

ARTIFICIAL INTELLIGENCE AND FUNDAMENTAL RIGHTS: BETWEEN COLLISION AND COMPATIBILITY IN THE VISION OF THE COUNCIL OF EUROPE

Drd. Ruxandra Andreea LĂPĂDAT
Academia de Studii Economice din București
ruxandrabanica@hotmail.com

Abstract

This article explores the efforts of the Council of Europe towards regulating artificial intelligence (AI), with a focus on its use within the justice system. Analyzing international legal efforts is important in order to observe various regulatory approaches to AI globally, ranging from the US's capitalism-based model to the European focus on protecting fundamental rights. These approaches, regardless of their legal force, require integration and adaptation into the national legislative framework currently under consolidation. The Council of Europe was chosen for analysis because it has a rich, detailed activity that addresses the subject of technological innovation comprehensively, being centered on a multidisciplinary perspective. Additionally, the organization shows rigor in analyzing the ethical perspective and the protection of fundamental rights as the primary goal in the context of the intensive use of AI across all areas of life. We are thus witnessing an adaptation of the philosophy of law to include new concepts that have emerged in the AI era, ensuring that technological progress does not undermine human essence and its values. The present research therefore aims to demonstrate the utility of an interdisciplinary approach to navigate the ethical and legal implications of incorporating AI into everyday life.

Keywords: *ethics, innovation, fundamental rights, European*

I. Introduction

The Council of Europe (CoE) has expressed several significant concerns regarding the development and use of artificial intelligence. One of the main concerns centers on the protection of fundamental human rights. Artificial intelligence can have a profound impact on life, with AI algorithms potentially leading to various abuses in the absence of a serious data control. The Council of Europe also emphasizes the need to ensure transparency, accountability, and ethics in the development and application of these technologies.

Another major concern relates to the safety and security when using artificial intelligence systems. AI can be used in critical areas such as infrastructure, healthcare, public order, and justice, where the risks associated with failures or errors can have severe consequences. The Council of Europe insists on the necessity of imposing rigorous standards and regulatory frameworks to guarantee that AI systems are safe, reliable, and subject to adequate human control. There is also a strong focus on risk assessment and management, with clear obligations for developers and operators to prevent and manage potential hazards.

In parallel, the Council of Europe is concerned with how AI might influence democracy and the rule of law. The use of AI in public decision-making processes or in citizen surveillance raises questions about governance transparency and the right to a fair trial. There are fears about the potential for information and public opinion manipulation through technologies like "deepfake," which could undermine the integrity of elections and public debate. Therefore, the Council of Europe advocates for a stable legislative framework to ensure that AI is used in ways that support democracy, protect citizens' rights, and maintain public trust in state institutions.

II. Interdisciplinary approach of CoE regarding the protection of human rights in the digital age

The emphasis placed by the CoE on elaborating carefully considered norms for the protection of fundamental rights stems from a continuous political discourse and various measures taken over an entire decade. These efforts have consistently built up and were finally merged in 2024 into a unique global treaty concerning artificial intelligence.

The Council of Europe Framework Convention on artificial intelligence and human rights, democracy, and the rule of law (CETS No. 225) was opened for signature during a conference of Council of Europe Ministers of Justice in Vilnius. It is the first-ever international legally binding treaty aimed at ensuring that the use of AI systems is fully consistent with human rights, democracy and the rule of law.

The Framework Convention was signed by Andorra, Georgia, Iceland, Norway, the Republic of Moldova, San Marino, the United Kingdom as well as Israel, the United States of America and the European Union¹.

However, we also consider important to present the most significant initiatives prior to the treaty, undertaken by various Council of Europe (CoE) bodies², to highlight

¹Council of Europe opens first ever global treaty on AI for signature, Council of Europe, 2024, <https://www.coe.int/en/web/portal/-/council-of-europe-opens-first-ever-global-treaty-on-ai-for-signature>

²The Council of Europe and artificial intelligence, Council of Europe, <https://rm.coe.int/brochure-artificial-intelligence-en-march-2023-print/1680aab8e6>

what we perceive as a comprehensive and much better-structured vision compared to the efforts made by other European organizations, such as the EU, strictly from the perspective of fundamental rights protection:

➤ **Commissioner for Human Rights** raised awareness on the human rights impacts of AI systems in his dialogue with national authorities, national human rights structures, and other relevant stakeholders, including civil society actors. He also provided guidance on the way in which the negative impacts of AI systems on human rights can be prevented or mitigated. The Commissioner's work is based on existing standards and builds on work done in this area by the Council of Europe and other international organisations.

