CULTURAL ORGANIZATION. *Readiness Assessment Methodology*. UNESCO. Global AI Ethics and Governance Observatory. 2024. Available at: <https://www.unesco.org/ethics-ai/en/ram?hub=32618>. Access on: 22 Oct. 2024.

⁶⁹ UNITED NATIONS EDUCATIONAL, SCIENTIFIC AND

thical AI expert platform to advance gender equality⁷⁰ and the Business Council for Ethics of AI⁷¹ also function to fulfill the above-mentioned goal.

3 EU Artificial Intelligence Act as the basis of *acquis* EU on AI issues

From August 1, 2024, the Artificial Intelligence Act (EU AI Act) became an integral part of the EU *acquis*⁷². This became possible after the entry into force of Regulation (EU) 2024/1689 of the European Parliament and of the Council of 13 June 2024 laying down harmonized rules on artificial intelligence and amending Regulations (EC) No 300/2008, published on July 12, 2024, (EU) No 167/2013, (EU) No 168/2013, (EU) 2018/858, (EU) 2018/1139 and (EU) 2019/2144 and Directives 2014/90/EU, (EU) 2016/797 and (EU) 2020/1828 (Artificial Intelligence Act)⁷³.

As in the case of the OECD Recommendation on AI and the UNESCO Recommendation on the Ethics of AI, the work on the EU AI Act elaboration, coordination and adoption lasted several years^{74, 75}.

It was initiated by the European Commission with the High-Level Expert Group On Artificial Intelligence (AI HLEG) forming on March 9, 2018⁷⁶ and the European AI Alliance establishment in June 2018^{77, 78}. A year later, on April 8, 2019, the AI HLEG released the results of its work in the form of Ethics Guidelines for Trustworthy Artificial Intelligence Recommendations, following the publication of the guidelines' first draft in December 2018 and processing by experts of more than 500 comments received as a result of open discussions⁷⁹.

In 2021, the results of the AI HLEG work were further used in the first draft of the EU AI Act⁸⁰. It is this project, after lengthy discussions and agreements, was approved on March 13, 2024 by the European Parliament⁸¹, on May 21, 2024 by the European Council⁸² and signed on June 13, 2024.

The EU AI Act consists of a Preamble, XIII Chapters of the main text, containing 113 articles, and XIII Annexes. In terms of territorial space and the scope of subjects of international law, the EU AI Act is binding in its entirety and is directly applicable in all EU mem-

CULTURAL ORGANIZATION. *Ethical Impact Assessment*. 2024. Available at: <https://www.unesco.org/ethics-ai/en/cia?hub=32618>. Access on: 22 Oct. 2024.

⁷⁰ UNITED NATIONS EDUCATIONAL, SCIENTIFIC AND CULTURAL ORGANIZATION. *Women4Ethical AI*. UNESCO. Artificial Intelligence. 2024. Available at: <https://www.unesco.org/en/artificial-intelligence/women4ethical-ai?hub=32618>. Access on: 22 Oct. 2024.

⁷¹ UNITED NATIONS EDUCATIONAL, SCIENTIFIC AND CULTURAL ORGANIZATION. *Business Council for Ethics of AI*. UNESCO. 2024. Available at: <https://www.unesco.org/en/artificial-intelligence/business-council?hub=32618>. Access on: 22 Oct. 2024.

⁷² EUROPEAN UNION. *European Artificial Intelligence Act comes into force*. European Commission. Shaping Europe's digital future. 2024. Available at: digital-strategy.ec.europa.eu/en/news/european-artificial-intelligence-act-comes-force. Access on: 22 Oct. 2024.

⁷³ EUROPEAN UNION. *Regulation (EU) 2024/1689 of the European Parliament and of the Council of 13 June 2024 laying down harmonised rules on artificial intelligence and amending Regulations (EC) No 300/2008, (EU) No 167/2013, (EU) No 168/2013, (EU) 2018/858, (EU) 2018/1139 and (EU) 2019/2144 and Directives 2014/90/EU, (EU) 2016/797 and (EU) 2020/1828 (Artificial Intelligence Act)*. 2024. Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32024R1689>. Access on: 22 Oct. 2024.

