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LEGAL CULTURES AND STRATEGIES FOR IMPLEMENTING ARTIFICIAL INTELLIGENCE REGULATIONS. CASE STUDIES OF THE UNITED STATES, PEOPLE'S REPUBLIC OF CHINA AND EUROPEAN UNION

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Abstract. The dynamic development of new technologies, primarily manifested in the rapid and uncontrolled improvement of artificial intelligence models, needs a discussion on the advisability of framing it within regulatory boundaries. Despite widespread interest and clear signalling of the need to control the development of artificial intelligence, a unified approach to the direction of legislative development in this area has not yet been established. Legislative bodies of countries worldwide, particularly those at the forefront of innovation, international organizations, and the creators and providers of modern technological solutions themselves present different attitudes and legislative strategies. The authors express the conviction that the current course of legislative work is dependent not only on objectively occurring factors, including the difficult-to-normatively-capture explosive technological progress, but in fact stems from the cultural characteristics shaping a given legal culture. The aim of this paper is to review and analyze law-making activities in countries/areas dominating the technological market, conditioned by different legal cultures, and to indicate the influence of legal culture on the shape of regulations governing artificial intelligence.

Keywords: artificial intelligence; legal cultures; law; common law; European Union; Confucianism.

INTRODUCTION

Artificial intelligence has proven to be a revolutionary IT model that now affects almost all areas of human life. It is no wonder that it is considered a flywheel driving the global phenomenon dubbed "Industrial Revolution

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4.0" [Siuta-Tokarska 2021]. Leaving aside the difficulty with defining the very concept of artificial intelligence unambiguously and precisely, it is regarded as a useful technological phenomenon having universal potential. The fast-paced development of new technologies, expressed primarily in the rapid and uncontrolled improvement of artificial intelligence models, stirs a discussion on whether it is advisable to cover it by the regulatory framework. Despite widespread interest and a clear indication of the need to control the development of artificial intelligence, no uniform approach has yet been determined as to the development of legislation in this area. The legislative bodies of countries in the world, especially those leading in innovation, international organisations, or the very producers and suppliers of modern technological solutions, represent different attitudes and legislative strategies.[1]

Law, as Pierre Legrand describes it, "[...] remains part of the tradition: in short, it inherently participates in culture, it necessarily manifests itself culturally" [Legrand 1996a, 54]. Law as a tool for organising and regulating social relations is a product of civilisation, which naturally entails the strong marking of its content by traditions, values, forms of social coexistence, beliefs, material, spiritual and intellectual achievements [Wołpiuk 2014, 180; Tokarczyk 2000a, 187]. Therefore, law is unquestionably one of the most important elements of culture that influences its shape and determines its development at the same time [Wołpiuk 2014, 180, 188; Tokarczyk 2000a, 62]. Leaving aside considerations on the interference between law and culture, it should be emphasized that finding and identification of specific features and cultural mechanisms inherent in a given community, which together form a particular legal culture, is a condition for effective studies on regional comparison of law and the distillation of models suitable for its improvement or the improvement of international cooperation.

Legrand's concepts on legal cultures and *mentalité juridique*[2] [Legrand 1996b, 279-318] constitute a starting point to analyse the interdependencies

[1] See https://lordslibrary.parliament.uk/artificial-intelligence-development-risks-and-regulation/ [accessed: 28.05.2024].

