ARTIFICIAL INTELLIGENCE AND ITS CHALLENGES. ANTICIPATING THE EMERGENCE OF A NEW BRANCH OF LAW OR A FIELD OF STUDY AT THE LEVEL OF THE NATIONAL LAW AND/OR EUROPEAN UNION LAW

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ABSTRACT: Artificial Intelligence and Its Challenges. Anticipating the emergence of a new branch of law or a field of study at the level of the national law and/or European Union law.

Our paper provides an interdisciplinary analysis, with an emphasis on private law, of the concept of „Artificial Intelligence" (AI), in the sense that it could be identified as a new branch of law or a discipline of study that focuses on AI from a legal perspective. Although AI has been the subject of numerous studies and has been analyzed by experts from various fields, we believe that there have been no clear conclusions regarding this approach from the legal perspective.

The practical interest of this work arises from identifying the place and role of AI in the legal world in general, as well as in substantive law and procedural law in particular. In this context, our study may be of practical interest in relation to the elements of conduct norms and the legal relationship, as well as from the perspective of the legal effects that a legal act can produce, viewed in both its senses (as a legal operation and as a means of evidence).

As a research method, we have chosen qualitative analysis, consulting and analyzing a series of opinions provided to us by legal scholarship. Based on these, we can outline a relevant perspective on AI in its relationship with the legal field.

Keywords: *artificial intelligence, branch of law, discipline of study, legal relationship, national law, European law.*

Introduction

In the era of advanced technology, artificial intelligence (AI) has become a central topic in many fields of study, including the field of law. This paper explores various aspects related to the interaction between AI and the legal system, providing a comprehensive perspective on the rapid evolution of this relationship.

In the first section, we will present a definition and a brief characterization of the various branches of law and fields of study that are influenced by AI. We will analyze how AI has become a significant presence in the legal field, impacting various aspects of legal activity.

Next, we will focus on the concept of the civil legal relationship and explore how AI has influenced the elements of this relationship, such as the ‚parties/subjects' involved. We will discuss the identification and place of AI within the civil legal relationship.

Furthermore, our attention has been focused on the facilities brought by AI in legal practice, including electronic access to case information, legislative programs, ECRIS, remote case study, correspondence with courts and other authorities through email, as well as the interrogation of defendants with the help of video cameras. These technological innovations have brought significant changes to how legal professionals conduct their work.

Following the analysis of the facilities brought by AI to the act of justice, we will examine whether AI could be considered a distinct branch of law or if it is more appropriate to approach it from an interdisciplinary perspective. We will analyze the place of AI within traditional branches of law and whether it represents a new branch within the law of the European Union.

We will also explore the concept of a ‚legal relationship of rights' that includes AI, highlighting how contemporary individuals borrow the legal capacity of AI, similar to Roman citizens who borrowed the capacity of slaves for making legal acts. We will analyze the legal effects in Roman law and in modern society.

Towards the end of the paper, we will discuss the involvement of AI in substantive and procedural law, highlighting the limits of valid legal acts and the legal resolution of disputes. We will also analyze judicial practice under the influence of AI and how it has revolutionized the decision-making process in the courts.

Through this scientific endeavor, we aim to provide a comprehensive perspective on the impact of AI in the field of law, highlighting both the opportunities and challenges that this technology brings to the evolution of the contemporary legal system and, secondarily, to the field of education.

1. Artificial Intelligence - a branch of law or a field of study?

Analyzing the phrase „Artificial Intelligence" (for which we will use the abbreviation AI), in terms of being a branch of law or a field of study, involves considering several elements that define and characterize the concept of a „branch of law" and the concept of a „field of study." Therefore, we will take into account the essential elements of these two aforementioned concepts, and throughout this study, we will focus on the connection between Artificial Intelligence and its implications in the field of law.

A branch of law represents a set of legal norms that regulate social relationships with the same specificity and within the same domain, using the same method or the same complex of regulatory methods. In certain situations, branches of law can be divided into sub-branches.[1]

The subject of study or the field of study represents the content on which knowledge is directed.[2] the totality of knowledge taught within a field of study, also known as a „school subject." We can consider this definition even in the context of fields of study in the legal domain as they are found in the curriculum of law faculties. This option allows us to identify AI in material legal relationships, where it can replace one of the parties involved in legal life (legal relationships, legal acts, etc.). Additionally, we can find AI in procedural law, where a machine/device can facilitate or replace the activities performed by an individual in the course of a legal proceeding (in court).

The term „intelligence" is defined in common language as the ability to easily and effectively understand, grasp what is essential, and solve new situations or problems based on previously accumulated experience. As a specific concept, „artificial intelligence" is defined as a field of computer science that develops technical systems capable of solving difficult problems related to human intelligence.[3]

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1   *Explanatory Dictionary of the Romanian Language (DEX)*, Bucharest, Univers Enciclopedic Publishing House, 2016, p.1005.