The commissioner's activity is reflected as following:

- *Highly intrusive spyware threatens the essence of human rights (2023)*³
- *Opinion: Coronavirus concerns are not carte blanche to snoop (2020)*⁴
- *Unboxing AI: 10 steps to protect human rights (2019)*⁵
- *Ethnic profiling: a persisting practice in Europe (2019)*⁶
- *Safeguarding human rights in the era of artificial intelligence (2018)*⁷

➤ **Steering Committee for Human Rights (CDDH)**- the principal aim of the CDDH is to ensure that AI standard-setting activities are compatible with human rights norms as set out in the European Convention on Human Rights, as interpreted by the European Court of Human Rights, the European Social Charter, as interpreted by the European Committee on Social Rights, and other relevant human rights instruments. The CDDH is tasked with the preparation of a Handbook on human rights and AI by the end of 2025. The Handbook will provide for the target audience of government officials and policymakers of Council of Europe member States a practical, sectoral approach to States' obligations regarding the potential risks posed by AI to human rights⁸.

➤ **The Venice Commission** is the Council of Europe's advisory body on constitutional matters. It provides legal advice to its member States in the areas of democratic institutions and fundamental rights, constitutional justice and ordinary justice, as well as elections, referendums and political parties. The Commission also prepares transversal

³ *Highly intrusive spyware threatens the essence of human rights*, Council of Europe, 2023, <https://www.coe.int/en/web/commissioner/-/highly-intrusive-spyware-threatens-the-essence-of-human-rights>

⁴ *Opinion: Coronavirus concerns are not carte blanche to snoop*, Council of Europe, 2020, <https://www.coe.int/en/web/commissioner/-/opinion-coronavirus-concerns-are-not-carte-blanche-to-sno-1>

⁵ *Unboxing AI: 10 steps to protect human rights*, Council of Europe, 2019, <https://rm.coe.int/unboxing-artificial-intelligence-10-steps-to-protect-human-rights-reco/1680946e64>

⁶ *Ethnic profiling: a persisting practice in Europe*, Council of Europe, 2019, <https://www.coe.int/en/web/commissioner/-/ethnic-profiling-a-persisting-practice-in-europe?redirect=%2Fen%2Fweb%2Fcommissioner%2Fthematic-work%2Fartificial-intelligence>

⁷ *Safeguarding human rights in the era of artificial intelligence*, Council of Europe, 2018, <https://www.coe.int/en/web/commissioner/-/safeguarding-human-rights-in-the-era-of-artificial-intelligence?redirect=%2Fen%2Fweb%2Fcommissioner%2Fthematic-work%2Fartificial-intelligence>

⁸ *Draft Handbook on human rights and artificial intelligence – general structure and possible elements*, Council of Europe, 2024, <https://rm.coe.int/drafting-group-on-human-rights-and-artificial-intelligence-draft-handb/1680b21b1f>

reports and has already adopted two documents concerning digital technologies and elections, as following:

- *Conclusions of the 19th European Conference of Electoral Management Bodies “Artificial intelligence and electoral integrity” (2022)*⁹
- *Principles for a fundamental rights-compliant use of digital technologies in electoral processes (2020)*¹⁰
- *Joint Report of the Venice Commission and the Directorate of Information Society and Action against Crime of the Directorate General of Human Rights and Rule of Law (DGI) on Digital Technologies and Elections (2019)*¹¹

➤ **The Consultative Committee for the Protection of Individuals with regard to Automatic Processing of Personal Data** is tasked with the interpretation of the data protection standards enshrined in Convention 108/108+, reflects and sets the commonly acceptable level of protections in the digital era as Convention 108/108+ remains the only legally binding multilateral instrument on the protection of privacy and personal data and the landmark instrument facilitating free flow of data and respecting human dignity in the digital age. It expands on all continents and provides for a principle-based framework for the protection of individuals’ privacy and a viable forum for cooperation to supervisory authorities. The Committee also produces reference documents in related areas such as Artificial Intelligence and aims to provide data protection related guidance in the use of AI systems and technologies that may lead to algorithmic deduction, control or surveillance.

Before concluding the argument about the attention given by the CoE in various forms and the priority of human rights protection over technological advancement, it is necessary to present the HUDERIA tool¹².

The proposal of this tool by the CoE demonstrates a serious commitment to protecting human rights, with the methodology under discussion being well-structured and taking into account both positive aspects that can lead to the expansion of the scope of fundamental rights, helping to improve the human condition overall, as well as negative aspects, aiming to avoid severe consequences that might arise from the uncontrolled use of AI.