[2] *Mentalité juridique* is a concept proposed by Henri Lévy-Bruhl, a French sociologist and historian of law. It derives from the research on "primitive mentality" carried out by his father Lucien Lévy-Bruhl. The concept refers to the way in which society perceives, interprets and applies law. It covers formal aspects of law and informal practices and beliefs related to law. Henri Lévy-Bruhl studied the evolution of law from primitive to codified forms. He analysed the impact of this transformation on the concept of legal personality. According to him, in situations of uncertainty, people refer to imagined beings extending beyond modern risk calculation. The idea suggests that *mentalité juridique* contains cultural and psychological dimensions affecting uncertainty management by legal structures. See Keck 2020. Pierre Legrand, on the other hand, develops this idea and sees *mentalité juridique* as a key element of legal culture. In his view, every legal tradition has

between legal cultures and regulatory implementation strategies, particularly evident for work on AI regulations [Idem 2006, 346-460; Gordley 2017, 133-80; Szacki 2009; Pomian 2006; Kołakowski 1972]. Legrand stresses that law is deeply embedded in culture and cannot be fully understood without taking into account the broader context, therefore various legal cultures approach differently issues such as privacy, responsibility and AI ethics, which will affect the way regulations are created and implemented.

Mentalité juridique refers to the mindset about law that is characteristic of a particular legal culture. In the AI context, this may include differences in the perception of the role of technology in society, acceptance of the autonomy of AI systems, or approach to liability for decisions made by AI systems. It should be noted that law is not only just a sum of graphic characters written in the form of normative acts, but it is revealed in the way in which it is interpreted and applied by people. The effectiveness of regulation will depend not only on its content, but also on how it is understood and implemented by AI developers, users and regulators.

The adoption of appropriate regulations requires a combination of knowledge in the fields of law, technology, ethics and social sciences, which should also be integrated into local cultural contexts. The mere transposition of legal solutions between cultures is problematic. The use of regulatory strategies that work in one legal culture may not yield the expected result in another. The global approach to AI regulation proposed by the EU in the AI Act[3] may therefore encounter difficulties in its implementation into different cultural circles.

The AI regulation implementation policy is therefore inextricably linked to and conditioned by the system of assumptions and concepts forming a particular legal culture, which means that seemingly universal regulatory solutions will in practice be interpreted, adapted and applied in a way that is consistent with the unique values, traditions and thinking that are characteristic of a particular legal system. This is so because strategies refer to the planning

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a unique mentality, deeply rooted in the culture of society. It is a set of often subconscious assumptions and ways of thinking about the law, characteristic of a given tradition. Legrand points out that *mentalité juridique* goes beyond the formal legal system. This is closely linked to the language, history and culture of a particular society, emphasising the importance of a broader cultural context for its full understanding. Includes informal practices, beliefs and interpretations of the law. In his studies, he often juxtaposes the legal mentality of the Roman tradition with common law, highlighting fundamental differences between them. For Legrand, understanding *mentalité juridique* is essential to compare legal systems reliably. Otherwise, comparative studies remain a superficial discipline. Cf. Legrand 1996b, 279-318.

[3] The full title is: *Regulation of the European Parliament and of the Council Laying Down Harmonised Rules on Artificial Intelligence (Artificial Intelligence Act) and Amending Certain Union Legislative Acts (Artificial Intelligence Act).*

and implementation of activities aimed at specific legal objectives. This can include both the actions taken by state authorities and arrangements used by companies or organisations to comply with legislation and protect their interests. However, effective regulatory strategies will require a deep understanding of the local cultural landscape, an interdisciplinary approach and the flexibility to adapt to the peculiarities of the *mentalité* of the legal culture concerned. Humans are characterised by a remarkable capacity to adapt while seeking to order the reality around them [Graeber and Wengrow 2022; Mumford 1986]. To this end, they create rules, a kind of guide posts, which take the form of various laws, including those formulated by authorised decision-making bodies (positive law), customary laws, ideas, religions or traditions. As a result, societies operate under specific social contracts typical of the historical era concerned [Bostrom 2024; Idem 2016].