2   *Ibidem*, p. 803.

3   *Ibidem*, p. 562.

At the European level, AI is defined as the ability of a machine to imitate human functions such as reasoning, learning, planning, and creativity [EU website]. Furthermore, on the European Parliament's website, we find information characterizing AI as follows: „AI enables technical systems to perceive the environment in which they operate, process this perception, and solve problems by acting to achieve a specific goal. The computer receives data (either already prepared or collected through its own sensors, such as a video camera), processes them, and reacts. AI systems are capable, to a certain extent, of adapting their behavior by analyzing the effects of previous actions and operating autonomously."

When discussing the place of AI in the legal systems of EU member states, we consider EU legislation, the peculiarities and priorities of each state, as well as the limits within which EU member states can be required to follow certain conduct. In this regard, opinions have been expressed that delineate intervention in the internal affairs of states in general[4], as well as the obligations that EU member states have assumed with this membership.

Based on the definitions mentioned earlier, we can only form a partial opinion. In the following, we will analyze the specificities of the legal domain and the extent to which all this information leads to the emergence of a new branch or sub-branch of law and/or the emergence of a new field of study in the legal field."

2. Legal Civil Relationship – Identifying the Place and Role of AI

2.1. Some Characteristics of the Legal Relationship

The legal relationship is one of the essential elements in the field of law, defined as social relations governed by legal norms. This concept represents a connection between individuals, either of a patrimonial nature[5], or non-patrimonial, subject to the rules and prescriptions established by current law. In this text, we will focus on defining the legal relationship, its essential elements, and how Artificial Intelligence (AI) can find its place

4   Florica Brașoveanu, Constantin Anechitoae, „The Principle of Non-interference in Internal Affairs", „*Ovidius" University Annals, Economic Sciences Series*, Vol. XV, Issue 2, 2015, pp. 76-79.
5   Gabriel Boroi, Carla Alexandra, *Course of Civil Law. General Part*, Bucharest, Hamangiu Publishing House, 2011, p. 51.

within this relationship, much like an agent or representative.

The legal relationship can be described as a social relationship regulated by legal norms, connecting two or more parties. This relationship can be of a patrimonial nature, such as a sales contract, or non-patrimonial, such as family rights or moral obligations. It is known that a legal relationship comprises three essential elements: the parties, the content, and the object[6]. In relation to these elements, we will attempt to discover the presence of AI and its role in such a legal relationship.

The parties to the legal relationship are the individuals who interact within this relationship or connection. They can be natural persons and/or legal entities, and each party (or subject) has their own rights and obligations defined by the law. It is also possible for these individuals to establish certain rules of conduct by their own will and in relation to others.

The content of the legal relationship refers to the rights and obligations that constitute the legal relationship, which may or may not be quantifiable in terms of money. This element, the content, is directly related to a person's estate, and it concerns the components of the estate, specifically the active and passive aspects of the estate with which the holder of the right or obligation can act directly and personally or through a representative.

The object of the legal relationship refers to what is regulated by the legal norm, namely, the conduct of the parties in that social relationship. The conduct that the legislator or the parties themselves establish is regulated by the law and contains those actions to which a party is entitled or the obligations from which the parties are required to refrain.

2.2. The Place and Role of AI in the Legal Relationship

AI has become an increasingly influential presence in various aspects of life, including the legal field. With the help of algorithms and advanced technologies, AI can be involved in legal relationships in several areas of law:

a. Regarding legal assistance, AI can provide help in drafting legal documents, such as contracts or agreements, by identifying appropriate clauses and avoiding ambiguities.
b. As a result of concluding legal acts/contracts at a distance, without the physical presence of the parties, AI can be used to

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6   *Ibidem*, pp. 55-57.

send draft contracts or final contracts via electronic mail or fax, in order to achieve the agreement of the contracting parties.

c. Concerning the automation of legal/judicial procedures, AI can manage repetitive and time-consuming legal processes, such as document processing or case management, thereby reducing costs and human errors. In this regard, computer systems used by courts for the random allocation of cases or other similar procedures have contributed to the efficiency of the administration of justice.

d. Regarding the so-called „predictive analysis" found in the legal field, AI can analyze legal data and precedents to provide forecasts regarding possible outcomes in a given case. This can help lawyers make more informed decisions.

e. In terms of research and search activities, AI can conduct quick and efficient research and selections, identifying relevant case law and legislation, as well as legal theorists' opinions.