⁷⁴ TAMÓ-LARRIEUX, Aurelia *et al.* Regulating for trust: Can law establish trust in artificial intelligence? *Regulation & Governance*, v. 18, n. 3, p. 780–801, 2024. p. 795.

⁷⁵ CANCELA-OUTEDA, Celso. The EU's AI act: A framework for collaborative governance. *Internet of Things*, v. 27, 2024. Available at: <https://doi.org/10.1016/j.iot.2024.101291/>. Access on: 22 Oct.

2024.

⁷⁶ EUROPEAN UNION. *High-level expert group on artificial intelligence*. European Commission. Shaping Europe's digital future. 2022. Available at: <https://digital-strategy.ec.europa.eu/en/policies/expert-group-ai>. Access on: 22 Oct. 2024.

⁷⁷ EUROPEAN UNION. *The European AI Alliance*. European Commission. Shaping Europe's digital future. 2024. Available at: <https://digital-strategy.ec.europa.eu/en/policies/european-ai-alliance>. Access on: 22 Oct. 2024.

⁷⁸ CYBER RISK GMBH. *The Artificial Intelligence Act - Regulation (EU) 2024/1689*. Cyber Risk GmbH, About us. 2024. Available at: <https://www.artificial-intelligence-act.com/>. Access on: 22 Oct. 2024.

⁷⁹ EUROPEAN UNION. *Ethics guidelines for trustworthy AI*. 2019. Available at: <https://digital-strategy.ec.europa.eu/en/library/ethics-guidelines-trustworthy-ai>. Access on: 22 Oct. 2024.

⁸⁰ EUROPEAN UNION. *Proposal for a Regulation of the European Parliament and of the Council laying down harmonised rules on Artificial Intelligence (Artificial Intelligence Act) and amending certain Union legislative acts*. 2021. Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A52021PC0206>. Access on: 22 Oct. 2024.

⁸¹ EUROPEAN PARLIAMENT. *Artificial Intelligence Act*: MEPs adopt landmark law. 2024. Available at: <https://www.europarl.europa.eu/news/en/press-room/20240308IPR19015/artificial-intelligence-act-meps-adopt-landmark-law>. Access on: 22 Oct. 2024.

⁸² EUROPEAN UNION. *Artificial intelligence (AI) act*: Council gives final green light to the first worldwide rules on AI. 2024. Available at: <https://www.consilium.europa.eu/en/press/press-releases/2024/05/21/artificial-intelligence-ai-act-council-gives-final-green-light-to-the-first-worldwide-rules-on-ai/>. Access on: 22 Oct. 2024.

ber states, and also applies to the European Economic Area (EEA) member states⁸³.

However, some researchers believe that, taking into account the influence of the “Brussels effect”, the EU AI Act can become a global standard for regulating relations in the field of AI and in other states⁸⁴. Although the EU AI Act is an integral part of the EU regulatory framework, its provisions also anticipate the global nature of AI development and implementation, indicating the EU’s intention to influence AI standards and possibly harmonize them internationally⁸⁵. The EU AI Act is the first comprehensive legal framework for artificial intelligence worldwide⁸⁶.

Some scientists also claim that after the approval of the EU AI Act by the European Parliament, the EU will become the first jurisdiction in the world to establish regulations on the use and supply of AI systems⁸⁷.

However, in this regard, it should be emphasized that despite the fact that the Regulation (EU) 2024/1689 entered into force on August 1, 2024, in accordance with the provisions of Art. 113, the application of all its sections, chapters and articles will become possible only after August 2, 2027. In general, it is planned to start applying it in practice from August 2, 2026⁸⁸.