A crucial issue in the development of artificial intelligence is the problem of alignment of AI to operate safely and in accordance with human standards, in particular in a way compatible with the human value system and the goals assumed by humans. This issue can be perceived as an attempt to redefine the concept of "social contract" currently under construction between humanity and the non-human world in the form of AI. Like "traditional" social contracts, the new contract will continue as long as the factors that make it reasonable exist or operate [Du Sautoy 2019; Tegmark 2019]. However, with rapidly developing AI technology, circumstances can change much faster than in the case of "traditional" social contracts [Suleyman and Bhaskar 2023]. When the existing rules and norms become inadequate for the opportunities and challenges posed by AI, the existing contract will cease to apply which will force the formation of a new relationship that would be better adapted to the changing reality.

In this context, legal cultures play a crucial role in the process of developing legislative strategies concerning artificial intelligence. Different legal traditions, be it the common law, continental law or hybrid systems (e.g. Chinese), show different approaches to creating and enforcing the law. These differences may affect the way in which particular societies attempt to solve the AI alignment problem. For example, common law systems that are largely based on precedents may be more flexible in adapting to fast-changing AI challenges. On the other hand, systems of continental law that are strongly focused on the normativisation of reality may seek to create a comprehensive legal framework to govern the development and implementation of AI.

AI regulation strategies must therefore take into account not only the technical aspects of the alignment problem, but also the legal-cultural contexts within which these regulations will be located. This will lead to polarisation of approaches towards AI regulation in various regions of the world, reflecting local values, legal traditions and social expectations.

The study seeks to review and analyse lawmaking activities in countries/regions that dominate the technological market,[4] subject to different legal cultures. The authors express the belief that the current course of legislative work depends not only on objectively occurring factors, including e.g. soaring technological progress that is difficult to normatively capture, but in fact on cultural properties that shape a given legal culture. This paper does not exhaust this issue, but may be an impulse to deepen studies and analyses on this subject.

To prepare the article, the authors reviewed the literature on artificial intelligence theory and reference material in the form of normative acts, analyses and reports by public administrations of selected countries and their legal systems.

1. STRATEGIES FOR THE DEVELOPMENT OF ARTIFICIAL INTELLIGENCE REGULATION

1.1. United States of America

The system of law of the United States as a federal state is based on the binary division of regulations into federal law and state law applicable on the territory of the whole country and territories of particular states. Normative acts are arranged in a hierarchical collection determined by the wording of the provision of Article IV of the Constitution of the United States of America, providing for the superiority of constitutional provisions over international agreements, federal laws, state constitutions, state laws and legal norms of local administrative units [Tokarczyk 1996, 111-14]. The central concept in American legislation and jurisprudence is liberty [Siedlecki 2021, 134], and the most important rights include the right to personal security, the right to personal freedom or the right to private property [Tokarczyk 1996, 117]. Historical and cultural background contributed to the creation of the paradigm of "American uniqueness", also expressed today in the pursuit of demonstrating the nation's superiority in the field of artificial intelligence [Hine and Flordi 2024, 268]. Wishing to maintain its position as the world leader in artificial intelligence, the US has decided to create an extremely flexible and adaptive "open innovation ecosystem."[5]

The narrative about the need to build a "technology superpower" based on liberalised regulatory policies is directly reflected in the content of Presidential Executive Order No. 13859 of 11 February 2019.[6] This direction

[4] See https://www.wipo.int/edocs/pubdocs/en/wipo-pub-2000-2023-en-main-report-global-innovation-index-2023-16th-edition.pdf [accessed: 02.06.2024].

[5] See https://time.com/6848922/ai-regulation/ [accessed: 29.05.2024].

[6] *Maintaining American Leadership in Artificial Intelligence*, https://www.federalregister.