Despite its significant contributions, AI cannot completely replace the human parties involved in a legal relationship or the elements required for the act of justice. Legal relationships often involve elements of subjectivity, empathy, interpretation, and negotiation, which are essential for interpersonal relations. Communication in society, among its members, is very important.[7] Nevertheless, AI can act as an agent or representative, supporting the human parties involved in the legal relationship.

3. Challenges of the law regarding the conclusion of legal acts between absent parties

3.1. Representation in legal acts and technological intervention

Concluding legal acts through a legal representative has been a concept that has evolved significantly throughout history and has raised complex legal issues. To better understand this evolution, it is important to explore two distinct historical periods: Antiquity, with a focus on Ancient Rome, and the contemporary era, especially in terms of human cloning. Additionally, we will also delve into a specific situation in Romanian law, known as „interzis judecătoresc" (judicially forbidden).

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7   Oana Tătaru, „The Facets of Distinctive Forms as Regards Social Communication", *RAIS Conference Proceedings,* March 1-2, 2021, pp. 123-128.

In Ancient Rome, society was deeply marked by social differences and statuses. An important aspect of concluding legal acts during this period was the delegation of the capacity to conclude such acts by slaves. Despite slaves having no rights and being considered the property of their masters, they could be used to conclude legal acts on behalf of their masters. This concept, known as „actus legitimi," allowed masters to protect their interests and carry out legal transactions through their slaves.[8] However, there were clear limitations on the types of acts that slaves could conclude, and they had to be in accordance with the will of the master.

In the contemporary era, the concept of concluding legal acts through a legal representative has evolved significantly, becoming highly complex. A notable example in this regard is human cloning.[9] With advancements in science and technology, scientists have started to explore the possibility of cloning humans. This issue raises significant ethical and legal questions regarding the capacity of legal representatives to conclude legal acts for clones. In this context, we may face uncertainties regarding how the rights and legal status of a cloned individual are defined, or who could be the legal representative of a clone, and to what extent they should be held responsible for their actions. If artificial intelligence is involved in the cloning process, it could lead to different questions, challenges, and, obviously, different answers.

Romanian law has a special situation known as „interzis judecătoresc." This refers to a person who, due to mental health or other reasons affecting their ability to give free and unimpaired consent to legal acts, is considered incapable of exercising their legal rights and responsibilities. In such cases, a legal representative is designated to protect the interests of the incapacitated person, who can conclude legal acts on behalf of the judicially forbidden individual. It is essential for this legal representative to act in the best interest of the affected individual and strictly adhere to legal boundaries to protect the person in question.[10]

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8   Teodor Sâmbrian, *Roman Law. Principles, Institutions, and Famous Texts*, Bucharest,"Șansa" Publishing House and Press - S.R.L., 1994, pp. 140-141.
9   Mariana Radu-Mitra, „The Implications of the Legal System on Human Cloning, In Vitro Fertilization, and Embryo Transfer", *Ovidius University Annals, Series Economic Sciences*, Vol. 13, Issue 2, 2013, pp. 149-153.
10   Roxana Elena Topor, *Judicial Prohibition between Social Perception and Legal Protection*, Romanian Case Law Review, Issue 3, Bucharest, Universul Juridic Publishing

Concluding legal acts through a legal representative is a complex concept that has evolved significantly throughout history. From using slaves in Ancient Rome to the legal issues raised by human cloning in the contemporary era, there are many aspects to consider. Additionally, in Romanian law, „interzis judecătoresc" represents a special situation that requires careful handling. In all these cases, legal representatives must act in accordance with the law and protect the interests of those they represent, while respecting the legal and ethical boundaries set by society.

On the other hand, we observe that technological advancements keep pace with the evolution of society and its challenges. This leads us to discuss the replacement of public officials with robots. This has been made possible even in the field of law, where the so-called „robot lawyer" can perform all the tasks currently undertaken by a regular lawyer, such as speaking in the courtroom with the judge and providing advice to the client through headphones. Starting from a few ideas like these, data protection, as well as issues of confidentiality and professional secrecy, an analysis of the repercussions of a possible implementation of the robot lawyer has been conducted [Legal Sites].

Another challenge of the contemporary world brought about by AI in the field of law is the first robot judge, which has jurisdiction over cases not exceeding the sum of 6,400 euros. This is in Estonia, which has allowed litigants to open proceedings directly online by accessing a specialized website. Data protection in this state does not raise concerns about the breach of personal data since Estonia has strictly regulated the verification of its citizens' identities [BN Site]."

3.2. Limitations and Controversies Regarding the Role of AI in the Field of Law

Despite all its advantages, the use of AI in legal matters has generated concerns and controversies. One of the main concerns is related to responsibility and ethics in the legal field. If AI is involved in making legal decisions, it is necessary to determine who is responsible in case of an error.[11] And we refer to a person because we live among people, interact with them,

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even though sometimes we use machines, technology, or electronic devices. There are also concerns about confidentiality and data protection, especially when AI processes sensitive information.