By that time, the EU member states must implement a number of measures aimed at creating the proper conditions for the EU AI Act provisions’ further implementation. Within the EU, for example, an effective joint management system should be formed, which should include both European and national institutions. An important role in ensuring the effective implementation of such management is assigned to the European AI Office⁸⁹, the European Center for Algorithmic Transparency⁹⁰, the European Artificial Intelligence Board⁹¹, already established in early 2024.

Along with the member states governmental institutions, various interested non-governmental participants (NGOs, businesses, experts, citizens, etc.) should also be able to join the joint management policy⁹².

In addition, the EU AI Act also contains numerous provisions aimed at the active participation of various other interested parties, in particular developers, providers, distributors, and users, in their implementation⁹³. Its articles also emphasize the urgency to develop international cooperation and establish uniform standards in the field of AI⁹⁴.

⁸³ EUROPEAN UNION. *Regulation (EU) 2024/1689 of the European Parliament and of the Council of 13 June 2024 laying down harmonised rules on artificial intelligence and amending Regulations (EC) No 300/2008, (EU) No 167/2013, (EU) No 168/2013, (EU) 2018/858, (EU) 2018/1139 and (EU) 2019/2144 and Directives 2014/90/EU, (EU) 2016/797 and (EU) 2020/1828 (Artificial Intelligence Act)*. 2024. Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32024R1689>. Access on: 22 Oct. 2024.

⁸⁴ CANCELA-OUTEDA, Celso. The EU’s AI act: A framework for collaborative governance. *Internet of Things*, v. 27, 2024. Available at: <https://doi.org/10.1016/j.iot.2024.101291/>. Access on: 22 Oct. 2024.

⁸⁵ REN, Qiang; DU, Jing. Harmonizing innovation and regulation: The EU Artificial Intelligence Act in the international trade context. *Computer Law & Security Review*, v. 54, 2024. Available at: <https://doi.org/10.1016/j.clsr.2024.106028>. Access on: 22 Oct. 2024.

⁸⁶ PECCHIA, Leandro *et al.* Artificial Intelligence, data protection and medical device regulations: squaring the circle with a historical perspective in Europe. *Health Technol*, v. 14, p. 663–670, 2024. p. 667.

⁸⁷ HO, Calvin Wai-Loon; CAALS, Karels. How the EU AI Act Seeks to Establish an Epistemic Environment of Trust. *Asian Bioethics Review*, v. 16, p. 345–372, 2024. p. 346.

⁸⁸ EUROPEAN UNION. *Regulation (EU) 2024/1689 of the European Parliament and of the Council of 13 June 2024 laying down harmonised rules on artificial intelligence and amending Regulations (EC) No 300/2008, (EU) No 167/2013, (EU) No 168/2013, (EU) 2018/858, (EU) 2018/1139 and (EU) 2019/2144 and Directives 2014/90/EU, (EU) 2016/797 and (EU) 2020/1828 (Artificial Intelligence Act)*. 2024. Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32024R1689>. Access on: 22 Oct. 2024.

⁸⁹ EUROPEAN UNION. *European AI Office. European Commission*. Shaping Europe’s digital future. 2024. Available at: <https://digital-strategy.ec.europa.eu/en/policies/ai-office>. Access on: 22 Oct. 2024.

⁹⁰ EUROPEAN UNION. *European Centre for Algorithmic Transparency*. European Commission. 2024. Available at: https://algorithmic-transparency.ec.europa.eu/index_en. Access on: 22 Oct. 2024.

⁹¹ CANCELA-OUTEDA, Celso. The EU’s AI act: A framework for collaborative governance. *Internet of Things*, v. 27, 2024. Available at: <https://doi.org/10.1016/j.iot.2024.101291/>. Access on: 22 Oct. 2024.

⁹² BIANCHI, Carmine; NASI, Greta; RIVENBARK, William C. Implementing collaborative governance: models, experiences, and challenges. *Public Management Rev*, v. 23, n. 11, p. 1581–1589, 2021.