was maintained and developed in further legislation, including the National Artificial Intelligence Initiative Act of 12 March 2020[7] or Executive Order No. 13960 of December 3, 2020. The clear intention of the lawmakers was to support research centres, the progress in artificial intelligence or drafting the best standards for the development and use of trustworthy artificial intelligence systems (Sec. 101(b)(1) and (2) NAIIA). None of these acts explicitly stated the adoption of a single, coherent and centrally applicable legal framework for AI. This assumption was also not included in the draft AI Bill of Rights (*Blueprint for an AI Bill of Rights: Making Automated Systems Work for the American People*) published on 4 October 2022. The document contains five principles (guidelines) to be followed by entities which design, use and implementation of AI models in using new technology.[8] Artificial Intelligence has thus been regulated fragmentarily, and relevant regulations have been contained in numerous federal laws[9] or soft-law industry guidelines[10] drafted by the executive authorities, not by the legislative bodies authorised to do so. Along with the rapid development of generative artificial intelligence, initiated by providing the ChatGPT to the public, more and more concerns have been expressed about the passivity and sluggishness of the US legislature, which was explained by the lack of understanding of this technology[11] or by the excessive dynamics of changes that supposed to be an obstacle to the smooth conduct of the legislative process.[12]

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gov/documents/2019/02/14/2019-02544/maintaining-american-leadership-in-artificial-intelligence [accessed: 29.05.2024].

[7] House of Representatives 6216, *National Artificial Intelligence Initiative Act of 2020* [hereinafter: NAIIA], https://www.congress.gov/bill/116th-congress/house-bill/6216/text [accessed: 29.05.2024].

[8] See https://www.whitehouse.gov/ostp/ai-bill-of-rights/ [accessed: 09.08.2024].

[9] See https://www.europarl.europa.eu/RegData/etudes/ATAG/2024/757605/EPRS_ATA(2024)757605_EN.pdf [accessed: 29.05.2024].

[10] *Practical Guidance for the use of generative artificial Intelligence in the practice of law*, The State Bar of California Standing Committee on Professional Responsibility and Conduct, https://www.calbar.ca.gov/Portals/0/documents/ethics/Generative-AI-Practical-Guidance.pdf [accessed: 29.05.2024]; *Generative Artificial Intelligence. Guidelines for Use in the Practice of Law*, The Law Society of Manitoba, https://educationcentre.lawsociety.mb.ca/wp-content/uploads/sites/2/2024/04/Generative-Artificial-Intelligence-Guidelines-for-Use-in-the-Practice-of-Law.pdf [accessed: 29.05.2024]; *Ethical Principles for Artificial Intelligence* (24.02.2020), https://www.ai.mil/docs/Ethical_Principles_for_Artificial_Intelligence.pdf [accessed: 29.05.2024]; *National Intelligence's Principles of Artificial Intelligence Ethics for the Intelligence Community* (23.07.2020), https://www.intelligence.gov/artificial-intelligence-ethics-framework-for-the-intelligence-community [accessed: 29.05.2024]; https://www.dataguidance.com/opinion/usa-multiple-state-bars-set-guidelines-generative-ai [accessed: 29.05.2024].

[11] See https://www.nytimes.com/2023/03/03/business/dealbook/lawmakers-ai-regulations.html [accessed: 29.05.2024].

[12] See https://www.brookings.edu/articles/the-us-government-should-regulate-ai/ [accessed: 29.05.2024].

In May 2024, the Bipartisan Senate AI Working Group, recognising the threats from uncontrolled development and use of artificial intelligence,[13] and listing sensitive areas,[14] called for consideration to be given to undertaking concrete legislative action, particularly with regard to the creation of mechanisms for holding artificial intelligence developers and implementers accountable to consumers, standards of the protection of personal data stored in databases and subsequently processed by artificial intelligence systems.[15] The Senate Working Group supported the creation of a federal law to protect citizens, based on the principle of the minimisation and security of data, security, consent and data brokers.[16]

Moreover, attention has been drawn to the current problems related to the use of artificial intelligence, such as e.g. the generation of child pornography or deepfakes, strongly advocating the development of rules to protect children from online harm caused by AI and the clear prohibition of social scoring practices.[17] The Senate Working Group also promotes legislation to support the implementation of artificial intelligence in the healthcare sector (including the protection and safeguarding of patients' interests), legislation to ensure transparency for suppliers and patients in the use of artificial intelligence models in medicinal products and clinical support measures, rules on databases used for the training of artificial intelligence models,[18] and norms for public education in the use and identification of artificial intelligence products.[19]