⁹ *Conclusions of the 19th European Conference of Electoral Management Bodies “Artificial intelligence and electoral integrity”*, the Venice Commission, 2022, <https://www.coe.int/en/web/electoral-management-bodies-conference/conclusions-2022>.

¹⁰ *Principles for a fundamental rights-compliant use of digital technologies in electoral processes*, the Venice Commission, 2022, [https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2020\)037-e](https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2020)037-e).

¹¹ *Joint Report of the Venice Commission and the Directorate of Information Society and Action against Crime of the Directorate General of Human Rights and Rule of Law (DGI) on Digital Technologies and Elections*, the Venice Commission, 2019, [https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2019\)016-e](https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2019)016-e).

¹² *Methodology for the risk and impact assessment of artificial intelligence systems from the point of view of human rights, democracy and rule of law*, Council of Europe, 2024, <https://rm.coe.int/cai-2024-16rev2-methodology-for-the-risk-and-impact-assessment-of-arti/1680b2a09f>.

HUDERIA is a risk and impact assessment methodology for artificial intelligence systems on human rights, democracy, and the rule of law, structured in four steps, which may not necessarily be applied consecutively, depending on the need or the outcomes of the previous steps:

1. The Context-Based Risk Analysis (COBRA) provides a structured approach to collecting and mapping the information needed to identify and understand the risks the AI system could pose to human rights, democracy and the rule of law in view of its sociotechnical context. It also supports an initial determination as to whether the AI system is an appropriate solution for the problem being considered;
2. The Stakeholder Engagement Process (SEP) proposes an approach to enabling and operationalising the engagement, as appropriate, with the relevant stakeholders in order to gain information regarding potentially affected persons and contextualize and corroborate potential harms and mitigation measures;
3. The Risk and Impact Assessment (RIA) provides possible steps regarding the assessment of the risks and impacts related to human rights, democracy and the rule of law;
4. The Mitigation Plan (MP) provides possible steps on defining mitigation and remedial measures, including access to remedies and iterative review.

One aspect very well sensed by the CoE through this tool pertains to reversibility, an essential characteristic that should be discussed more often in the context of AI regulation. This feature comes into play in step number two mentioned above, aiming to protect human life. Reversibility refers both to the possibility of returning to the initial state, before the damage occurred, and to the degree of possible restoration for those affected, in order to overcome the negative consequences produced.

This process requires differentiated considerations regarding members of various groups, who might need different levels of effort to overcome the negative impact caused, depending on their age, their positions in society, and the circumstances surrounding the harm (for example, vulnerable and marginalized groups often have less resilience than other privileged or majority groups).

III. Specificities regarding the justice system and AI

Narrowing the scope of analysis, we consider it important to scrutinize aspects concerning the justice system, with the CoE addressing different areas distinctly through its bodies. The use of AI in the justice system is already happening in most signatory states, to a greater or lesser extent.

The justice system began integrating artificial intelligence over the last decade in various forms that are transforming how justice is administered. In general, AI is primarily used for automating internal procedures, to simplify and speed up judicial processes

- considering the ethical impact of using AI, which should be strictly necessary and avoid negative effects on the privacy of inmates;
- facilitating, through AI, the interaction between inmates and individuals who aid in rehabilitation or the exercise of fundamental rights, such as lawyers, psychologists, and family members;
- using AI in the recruitment and professional training of staff.

These recommendations require processing and implementation of principles by each member state. In this regard, following the participation of Romanian representatives at the signing ceremony of the CoE treaty on artificial intelligence held on September 4-5 in Vilnius, Lithuania, we also observe ongoing efforts in this direction.

At the national level, authorities have shown concern through the adoption of Government Decision no. 832/2024, namely the National Strategy for Artificial Intelligence 2024-2027, being the only centralized effort on this subject. The strategy is not an overly ambitious document, addressing only initial, but essential aspects in the controlled integration of AI on Romanian territory. It emphasizes professional training and the development of AI competencies, digital literacy for the population and professional training for public servants being needed, creating a consolidated infrastructure regarding the use of datasets and ensuring technology transfer from research to production.

At the level of Romania's judicial system, the strategy does not outline specific objectives in this area. Nevertheless, institutions responsible for the functioning of the judicial system are implementing a series of measures to integrate AI in this field as well. The initial step involves the automation of certain procedures; in this context, the most recent meeting on this topic took place on September 17, 2024, with the objective of clarifying technical aspects concerning the management of software programs and applications serving the judicial system, stemming from the legal obligation to ensure a unified and functional IT system.