⁹³ REN, Qiang; DU, Jing. Harmonizing innovation and regulation: The EU Artificial Intelligence Act in the international trade context. *Computer Law & Security Review*, v. 54, 2024. Available at: <https://doi.org/10.1016/j.clsr.2024.106028>. Access on: 22 Oct. 2024.

⁹⁴ BALLARDINI, Rosa Maria; GENDEREN, Rob van den Hoven van Genderen; NOKELAINEN, Tomi. Legal incentives for innovations in the emotional AI domain: a carrot and stick approach? *Journal of Intellectual Property Law & Practice*, v. 19, n. 8, p. 658–667, 2024. p. 665.

4 Council of Europe Framework Convention on Artificial Intelligence and Human Rights, Democracy and the Rule of Law (17 May 2024)

Work on the development of the Council of Europe Framework Convention on Artificial Intelligence and Human Rights, Democracy and the Rule of Law, adopted by the Committee of Ministers of the Council of Europe on May 17, 2024 (CE Convention on AI or Framework Convention on AI), was started in 2019 by the ad hoc Committee on Artificial Intelligence (CAHAI) to study the instrument developing expedience. After the expiration of its mandate in 2022, CAHAI succeeded the Committee on Artificial Intelligence (CAI)⁹⁵, which developed and agreed on the final text of the EC Convention on AI⁹⁶.

The CE Convention on AI structure consists of a Preamble, VIII Chapters of the main text containing 36 articles. Chapter 3 of the CE Convention on AI, as well as the above-mentioned international legal acts on AI issues, lays down general principles to its Contracting Parties. The list of such principles includes: human dignity and personal independence (Art. 7), transparency and supervision (Art. 8), accountability and responsibility (Art. 9), equality and non-discrimination (Art. 10), confidentiality and personal data protection (Art. 11), reliability (Art. 12), safe innovations (Art. 13). In case of accession to the EC Convention on AI, each of its Contracting Parties is obliged to implement the above principles in accordance with its domestic legal system and other obligations arising from this Convention. In other articles of the CE Convention on AI, its Contracting Parties are bound by the obligation to provide and maintain effective and accessible legal remedies including informing about the potential dangers that AI systems might make. The contracting parties are obliged to provide the opportunity for the affected persons to appeal the actions taken against them as a result of the use of the AI system, and to appeal to the relevant authorities in order to protect the violated rights. Signi-

ficant importance in the CE Convention on AI articles is given to the means of joint control over the execution and implementation of its provisions by the Contracting Parties. It is, in particular, about the obligation to conduct periodic consultations, convene meetings of representatives of the Contracting Parties, periodic reports based on the results of the fulfillment of commitments preparation, and international cooperation development⁹⁷.

The Council of Europe official website states that the CE Framework Convention on AI is the first ever international legally binding treaty in this field. The Framework Convention complements existing international standards on human rights, democracy and the rule of law in order to fill any legal gaps that may arise as a result of rapid technological progress in the field of human rights, democracy and the rule of law⁹⁸. In order to stand the test of time, the Framework Convention does not regulate technology and is, in fact, technologically neutral⁹⁹.

Let's note that there can be absolutely no objection to the fact that the CE Convention on AI is the first international treaty in this field. However, the statement that the CE Convention on AI is legally binding, in our opinion, should be clarified. In order for the above to be true, a number of mandatory conditions must be met.

First, the CE Convention on AI, open for signature on September 5, 2024, should be signed by at least five signatories. This opportunity is available to the EU, the Holy See, 46 Council of Europe member states, as well as states that are not members of the Council of Europe, but participated in its development, namely Argentina, Australia, Canada, Costa Rica, Israel, Japan, Mexico, Peru, Uruguay and the United States.

Secondly, the CE Convention on AI is subject to ratification, acceptance or approval. Documents confir-

⁹⁵ COUNCIL OF EUROPE. *Committee on Artificial Intelligence (CAI)*. Artificial Intelligence. 2024. Available at: <https://www.coe.int/en/web/artificial-intelligence/cai>. Access on: 22 Oct. 2024.

