

SECTION 2. ADMINISTRATIVE LAW AND PROCESS

DOI: 10.46299/ISG.2024.MONO.LEGAL.3.2.1

2.1 Application of information technologies in adoption of administrative acts

Artificial intelligence (hereinafter referred to as AI) is one of the most important and discussed technological achievements of our time, which is radically changing many aspects of human activity, including the legal sphere. The development of AI raises numerous issues, among which its legal status and interaction with existing legal systems are of the greatest importance. There are a significant number of approaches to defining the essence of AI, from perceiving it as part of robotics to considering it as an independent direction of science and technology, which requires comprehensive legal regulation. Today, it is important to understand not only the technical aspects of AI functioning, but also the impact of its use on legal norms, in particular on the processes of drawing up administrative acts. The growing influence of AI on various industries, in particular in the field of public administration, poses new challenges for scientists and practitioners in the legal regulation of this technology. Consideration of the possibilities and limitations of the use of AI in the context of legal procedures requires lawyers to take new approaches to analyzing its legal personality, ethics, and responsibility for decisions made. This is especially important for Ukraine, where legislation must adapt to international standards, in particular to the norms of the European Union.

In view of the above, this article focuses on the analysis of the main approaches to defining the concept of AI in the legal sphere, as well as on the possibilities of its implementation to improve the process of drawing up administrative acts in Ukraine. Particular attention is paid to studying the potential of AI to automate the decision-making process, improve the motivational part of administrative acts and check documents for errors. At the same time, the risks associated with the implementation of these technologies are analyzed, and the possibilities of minimizing them through improving legislation and technical support are analyzed.

Despite certain difficulties associated with the integration of AI into the legal process, its use in state bodies is an important stage of digital transformation, which can significantly increase the efficiency and transparency of administrative procedures in Ukraine. Therefore, it is necessary to focus on the development of legislative and ethical regulation in order to most effectively integrate the latest technologies into legal practice and ensure the protection of human rights in a rapidly changing technological environment.

Recent research in the field of artificial intelligence in the legal sphere provides various views on its nature, functions and legal status. AI continues to be the subject of active scientific debate, in particular regarding its impact on legal processes and legal regulation. In the context of administrative proceedings, not to mention the sphere of administrative act registration, the introduction of artificial intelligence is not a very discussed topic. Therefore, the study of the advantages and disadvantages of the introduction of AI in the registration of an administrative act is being conducted for the first time.

Currently, in Ukraine, despite the existence of the Concept of the Development of Artificial Intelligence, there is incomplete and inconsistent regulation of the legal status of AI, which is the subject of sharp scientific and practical discussions. The problem is not only how to correctly classify and define AI, but also how to integrate it into the legal system, where important aspects are issues of ethics, legal personality and liability for actions taken by such systems.

In addition, currently in Ukraine there are no clearly defined norms regulating the legal status of AI in the context of interaction with other legal institutions, such as human rights, personal data protection, liability for AI errors, etc. The problem is complicated by the need adaptation of Ukrainian legislation to international standards, in particular to EU norms, which creates additional difficulties in the process of implementing technologies and their legal regulation.

In view of this, there is a need to develop a new approach to the legal regulation of AI, which would take into account the rapid development of technologies, as well as ensure the protection of human rights and increase the efficiency of the legal process.

It is important to consider not only the theoretical aspects of the functioning of AI, but also practical mechanisms for its integration into the public administration system, in particular into processes related to the execution of administrative acts.

Thus, the main problem is the lack of a clear legal definition of AI and the need to develop an effective system of legal regulation that would ensure the consistency of the technological capabilities of AI with ethical norms and principles of legal regulation in Ukraine.

There are a significant number of definitions of AI, which vary from the perception of it as part of robotics to the understanding of AI as an independent direction of development of science and technology. Analyzing the above scientific approaches to defining the concept and functions of artificial intelligence (AI) in the legal sphere, we can distinguish several main directions that reflect the specifics of understanding AI and its functioning:

1. AI as a computer program for data analysis - Varava I.P. and Paramonova Yu.O. focus on the functionality of AI as a computer program that analyzes and processes data, creating the illusion of intellectual processes similar to human ones [18].

2. AI as an intelligent system that exceeds human capabilities - Mahind Rupali and Patil Amit describe AI as intelligence that surpasses human in many areas [21]. They differentiate between weak and strong AI, focusing on the ability of AI to learn, adapt, solve complex problems and linguistic logic.