The Senate's position, however, was not welcomed by representatives of the Republican Party, who clearly opposed to taking regulatory action on artificial intelligence. This opposition is explained by a desire to maintain the technological edge that the US would lose as a result of potential burdens and restrictions on developers or the establishment of new AI controlling bodies. The Republicans see the process of regulation of AI as

[13] See https://www.politico.com/live-updates/2024/05/15/congress/schumers-roadmap-on-ai-bills-00157828 [accessed: 02.06.2024].

[14] *Driving U.S. Innovation in Artificial Intelligence. A roadmap for artificial intelligence policy in the United States*, The Bipartisan Senate AI Working Group, https://young.senate.gov/wp-content/uploads/Roadmap_Electronic1.32pm.pdf [accessed: 30.05.2024]. The above-mentioned areas appear to overlap the rules expressed in Section 2 of the Executive Order No. 14110 of 30 October 2023 on Safe, Secure, and Trustworthy Development and Use of Artificial Intelligence. See Section 2, Executive Order 14110 (30.10.2023), *Safe, Secure, and Trustworthy Development and Use of Artificial Intelligence*, https://www.federalregister.gov/documents/2023/11/01/2023-24283/safe-secure-and-trustworthy-development-and-use-of-artificial-intelligence [accessed: 30.05.2024].

[15] The Bipartisan Senate…, p. 14.

[16] Ibid.

[17] Ibid. p. 12.

[18] Ibid., p. 13.

[19] Ibid., p. 16.

acts of suppressing innovation and generating litigation between developers,[20] which also certainly influenced the content of the Republican Party Platform 2024. In the official communiqué issued on 8 July 2024 titled "2024 GOP Platform: Make America Great Again" the party directly stated its intention to repeal the previous Presidential Executive Orders believed by the Republicans to hinder AI innovation, proposing instead the development of artificial intelligence in the spirit of free speech and flourishing of humans.[21]

1.2. People's Republic of China

The management of artificial intelligence in the People's Republic of China is based on a monolithic model, pre-planned and imposed by the central authorities,[22] which is in line with Confucian political philosophy founded in the primacy of obedience to authority, the supremacy of state interests and social cohesion [Huang 2024, 76]. Apart from the centrally applicable rules on artificial intelligence, there are also rules in the Chinese legal system that are issued by provinces, especially those which are economic leaders or interested in attracting investment [Hine and Flordi, 266-67].

Undoubtedly, Confucian culture is multifaceted, but even a cursory review of Chinese legislative thought allows the observer to notice little cultural influence affecting both the wording of regulations and the course of legislative work [Nisbett 2015; Nakamura 2005]. The content of certain regulations concerning the use of artificial intelligence clearly refers to the Confucian charisma, including the ideas of harmony, focus on values or the promotion of restraint in society.[23]

In early July 2017, The State Council of the People's Republic of China has announced the Next Generation Artificial Intelligence Development Plan[24] presenting a strategy for the development of artificial intelligence intended to guarantee China the status as a global technological power. The document was an important complement and development of the policies of the 13th Five-Year Plan for Economic and Social Development of the People's Republic of China (2016-2020)[25] and the White

[20] See https://ny1.com/nyc/all-boroughs/politics/2024/06/14/house-republicans-unlikely-to-support-ai-regulation [accessed: 09.08.2024].

[21] See https://www.presidency.ucsb.edu/documents/2024-republican-party-platform [accessed: 10.08.2024].

[22] See https://www.globalpolicyjournal.com/blog/01/06/2023/contextualizing-chinas-ai-governance [accessed: 30.05.2024].

[23] See https://www.gov.cn/zhengce/zhengceku/2022-01/04/content_5666429.htm [accessed: 30.05.2024], Articles 6 and 8.