⁹⁶ COUNCIL OF EUROPE. *The Framework Convention on Artificial Intelligence*. Artificial Intelligence. 2024. Available at: <https://www.coe.int/en/web/artificial-intelligence/the-framework-convention-on-artificial-intelligence>. Access on: 22 Oct. 2024.

⁹⁷ COUNCIL OF EUROPE. *Council of Europe Framework Convention on Artificial Intelligence and Human Rights, Democracy and the Rule of Law*. Council of Europe Treaty Series - № [225]. 2024. Available at: <https://rm.coe.int/1680afae3c>. Access on: 22 Oct. 2024.

⁹⁸ COUNCIL OF EUROPE. *The Framework Convention on Artificial Intelligence*. Artificial Intelligence. 2024. Available at: <https://www.coe.int/en/web/artificial-intelligence/the-framework-convention-on-artificial-intelligence>. Access on: 22 Oct. 2024.

⁹⁹ COUNCIL OF EUROPE. Newsroom. *Council of Europe adopts first international treaty on artificial intelligence*. 2024. Available at: <https://www.coe.int/en/web/portal/-/council-of-europe-adopts-first-international-treaty-on-artificial-intelligence>. Access on: 22 Oct. 2024.

ming such actions must be submitted to the Council Secretary-General for safekeeping.

Thirdly, among the first five signatories, three must be members of the Council of Europe. They are obliged to express their consent to the binding nature of the Convention provisions by ratifying, accepting or approving it and to send the relevant documents to its depository.

Fourth, three months must pass after the five (or the fifth of the) signatories have completed the actions specified in the previous paragraph.

Only after that, on the first day following the end of the three-month period, and only for those subjects of international law that have taken the above actions, the CE Convention on AI should enter into force.

Regarding possible Contracting Parties to the CE Convention on AI, attention should also be paid to the fact that, in accordance with the provisions of its Art. 31, they can also be other states that are not the Council of Europe members and that did not participate in its development. For this purpose, after the CE Convention on AI enters into force, the CE Committee of Ministers may, after consulting with the Contracting Parties to the Convention and obtaining their unanimous consent, invite any state to take the necessary actions¹⁰⁰.

According to the Council of Europe Secretary-General M. Pejčinović:

The Framework Convention on Artificial Intelligence is a first-of-its-kind, global treaty that will ensure that Artificial Intelligence upholds people's rights. It is a response to the need for an international legal standard supported by states in different continents which share the same values to harness the benefits of Artificial intelligence, while mitigating the risks.¹⁰¹

At the same time, will the CE Convention on AI really become a global international treaty? Will states from different continents really be among its contracting parties after it enters into force? Will the institution of invitation to the circle of Contracting Parties to the

Framework Convention on AI of states that are not members of the Council of Europe and that did not participate in its development, work?

Answers to these questions will be available only later. Perhaps these hopes will come true soon enough, because during the development of the draft Framework Convention on AI, 58 subjects to international law have already agreed on numerous differences between the legal systems operating within their territories. An important role in the implementation of this activity was played by the staff of the OECD, UNESCO, OSCE and around 70 representatives from civil society, business, technical and academic community¹⁰².

And perhaps the CE Convention on AI, if it enters into force, will remain purely regional. Such an assumption can be made on the basis of the results of the accession of states that are not members of the Council of Europe, to the Convention for the protection of Human Rights and Dignity of the Human Being with regard to the Application of Biology and Medicine: Convention on Human Rights and Biomedicine, adopted by this international organization on April 4, 1997 in Oviedo. Four Additional Protocols form part of this Convention. The first of them, the Additional Protocol on the Prohibition of Cloning Human Beings, was adopted on December 1, 1998. The second, the Additional Protocol concerning Transplantation of Organs and Tissues of Human Origin, was adopted on January 24, 2002. The third Protocol, the Additional Protocol concerning Biomedical Research, appeared on January 25, 2005. The date of adoption of the fourth Protocol – the Additional Protocol concerning Genetic Testing for Health Purposes is November 27, 2008.