3. Cybernetic approach - Baranov O.A. considers AI through the prism of the cybernetic approach, which focuses on information processing, its storage, transmission and transformation in complex dynamic systems [17]. AI is defined as an algorithmic model of human cognitive functions. This approach is theoretically supported by the works of Norbert Wiener and became the basis for the principle of technological neutrality. It is this approach, from our point of view, that is more comprehensive, since it clearly outlines the nature of the functioning of AI. It is cybernetics that studies the processes of information management and processing regardless of the material nature of the system, and the processing, analysis and transformation of information are the basis for the operation of modern AI systems,

including those used in the legal sphere. It is this approach that takes into account not only current achievements, but also the potential for the development of AI, including the principle of technological neutrality. Moreover, in a world dominated by integrative systems, an approach that combines philosophical, mathematical and applied aspects is the most relevant. The concept of AI is also enshrined in national legislation, namely in the Concept of the Development of Artificial Intelligence in Ukraine, where AI is defined as an organized set of information technologies that allows performing complex tasks through the use of scientific methods, information processing algorithms, the creation and use of knowledge bases, decision-making models, and the determination of ways to achieve set goals [19]. In this case, AI is considered as a set of information technologies, the main focus of which is the ability to perform complex tasks using scientific methods and algorithms. This definition has the advantages of simplicity and application orientation, but it is limited, since it does not take into account the aspects of ethics, legal status, autonomy, or cognitive nature of AI. Returning to the cybernetic approach of O.A. Baranov, he offers a more comprehensive approach. Therefore, regulatory consolidation is suitable for the formation of regulatory acts, but does not take into account the complex nature of AI, as Baranov's cybernetic approach does.

However, in modern scientific discussions, the problem arises not only of defining the essence of AI, but also of its legal status. In Ukraine, according to the Concept of Artificial Intelligence Development (hereinafter referred to as the Concept).

The Cabinet of Ministers has recognized the need to create a state policy that regulates the development and implementation of AI. The central issue is determining the legal status of AI, which involves analyzing its legal personality, responsibility, norms of use and protection of human rights. The legal status of AI can be defined as a set of ethical norms that regulate its creation, use and impact on legal relations. The main aspects include:

- the lack of subjectivity of AI, since it does not have legal personality or the ability to independently participate in legal relations. All actions of AI systems are considered to be carried out by its developers, operators or owners.

- principles of legal regulation, which include compliance of AI activities with the principles of the rule of law and respect for human rights and the protection of personal data during AI processing and ensuring the right to privacy.

- ethical norms, meaning the implementation of the principles of transparency, ethics and responsibility during the creation and use of AI and the creation of mechanisms for assessing the compliance of AI systems with ethical standards and legislation.

- liability for damages caused by AI systems lies with individuals or legal entities that develop or use it [19].

During the analysis of the aforementioned Concept, several problems were identified related to determining the legal status of AI. Firstly, AI is currently regulated by analogy with computer programs, which in Ukraine are equated with literary works. However, AI has a much broader functionality, which raises questions about its adequate legal regulation, since, in our opinion, the Concept does not clearly outline the legal status of AI. Secondly, the Concept itself states that Ukrainian legislation needs to be adapted to international standards, such as the Recommendations of the OECD and the Council of Europe. Although Ukraine seeks integration with the EU, there are difficulties with the implementation of European norms into Ukrainian legislation, since they may be contradictory or not correspond to the Ukrainian context. This can create confusion for both regulators and developers, especially those focused on the EU market. Tymoshenko O.O. agrees with this view, and also indicates that Ukraine may borrow rules from other states, which may sometimes not meet EU standards and create difficulties for their implementation in practice. Thirdly

Thus, artificial intelligence is a challenge for modern legal science, since it requires a new approach to its legal regulation. Given the rapid development of technology, it is important to ensure balanced legislation that would promote innovation and at the same time protect human rights. Solving this problem is possible only under conditions of cooperation between scientists, lawyers, AI developers and state authorities. Having considered the legal nature of AI, let us move on to exploring the prospects for its implementation during the preparation of an administrative act, which is the result of a

decision on a case. To begin with, let's consider the legal regulation of the execution of an administrative act and its procedure in order to determine where AI capabilities can improve and facilitate this process.

The Law of Ukraine "On Administrative Procedure" (hereinafter referred to as the Law) regulates the issue of the execution and adoption of an administrative act, namely Articles 69-73. The process of executing an administrative act in accordance with the legislation is a clearly regulated procedure that includes several key stages and provides for specific requirements for the form, content and procedure for adopting such acts. First of all, an administrative act is issued by an administrative body within the limits of its powers based on the results of consideration of the case. In some cases specified by law, the adoption of the act is possible in automatic mode, which emphasizes the integration of digital technologies into the administrative process. The main form of the act is written, however, under certain circumstances (for example, to prevent threats to life or safety), an oral form is allowed, with subsequent written confirmation upon request participants in the proceedings. In the case of an electronic form, an administrative act must meet the requirements of the legislation on electronic document flow. An administrative act consists of four parts (introductory, motivational, resolute, final), each of which performs a specific function. The act must contain information about the administrative body, the essence of the decision, legal justification, terms of validity and the possibility of appeal [20].