The main AI system currently in Romania's judicial system is ECRIS V, serving as the central pillar of digital architecture around which other specific judicial system applications have been designed and developed. ECRIS V proposes a centralized architecture that allows digital interaction with both litigants and any other IT system of interest for judicial activity, managed by government institutions or related legal professions (Ministry of Justice, Superior Council of Magistracy, High Court of Cassation and Justice).

Following the analysis of various work scenarios, the technical solution proposed by the Ministry of Justice to resume court activities under normal parameters was to transfer the account with the highest administrative rights for the just.ro domain to the High Court of Cassation and Justice, an institution of judicial authority recognized at the constitutional level. The proposal was agreed upon by the partners, the Ministry

of Justice, the Prosecutor's Office at the High Court of Cassation, and the Superior Council of Magistracy. They aim to form a joint working group as soon as possible, where specialists from these institutions will analyze the necessary mechanisms and tools, stages, and implementation timeline for the proposal, subsequently making the results of the technical analysis available to the leadership of these institutions¹⁶.

We can conclude that there is an effort to resolve the previous conflict that arose between the Superior Council of Magistracy (SCM) and the Ministry of Justice (MoJ) in 2024, in the context of implementing a project funded by EU aimed at developing an electronic case management system, where the aforementioned institutions act as partners. The SCM considered the MoJ's efforts to enroll IT equipment from the courts into a domain administered by the ministry as an unconstitutional interference in the activities of the judiciary. Thus, through decision no. 1519/2024¹⁷, the SCM decided to suspend the process of enrolling computers and servers from the courts, as well as the judges' accounts in the just.ro domain, and to return to the situation prior to enrollment for cases where this process had already been started or completed. The arguments put forth by the SCM were summarized by the fact that such a centralized system outside the judicial authority creates a framework that allows for the monitoring of activities, accessing, copying, and modifying files on any computer in the network without the judiciary having the necessary infrastructure to intervene directly and efficiently to detect and stop such activities¹⁸. The transfer of the administration of the just.ro domain thus appears as a natural step towards resolving the dispute.

This situation underscores the importance of maintaining both the constitutional principle of separation of powers and the ethical component in this entire process of AI development and integration. We thus arrive at the last point of our proposed research, namely the compatibility between ethics and AI in the digital era.

¹⁶ Press release regarding the meeting of the institutional partners involved in the digitalization process of the judicial system, MoJ, 2024, <https://www.just.ro/comunicat-de-presa-privind-reuniunea-partenerilor-institutionali-implicati-in-procesul-de-digitalizare-a-sistemului-judiciar/>.

¹⁷ SCM Decision no. 1519/2024, SCM, 2024, <https://www.csm1909.ro/ViewFile.ashx?guid=17742cfe-0a6c-4045-b193-9f3f1f840192-InfoCSM>.

¹⁸ It must be emphasized that the equipment involved in the enrollment process is used for drafting judgments, and the pronouncement of these judgments can coincide with the moment of reasoning in civil matters, while in criminal matters, the rule is that the pronouncement can only occur together with the reasoning. This means that any unauthorized access to these systems before the pronouncement can lead to a breach of the secrecy of deliberation. Maintaining the secrecy of deliberation is essential to ensure the independence of judges, and its compromise can undermine public trust in the justice system. Moreover, in a centralized system, it becomes unclear who bears legal responsibility in the case of a security breach or unauthorized access, whereas in a decentralized system, courts are directly responsible for managing their own data, which facilitates the identification and remediation of issues. Therefore, it is imperative that the computer systems used by magistrates are protected in such a way that there is no technical possibility of unauthorized access from outside the judicial authority, and they remain exclusively under the control of the judicial IT departments established at the court level or are managed in a centralized manner but within the judicial authority. Ensuring such control is crucial to guarantee that judicial deliberations remain confidential and to prevent any external influences that could affect the fair and proper administration of justice.. https://www.luju.ro/static/files/2024/septembrie/10/CSM_MJ_calculatoare.pdf.