As in the case provided by Art. 31 of the CE Convention on AI, states that are not the Council of Europe members may also be parties to the Convention on Human Rights and Biomedicine and its protocols. Regarding this, Part 1 of Art. 33 and Part 1 of Art. 34 of this Convention provide for states that are not members of the Council of Europe but which participated in its development, the European Community and any other states, to which the Minister of the Committees of the Council of Europe will propose to do so may

¹⁰⁰ COUNCIL OF EUROPE. *Council of Europe Framework Convention on Artificial Intelligence and Human Rights, Democracy and the Rule of Law*. Council of Europe Treaty Series - № [225]. 2024. Available at: <https://rm.coe.int/1680afae3c>. Access on: 22 Oct. 2024.

¹⁰¹ COUNCIL OF EUROPE. Newsroom. *Council of Europe adopts first international treaty on artificial intelligence*. 2024. Available at: <https://www.coe.int/en/web/portal/-/council-of-europe-adopts-first-international-treaty-on-artificial-intelligence>. Access on: 22 Oct. 2024.

¹⁰² COUNCIL OF EUROPE. *Committee on Artificial Intelligence (CAI)*. Artificial Intelligence. 2024. Available at: <https://www.coe.int/en/web/artificial-intelligence/cai>. Access on: 22 Oct. 2024.

also be its contracting parties, in addition to the Council of Europe member states¹⁰³.

In fact, only the Council of Europe member states are the contracting parties to the European Oviedo Convention and its Protocols as of September 2024. Moreover, not all of its 46 member states took advantage of this opportunity. Thus, only 30 of the Council of Europe member states recognized the legally binding force of the Convention provisions¹⁰⁴. 24 states joined the Additional Protocol provisions of 1998¹⁰⁵. 15 states are contracting parties to the Additional Protocol of 2002¹⁰⁶, 12 states – to the Additional Protocol of 2005¹⁰⁷, and only 6 states, the Council of Europe members are the contracting parties to the Additional Protocol of 2008¹⁰⁸. Additionally, we emphasize the fact that some of these states are simultaneously the EU member states, which also did not join the circle of Contracting Parties to the European Oviedo Convention and its Protocols¹⁰⁹.

Therefore, it is more correct to state that in the future the CE Framework Convention on AI might become the first legally binding universal international treaty that will contribute to the human rights protection in the field of AI regardless of the geographical location of its Contracting Parties.

5 Conclusions

International law is a means of legal response to any current phenomena and relations available to all peoples. The toolkit developed for this purpose by the subjects to international law is actively used both for discussion and for recording achieved or prospectively expected results in various domains of international and national relations. AI is one of such fields.

For a long time, relations in the ambit of AI belonged to the subject of legal regulation exclusively of national law. However, being a cross-border phenomenon, legal regulation of relations in the AI area began to be paid attention to within the framework of international law.

Such activities were most effective within the framework of various international organizations. Almost simultaneously, sub regional, regional and universal international organizations adopted the first international legal acts in the field of AI for each of these organizations. By legal force, such acts can be classified into soft law acts (for example, the OECD Recommendation on AI issues of May 22, 2019, UNESCO Recommendation on the Ethics of AI of November 23, 2021) and hard law (for example, the EU AI Act (Regulation (EU) 2024/1689) dated June 13, 2024 and the Council of Europe Framework Convention on Artificial Intelligence and Human Rights, Democracy and the Rule of Law dated May 17, 2024.).

At the same time, there are no restrictions in international law regarding the fact that subjects of interna-

¹⁰³ COUNCIL OF EUROPE. *Convention for the protection of Human Rights and Dignity of the Human Being with regard to the Application of Biology and Medicine: Convention on Human Rights and Biomedicine*. 1997. Available at: <https://rm.coe.int/168007cf98>. Access on: 22 Oct. 2024.

