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## ETHICAL DIMENSIONS OF CYBERJUSTICE

**Aurika PASKAR**
**Karina PASKAR**

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# ETHICAL DIMENSIONS OF CYBERJUSTICE

**Aurika PASKAR**[1]
**Karina PASKAR**[2]

**Abstract**

*The current stage of civilization development is characterized by fundamental transformations in almost all spheres of human existence, mainly economic, social, political, and cultural. All of them take place under a huge influence of the global information society.*

*With the undoubted success of modern technology, which has achieved the most impressive results in the field of information technology, the philosophical community is growing a genuine and justified anxiety about the moral and ethical threats to human existence, which tend to be a result of scientific and technological development.*

*As a result, false communication, alienation and loneliness define the moral flaws of the modern information society. In this situation, the revival of basic ethical principles and ethical bedrocks of human existence and culture becomes especially acute and necessary.*

**Keywords:**

*Cyberjustice; Information and Communication Technologies; justice; artificial intelligence; E-justice.*

## I. Introduction

The Okinawa Charter on Global Information Society adopted on July 20, 2000, mentions that Information and Communication Technologies (ICT) are one of the most important factors shaping the 21st century society (Okinawa Charter on Global Information Society, 2000).

The role of information technology in social development is of an utmost importance nowadays. That not being just about changing the technological conditions of life aiming to simplify communication, learning, production and other human activities, but also about a fundamentally new meaning of usual concepts, rethinking values and changing a person's lifestyle.

The issue of introduction of ICT in the judicial system is gaining momentum in Ukraine **and countries of the European** Union (**EU**). This

[1] Associate Professor of Department of Procedural Law of the Yuriy Fedkovych Chernivtsi National University, Chernivtsi, Ukraine, a.pascar@chnu.edu.ua
[2] LL.M. in International Law, Master student at the Faculty of Law and Administrative Sciences of the Stefan cel Mare University of Suceava, karina.paskar@gmail.com

situation is a reflection of a general tendency of informatisation of modern society. The introduction of ICT has caused transformations in all spheres of social existence, resulting in new moral problems, increasing the confrontation between traditional and innovative values.

## II. Information and Communication Technologies (ICT) in justice

First of all, the introduction of ICT in the justice is intended to become a powerful tool for **effectiveness** of the **justice**. Moreover, such technologies are able to provide an implementation of complex tasks in a trial, including the insurance of speediness and lightness of communication between all process participants, to organize and make clear to users the various databases and legal information about the realization of their rights and responsibilities. Furthermore, ICT aim to provide access for all segments of the population, reduce **trial costs** and make the process participation rules transparent and clear.

At the same time, the introduction of ICT in the courts should not distort the symbolic meaning of justice since administration of the latter is directly linked to the person and his or her rights. This is the reason why technologies should **lead not only to** an exceptional technical function of promptness speeding up and court proceedings optimization, but also to ensure that the essence of justice remains unchanged.

According to p. 38 of Recommendation CM/Rec (2009) 1 of the Committee of Ministers to member states on electronic democracy (adopted on 18 February 2009), E-justice stands for «the use of ICT in the conduct of justice by all stakeholders of the judiciary in order to improve the efficiency and quality of the public service, in particular, to individuals and businesses. It includes electronic communication and data exchange, as well as access to judicial information» (Recommendation CM/Rec, 2009). The main goal of the latter is to increase the efficiency of the judiciary and the access and quality of justice.

To date prevails the idea that E-litigation when compared to traditional one will in a greater degree guarantee access to justice, speediness of court proceedings, promote the quality of court decisions, control the parties over the proceedings, increase the competitiveness and publicity of court **hearings**.

Meanwhile, the creation of a new world order based entirely on information technology (as well as any other global social experiment) should be treated with an extreme caution. Experts and analysts in various fields of knowledge warn against a complete informatisation of public relations for a good reason. The comprehensive introduction of electronic means of realizing natural human rights and freedoms is a step towards driving people into dependence on systems of total control over the individual.

The need for the use and application of information technology is unquestionable, but it requires mandatory regulations related to the application of moral requirements in the new socio-communicative context. The use of such technologies brings new legal and ethical challenges.

## III. Ethical aspects of artificial intelligence

In a new society, traditional values are gaining new meaning. The very moral status of the individual and the mechanisms of regulation of his or her behaviour are changing. Globalization processes call into question traditional values, moral norms and ethical ideals. The information society creates fundamentally new means of human interaction with the outside world.

The use of information and telecommunication technologies in the judicial system also places an important role on the person in the process of such use from the moment of development of the concept of appropriate information and telecommunication technology to control its use.

At the same time, E-justice shall be guided by ethical principles that guarantee full respect for human rights. This requirement also applies to the need for development and implementation of ethical principles for the use of "artificial intelligence" in the field of justice. It being highlighted that the European Commission seeks to bring this approach of building "ethical" artificial intelligence to a global debate, because the latest technologies and algorithms know no boundaries.

In particular, O. Danylyan, while exploring the moral dilemmas of the information society, has rightly noted that the impoverishment of spiritual life against the background of the huge growth of information suggests that the information society is not a problem-free and positive reality, as its apologists mention, but opens a new level of moral hopelessness and contradictions unknown in previous eras (Danylyan, 2012).

"The ethical dimension of an artificial intelligence is not a luxury item or something to be neglected since our society can take a full advantage of technology only with trust. Ethical artificial intelligence is a win-win project that can be a competitive advantage for Europe: in the development of artificial intelligence that is created for people and one the people can trust…" said Andrus Ansip, EC Vice President for Digital Single Market (European Commission, 2019).