However, before moving on to a brief analysis of the ethical implications of AI, we deem it appropriate to review a recent and unique case regarding the use of AI in courts. While European states still maintain a conservative approach in practice and integrate AI into the justice system more slowly, a third-party state to the treaty in question, namely the United States of America, goes beyond the declarative level in supporting the use of technological innovation in courtrooms and admits pioneering uses of AI in practice. In this context, we illustrate with a recent case from Florida, where Judge Andrew Siegel used a virtual reality headset, provided by the defense, to view an incident from a wedding from the perspective of the defendant, Miguel Albusu, who is being tried for assault. He is accused of threatening wedding guests with a gun in Southwest Ranches in 2023.

The defense proposed evidence using artificial intelligence to accurately recreate the scene. After the court admitted the evidence, the AI tool was made available to the judge, prosecutor, and witnesses, allowing them to experience through the defendant's eyes what he faced when surrounded by drunken partygoers, to better understand the factual situation and to make an informed decision. An artist designed an engaging experience using Oculus Quest 2 VR headsets to illustrate the crime scene's perspective, showing that the defendant was surrounded by drunken partygoers causing chaos, thus acting in self-defense and pleading not guilty¹⁹.

We support the openness of judges to admit innovative evidence that helps in discovering the truth in a case, as well as their adaptability in deciding on the utility of these pieces of evidence.

IV. Ethical implications

The CoE has understood the importance of adhering to ethical principles in the context of the explosive implementation of AI, adopting legislative elements on this aspect as early as 2020. We thus mention Recommendation No. 2342/2020²⁰ issued by the Parliamentary Assembly of the CoE, which contains a series of ethical principles that must be respected in the context of AI use:

- transparency, including accessibility;
- justice and fairness, including non-discrimination;
- human responsibility for decisions, including accountability and the existence of remedies;
- safety and security;
- privacy and data protection.

¹⁹ *Florida Judge Wears VR Headset to View Crime Evidence in Legal First*, Petapixel, 2025, <https://petapixel.com/2025/01/03/florida-judge-wears-vr-headset-to-view-crime-evidence-simulation-in-legal-first-courtroom/>.

²⁰ *Recommendation No. 2342/2020 issued by the Parliamentary Assembly of the CoE*, Council of Europe, 2020 <https://pace.coe.int/en/files/28805/html>.

These principles are also articulated in documents issued by other big international organizations, representing the most crucial aspects currently deemed necessary in the context of AI use. Before proceeding further in our analysis, a linguistic clarification is needed. The term "justice" mentioned among the principles does not refer to the judicial system, but *refers differently to: a) the use of AI to correct past mistakes, such as eliminating discrimination; b) ensuring that the use of AI creates benefits that are shared (or at least can be shared); c) preventing the creation of new harms, such as undermining existing social structures*²¹.

While the enunciation and reiteration of these principles are welcomed to raise awareness of the multifaceted impact AI brings to the entire world, beyond the obvious technological advancement, we consider the issuance of such recommendations to be insufficient. In our opinion, it would be extremely useful to develop tools similar to the one mentioned earlier (HUDERIA), such as risk assessment methodologies, guides on adhering to ethical principles, etc., to ensure the development of understanding the melding between a humanistic process, like ethics and morality, and a realistic, mathematical process, like AI.

The speed of technological development can be incompatible with the protection of fundamental rights as well as with the ethical aspect, all of these requiring lengthy periods to form their sphere of manifestation and the necessary set of principles regarding operation. Below, we present an interesting passage regarding the language used in this context, which also expresses an inherent incompatibility between the speed of AI development and the observance of ethical boundaries²².

Without providing a specific definition of AI, we can suggest that there are at least two ways of viewing AI with regard to tempo. The word intelligent has indeed been equated with speed, with notions such as quick witted, quick to comprehend, etc. But it has just as often been equated with the slow and more ponderous gathering and processing of information, e.g. in military intelligence. In fact, wisdom, with little or no connotation of speed, has sometimes served as a passable substitute for intelligence, and the notion of wisdom as a deeper seeing, a disclosure and understanding of hidden inner relationships, can arguably be applied to many contemporary uses of algorithms, particularly in deep learning. In other words, ethics as practice is what ethics has been as a developing strand of human interest, a slow and gradual accumulation of wisdom regarding what to do, a building of the good, which is arrived at through learning and experiencing and ethical growth inside the human individual while acting in human society, no matter through which ethical theory. All of this takes time, and has taken time. Ethical time, is different from legal time, even though the two overlap at their best.

²¹ *Prolegomena to a White Paper on an Ethical Framework for a Good AI Society*, Josh Cows, Luciano Floridi, Oxford University, 2024, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3198732.