In light of these issues, we observe that the legal relationship represents an essential social relationship, regulated by legal norms and can have a patrimonial or non-patrimonial nature. AI can play a significant role in supporting and automating legal processes, providing assistance, analysis, and efficient information management.

However, AI cannot completely replace the parties involved in legal relationships, as these often involve subjective and complex aspects. It is important to balance the benefits brought by AI with responsibility and ethics in the legal field to ensure that legal relationships remain just and equitable.

By consulting the websites of European Union institutions, we have noticed the domains where there is visible concern regarding the place and role of AI. Among these, the legal field seems to be placed on the back burner, perhaps as a result of the fact that legal norms, relationships, legal acts, and judicial procedures appear as a leitmotif in other areas of daily life. This creates controversy and an uncertain context regarding the idea of building a branch or sub-branch of law around AI.

Considering these aspects, we once again opine that the current legal world may not yet be ready to include AI within a branch or sub-branch of law.

In the given context, the opinion emerges that AI could become a subject of study within one or more disciplines in the curriculum of law faculties. Regarding AI as a component of the legal system or for inclusion in a branch or sub-branch of law, we opine that this should only be done after a careful analysis of the application of AI and its effects on interpersonal relationships.

Conclusions

As we stated from the beginning, the topic we chose for our study addresses a current issue, a real challenge of our times. In recent years, we can observe that AI has gained ground, becoming visible, perhaps even too much at times. The social, educational[12], legal, and pandemic

12   Ioan-Gheorghe Rotaru, "Current Values of Education and Culture", în *Proceedings of the 24th International RAIS Conference on Social Sciences and Humanities*, August 15-16, 2021, Princeton, NJ, United States of America, pp. 87-92.

context[13] demonstrates that this evolution of AI requires careful examination. This is to ensure that AI is used correctly in accordance with the codes of conduct established in society. In case of deviations from legal norms, appropriate sanctions should be applied to restore legal balance.

By analyzing the impact of Artificial Intelligence (AI) in the legal field, we started with a few ideas provided by legal theory and practice, to which we added our concerns about the connection between AI, the legal domain, and teaching. In this context, we had the opportunity to form an opinion that we present to those interested, with the hope that our perspective contributes modestly to the comprehensive analysis of the previously discussed subject.

In an era marked by technological advances, the relationship between law and AI has become increasingly relevant. This paper examined various aspects of the intersection of AI, law, and, to a lesser extent, education, highlighting significant transformations in these areas.

We began by defining some concepts, namely, „branch of law," „object/discipline of study," and „Artificial Intelligence," to identify the areas where AI had the greatest impact. This exercise revealed that AI has become an integral part of disciplines such as information technology law, where legislative programs and research tools have become electronically accessible.

We also examined the civil legal relationship and how AI influenced the „parties/subjects" element. AI has revolutionized how parties interact, facilitating electronic correspondence and the interrogation of defendants through video conferencing.

Regarding the position of AI in law and its branches, it is evident that AI can be approached both as an autonomous entity and in an interdisciplinary context, being present in all branches of law.

Another important aspect analyzed was the legal relationship that includes AI. We demonstrated that this can be compared to ancient Roman practices, where citizens lent their legal capacity to their slaves. Today, AI can act on behalf of contemporary humans, generating significant legal effects.

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13   Ioan-Gheorghe Rotaru, "Spiritual lessons observed through the Coronavirus Crisis", în *Dialogo. Issue of Modern Man,* 2020, vol.6, no.2, pp. 71-82.

We also examined AI's involvement in substantive law and procedural law, identifying the possible limits on the valid conclusion of legal acts and the thorough resolution of disputes.

In light of the foregoing, a primary conclusion is that AI has brought about significant transformations in the legal field, altering how law is understood and applied. It is imperative for legal professionals to stay current with these changes and adapt to new challenges, ensuring efficient and equitable legal practice under the influence of AI.

On a different note, by observing the essential elements of the definitions presented earlier, we can establish a connection between law, education, and AI. This allows us to envision the opportunity to study AI as a discipline in the legal domain. We can say that this perspective is shared both nationally and within the EU. Moreover, Romania, as a member state of the European Union, shares EU educational and legal policy views.

Without completely excluding this possibility, however, at this moment, we believe that, to include AI among the branches of law, we should find sufficient, necessary, and useful considerations/motives for this type of intelligence in judicial practice. These should adequately cover the elements of the definition of a branch of law. Only then can we talk about AI as a branch or sub-branch of law. This is the second conclusion derived from our work

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