In this context, we face a challenge of outlining the moral and ethical aspects of the information society. It is shown that scientific and technological progress significantly affects the ethical state of society, leading to contradictions in the field of moral values of traditional and information societies.

What regards the ethics and technology issues, on December 12, 2003 a major document was adopted - the Declaration of Principles: building the information society: a global challenge in the new millennium. The declaration proclaimed the following important principles of building an information society:

1) Rule of law, along with favourable, transparent, pro-competitive, based on the principle of technological neutrality, a predictable policy and regulatory framework, takes into account national characteristics necessary to create a person-centred information society and promote an enabling environment;

2) The use and deployment of ICT should be aimed at creating benefits in all aspects of our daily lives;

3) ICT-based applications are potentially important for the activities of public administration bodies and the services they provide (Unated Nations, 2004).

At the 31st plenary session, held on December 3-4, 2018, the Council of Europe European Commission for the efficiency of justice (CEPEJ) approved the European Ethical Charter on the Use of Artificial Intelligence (AI) in Judicial Systems and their environment. These principles address important legal and ethical issues that may arise in society.

The Charter was the first document in Europe to establish at the international level the ethical principles of the use of artificial intelligence in the judiciary. CEPEJ is convinced that the application of these principles will guarantee the observance of fundamental human rights, non-discrimination, quality, information safety and security with the introduction of artificial intelligence in the justice systems of the Council of Europe member states.

This statute defines five fundamental principles on which the use of artificial intelligence in the judiciary is based:

- Principle of respect of fundamental rights,
- Principle of non-discrimination,
- Principle of quality and safety,
- Principle of transparency, impartiality and fairness (openness, impartiality and honesty),
- Principle "under user control" (CEPEJ, 2018).

First of all, attention shall be paid to the principle of respect of fundamental rights.

Software developers should prefer an ethical-by-design approach. This approach is implemented at the stage of developing an algorithm that prevents direct or indirect violations of the European Convention on Human Rights (ECHR), the Convention for the Protection of Personal Data, etc. The development and implementation of information and telecommunication technologies in the judiciary should be carried out in accordance with the

fundamental rights of an individual. The processing of judgments and data must also serve clear purposes and be subject to the fundamental rights guaranteed by the ECHR. At the same time, it is the anthropocentric approach that ensures the supremacy of human rights and leaves the control of use of various technologies in the judiciary.

The principle of non-discrimination - services provided by AI systems should be accessible to all, regardless of age, gender, race or other characteristics. Algorithms should not be biased in this regard. Public and private sector actors involved in the development of the algorithm should make sure that the processing methods do not give rise to discrimination. Particular attention shall be paid to the lawful use of confidential and personal data.

According to the principle "under user control" trial participants shall be informed in a plain language about all the procedural aspects, possibilities and functions of artificial intelligence in accordance with Article 6 of the ECHR. Public discussions should also be held to raise public awareness when implementing new systems. The principle assumes that artificial intelligence (i.e. any computer programs and algorithms) is only an ancillary service and should not make decisions for a competent person (a judge). AI should not destroy the autonomy of humanity, manipulate people or force them to do anything, and people, in turn, should be able to intervene and control every decision made by software. AI shall work for a community of people, shall not violate human rights, limit or threaten human autonomy. People need to be able to intervene or control every decision that software makes.

Principle of quality and safety applies to the processing of court decisions and data in a secure technological environment. AI systems shall be resistant to external attacks as well as personal data used by AI systems shall remain confidential. Meanwhile, AI shall be reliable and accurate. Algorithms must be secure enough to deal with errors and problems that arise during the life cycle of the system. Developers of machine learning models should learn from the experience of judges, lawyers, prosecutors, scientists and other justice professionals. The data used by the algorithms should come only from certified sources of information and shall not be subject to change.

The principle of transparency, impartiality and fairness (in other words, openness, impartiality and honesty) establishes the requirement regarding data processing methods, which shall be accessible and understandable. A balance needs to be struck between the protection of intellectual property and the requirement of transparency and neutrality, depending on the legal consequences and the impact on individuals. The data and algorithms used to create the AI system shall be transparent and traceable. Operators have the responsibility of observing the decisions of such systems and understand the principles of their operation.

As a result, the solution of the problem of creating algorithms that will be able to behave in the process of operation while demonstrating ethical principles of artificial intelligence becomes an especially important task for AI developers. In essence, it is the establishment of interaction between formal mathematical systems and ethical principles.

The basic condition for the implementation of these principles is the observance of human-centred approach in the use of artificial intelligence, which will increase confidence in AI technologies and will allow them to fully realize their potential. In addition, AI developers will be accountable to and respect the rule of law and universal values, including privacy, equality, diversity, etc.

Vatican officials have developed a set of ethical principles for the work of artificial intelligence, namely "Rome Ethical Call" ("Rome Call for AI Ethic"). The latter was presented on February 28, 2020. The fact that this issue has been considered even in the Vatican testifies the true importance of the role and concern of mankind about the ethical principles of the information technology usage.

According to the document, this technology must respect privacy, work reliably, transparently and impartially, and take into account the needs of all people. It is emphasized that all the principles make a part of the current research, because artificial intelligence is still unpredictable, and its use can lead to serious consequences.

## IV. Conclusion and proposals

Thus, the solution of existing problems of electronic justice and prevention of future ones is possible by developing and implementing a comprehensive state policy in the field of legal regulation in this area of relations. This should mean improving the legislation, technical and information support of courts, the development of measures and systems to ensure information protection, legal regulation of issues of liability of persons for violations in this area, taking measures to prevent cybercrime in this area, conducting training seminars among court staff and other users of the system, systematically monitoring system efficiency and its constant modernization.

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