²² Regulamentul UE privind IA: un salt istoric în contextul reglementării utilizării tehnologiei, Ruxandra Lăpădat, *Revista Română de Drept European* nr.3/2024, în curs de publicare.

Ethical time is analogous to geological time. Legal time in its regulatory aspect is analogous to anthropocentric time²³.

We face the same shortcomings with other international documents, such as the AI Act issued by the EU. In the content of the aforementioned regulation, the regulation of ethical aspects is deficient, *and the one regarding the protection of fundamental rights will not reach a very high standard of fundamental rights protection, considering the brief and somewhat lax regulation, as follows:*

- *Initial assessments are not mandatory for all AI systems; the implementer can rely on previous impact assessments on fundamental rights for similar systems, with the initial assessment being required only for the first use of a high-risk AI system;*
- *Periodic reevaluations are mandatory only in the context of substantial modifications to the AI system, thus missing any initially unforeseen consequences of the AI system on fundamental rights that might emerge over time as harmful, despite no substantial changes being made to the system in question;*
- *AI systems that were placed on the market before the regulation applies fall under its scope only if they undergo substantial modifications, potentially escaping any such evaluation²⁴.*

Moreover, we find in the doctrine a bold proposal regarding ensuring the respect for fundamental rights and ethical standards, which involves the reversal of the burden of proof, an aspect that can be applied independently of the EU AI Act referred to in the following article:

Individuals will often be unaware of harms driven by AI because providers and deployers of AI systems, which are not user- or customer-facing, do not publicly report their impact. Where harms are hidden due to the deployment model or lack of public reporting, complaint-based mechanisms will be insufficient to protect individual rights. This gap can be closed through the harmonized standards. Provisions should be introduced to require consistent testing and publication of a summary of the results for affected parties.

In particular, with respect to bias and AI, I propose a reversal of the burden of proof. There is no such thing as unbiased data. AI models, systems, and their training and testing data should be assumed to be biased unless proven otherwise. This reversal can be accomplished by publishing the aforementioned testing results and actions undertaken to mitigate and prevent biases²⁵.

²³*Some Ethical Reflections on the EU AI Act*, Marc M. Anderson, 1st International Workshop on Imagining the AI Landscape After the AI Act, Jun 2022, Amsterdam, Netherlands, https://ceur-ws.org/Vol-3221/IAL_ paper5.pdf.

²⁴ *Regulamentul UE privind IA: un salt istoric în contextul reglementării utilizării tehnologiei*, Ruxandra Lăpădat, Revista Română de Drept European nr.3/2024, în curs de publicare.

²⁵ *Limitations and Loopholes in the EU AI Act and AI Liability Directives: What This Means for the European Union, the United States and Beyond*, Yale Journal of Law & Technology, Volume 26, Issue 3, 2024, https://law.yale.edu/sites/default/files/area/center/isp/documents/wachter_26yalejltech671.pdf.

The concern for the ethical aspect is also diminished when we analyze systems outside of continental law. For example, the U.S. approach is characterized by an emphasis on promoting innovation to maintain the U.S.'s status as a global leader in artificial intelligence, with the reuse of existing legislation and the introduction of legal acts without mandatory legal force, completely leaving out the regulation of the ethical impact of AI use²⁶.

To conclude, clarifying the nature of the ethical side, principles, and its use in the digital era is in its infancy, requiring increased national attention on the subject, and rich and varied initiatives at the international level, which would help consolidate the regulatory framework in each state.

V. Conclusions

At the heart of the debate on AI regulation, however, remain ethical dilemmas. What moral principles should govern the development and use of AI? Concepts like transparency, accountability, non-discrimination, and respect for privacy are discussed. For instance, AI algorithms can perpetuate or even amplify discrimination if not carefully designed, raising questions about justice and equality. There's also the issue of legal responsibility: who is liable for the actions of an AI system, the developers, users, or even the AI itself?

The regulations from the CoE provide both guidance and a counterbalance to the European regulation contained in the AI Act, which tends to prioritize technological innovation. The CoE approaches the provisions regarding technological development in a more balanced manner, with greater attention to the protection of fundamental rights.

In conclusion, the Romanian legislative framework needs to adopt and implement the aspects regulated by both organizations, integrating provisions that address ethical issues and the protection of fundamental rights, in order to align with the new values emerging in the digital era.

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²⁶ *The EU and the US: two different approaches to AI governance*, University of Oxford, How Roberts, Luciano Floridi, 2024, <https://www.oii.ox.ac.uk/news-events/the-eu-and-the-us-two-different-approaches-to-ai-governance/>.

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