¹⁰⁴ COUNCIL OF EUROPE. *Chart of signatures and ratifications of Convention for the protection of Human Rights and Dignity of the Human Being with regard to the Application of Biology and Medicine: Convention on Human Rights and Biomedicine (ETS № 164)*. Status as of 29/01/2023. 2023. Available at: <https://www.coe.int/en/web/conventions/full-list?module=signatures-by-treaty&treatynum=164>. Access on: 22 Oct. 2024.

¹⁰⁵ COUNCIL OF EUROPE. *Chart of signatures and ratifications of Additional Protocol to the Convention for the Protection of Human Rights and Dignity of the Human Being with regard to the Application of Biology and Medicine, on the Prohibition of Cloning Human Beings (ETS № 168)*. Status as of 29/01/2023. 2023. Available at: <https://www.coe.int/en/web/conventions/full-list?module=signatures-by-treaty&treatynum=168>. Access on: 22 Oct. 2024.

¹⁰⁶ COUNCIL OF EUROPE. *Chart of signatures and ratifications of Additional Protocol to the Convention on Human Rights and Biomedicine concerning Transplantation of Organs and Tissues of Human Origin (ETS № 186)*. Status as of 29/01/2023. 2023. Available at: <https://www.coe.int/en/web/conventions/full-list?module=signatures-by-treaty&treatynum=186>. Access on: 22 Oct. 2024.

¹⁰⁷ COUNCIL OF EUROPE. *Chart of signatures and ratifications of Additional Protocol to the Convention on Human Rights and Biomedicine, concerning Biomedical Research (ETS № 195)*. Status as of 29/01/2023. 2023. Available at: <https://www.coe.int/en/web/conventions/full-list?module=signatures-by-treaty&treatynum=195>. Access on: 22 Oct. 2024.

¹⁰⁸ COUNCIL OF EUROPE. *Chart of signatures and ratifications of Additional Protocol to the Convention on Human Rights and Biomedicine concerning Genetic Testing for Health Purposes (ETS № 203)*. Status as of 29/01/2023. 2023. Available at: <https://www.coe.int/en/web/conventions/full-list?module=signatures-by-treaty&treatynum=203>. Access on: 22 Oct. 2024.

¹⁰⁹ PEREPOLKIN, Serhii; BONIAK, Valentyna; YEFIMOVA, Inna; LABENSKA, Liliia; TRESKIN, Dmytro. The concept of the fourth generation of human rights: fact or perspective of scientific discourse. *Brazilian Journal of International Law*, v. 21, n. 2, p. 279–295, 2024.

tional law cannot recognize the provisions of soft law acts as legally binding for themselves. Therefore, only the interest of the subjects of international law will prove whether such acts will remain exclusively the elaboration of a certain international organization or will receive truly universal international recognition in the near future.

It should also be taken into account that the same states are simultaneously members of various international organizations and interstate integration associations. Therefore, both the international legal acts in the ambit of AI covered in this article, and those of them that will be developed in the future, being different in the form of external expression and legal obligations for implementation, might mutually complement each other and form the primary basis of a new branch of international law called “International AI Law”. The use of various forms of normative and legal regulation of relations in the field of AI in international law at the sub regional, regional and universal levels can be perceived as a statement of the expansion of the subject of legal regulation of international law owing to international relations on AI issues.

Further doctrinal discussion of the abovementioned issues is of great importance for the continuation of the theoretical study of the artificial intelligence phenomenon and its impact on various spheres of human activity at the national, crossborder and international levels. The obtained results may also be important for the normative and legal fixation in law of states, interstate integration associations, and in international law of a unified understanding of AI and the peculiarities of legal regulation of AI relations related to this phenomenon.

In the perspective of forming a comprehensive approach to solving theoretical and applied problems in this field of scientific research and the implemented legal regulation, it can contribute to the development of a unified conceptual understanding of the benefits and threats of using AI technologies for all interested subjects of national and international law.

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