Having analyzed the process of drawing up an administrative act, we can propose introducing AI in the following areas:

1. Automation of decision-making using AI;
2. Improvement of the motivational part;
3. Checking acts for errors.

More details about each area:

1. AI can be used to automatically make decisions in standard cases that have clearly defined legal norms and solution algorithms. For example, in situations where data analysis of national electronic information resources is sufficient, AI is able to quickly assess the situation, apply the relevant legal norms and issue a decision without

human intervention. This will reduce the time for reviewing typical cases and reduce the burden on administrative bodies. Additionally, automation of the process frees employees of administrative bodies from routine work, allowing them to focus on more complex and non-standard tasks. At the same time, the following significant risks may be encountered:

- in non-standard situations, AI may mistakenly apply a template approach, which will lead to an unfair decision.- uncertainty about who is responsible for AI errors (developer, operator or administrative body as specified in the Convention).

- citizens may be wary of automated decisions, especially if they do not understand the principles of AI.

- there may also be errors in algorithms or lack of updates, which can lead to mass erroneous decisions.

In our opinion, the prospects for applying AI in this direction have more advantages. All the problematic issues mentioned above have a fairly simple and logical solution: regarding the first issue, the benefit of AI will be greatest when solving standard cases, while more complex cases will be dealt with by professional specialists, which, on the contrary, will facilitate their work, and the work itself will not be routine and uninteresting. Regarding the second issue, it is acute not only in the field of administrative justice, but also in other areas, and therefore it is logical to improve the legislation, which will be aimed at solving this issue. Regarding the last two risks, these responsibilities for improving the AI system will be assigned to technical workers, and as for ordinary employees of administrative bodies, in our opinion, in connection with the digital transformation that every year introduces “amendments” to our legislation, they must be able to adapt to such innovations. Every day, many new inventions appear in the world, and if they help to specify and improve any process of human life, then they are not just what is needed, they must be implemented in national systems.

2. AI can analyze legal norms and court practice to automatically formulate the motivational part of an administrative act. This will ensure the accuracy of legal reasoning, avoid logical errors and reduce the subjective factor. In our opinion, if you give AI access to the necessary database, it will be able to find relevant legal norms,

judicial practice and logically justify decisions. Another positive point in this context is that the exclusion of the human factor reduces the likelihood of biased or insufficiently reasoned decisions, which is very relevant in connection with the level of corruption in the country. Considering the risks that may arise here, we emphasize that the text of the motivating part may be too "technically" formulated, which will be difficult to understand, as well as the incompleteness or inaccuracy of the data analyzed by the AI may lead to erroneous conclusions. In this case, the human factor comes to the rescue, but then the question arises, why introduce it, if in the end it is the person who will shape the final result? We look at it from the point of view of the time used. Checking the document will take much less time than creating it "from scratch". Again, AI relieves the workload of workers.

3. Using AI to check administrative acts will help to identify and correct grammatical, stylistic, legal or arithmetic errors even before they are approved. This minimizes the risk of appealing decisions due to technical inaccuracies. The advantages of such an introduction will be the rapid processing of huge amounts of information and making decisions much faster than a person. Analyzing the problematic aspects of such an innovation, we came to the conclusion that in some cases AI may not recognize errors that are not provided for by the algorithm, or correct what is not an error (for example, specific terminology), or software flaws may cause additional errors instead of eliminating them. To solve this problem, it is necessary to involve experienced specialists in the field of technical support, which will contribute to the emergence of new jobs and the emergence of new areas of professional activity. Despite the existing risks, the advantages of introducing AI in the administrative process outweigh the potential negative consequences. In particular, the use of AI in automating decision-making, improving the motivational part and checking acts for errors will significantly increase the efficiency of administrative bodies. To minimize risks, it is necessary to improve legislative regulation, provide constant technical support and train specialists to adapt to new technologies. Thus, the implementation of AI is a necessary stage of the digital transformation of state bodies, which will help improve the quality and transparency of administrative procedures in Ukraine. A separate direction of

innovations provided for by the legislation on the provision of administrative services, which involve the use of information and communication technologies, is the information of consumers of administrative services by the government body. And these innovations involve the transformation of previously optional phenomena in the activities of government bodies into mandatory ones. One of such phenomena is the presence of an official website of the government body, which from now on must exist not only in executive bodies, but also in local self-government bodies.

Thus, the implementation of AI in legal practice is necessary to ensure innovative and effective solutions in modern legal systems. For this, it is necessary to provide national legislation with modern tools that will meet both national and international requirements.