[24] See https://www.gov.cn/zhengce/content/2017-07/20/content_5211996.htm [accessed: 30.05.2024].

[25] *The 13th Five-Year Plan for economic and social development of the People's Republic of China*

Paper on Big Data (2019) drafted by the Chinese Academy of Information and Communication Technology.[26]

The Next Generation Artificial Intelligence Development Plan included a stage-determined perspective of technological improvement by 2030. According to the plan, a legal, regulatory and ethical system was to be built by 2025. The experience gained by then was supposed to enable the assessment of security and control of artificial intelligence and to be used to build a legal system.[27] The plan did not contain binding recommendations and guidelines, so the artificial intelligence industry developed spontaneously, on a self-regulation basis.

In fact, the interest in the legal regulation of artificial intelligence did not begin until 2020, with the formulation of the Artificial Intelligence Industry Self-Discipline Convention,[28] which defines the eight most important pillars for the development of artificial intelligence, including: focusing the technology on human needs, promoting fairness and justice, ensuring security and control of content, promoting sharing or transparency in decision-making based on artificial intelligence algorithms.[29] The system was supplemented on an ongoing basis with national standards and guidelines.[30]

Data protection legislation, including that of personal data, has been adopted in the following years,[31] and binding guidelines and standards have been established for AI algorithm technologies, mainly to control the flow of content on the Internet.[32] The previously determined model of the Chinese central administration of artificial intelligence prioritizes three problems related to the operation of artificial intelligence: content moderation, data protection and control of algorithms including

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(2016-2020), https://en.ndrc.gov.cn/policies/202105/P020210527785800103339.pdf [accessed: 30.05.2024].

[26] *Big Data White Paper (2019)*, China Academy of Information and Communications Technology, http://www.caict.ac.cn/english/research/whitepapers/202003/P020200327550643303469.pdf [accessed: 30.05.2024].

[27] See 5.(3) Strategic goals. Ibid.

[28] See https://www.gov.cn/zhengce/zhengceku/2020-08/09/5533454/files/bf4f158874434ad096636ba297e3fab3.pdf [accessed: 30.05.2024].

[29] See https://www.saiia.org.cn/index.php/2019/08/18/1212/ [accessed: 30.05.2024].

[30] Guidelines on machine learning, https://www.tc260.org.cn/file/2021-08-04/6b530404-858b-4c9d-8d89-a83239ec5712.pdf [accessed: 30.05.2024], Guidelines on algorhythm ethics, https://www.tc260.org.cn/file/zn10.pdf [accessed: 30.05.2024].

[31] See https://www.chinalawtranslate.com/en/datasecuritylaw/ [accessed: 30.05.2024], Article 62(2). *Personal Information Protection Law of the People's Republic of China*, https://digichina.stanford.edu/work/translation-personal-information-protection-law-of-the-peoples-republic-of-china-effective-nov-1-2021/ [accessed: 30.05.2024].

[32] See https://www.gov.cn/zhengce/zhengceku/2022-01/04/content_5666429.htm; https://www.gov.cn/zhengce/zhengceku/2022-12/12/content_5731431.htm; https://www.cac.gov.cn/2023-07/13/c_1690898327029107.htm [accessed: 30.05.2024].

recommendation and algorithmic profiling[33] [Strittmer 2020; Czubkowska 2022], which is currently expressed in extensive audit activities carried out by the Chinese cyberspace supervisory and administration authority (CAC/ The Cyberspace Administration of China, 国家互联网信息办公室) in enterprises providing and creating artificial intelligence systems. According to media reports, the audit of Chinese artificial intelligence models provides for advanced censorship based on meticulous filtering and eliminating the content that "violates fundamental socialist values" or "incites overthrowing state authorities." In response to numerous "dangerous" artificial intelligence systems, the authorities decided to devise a state model based on the political philosophy of the Chinese President, called Xi Jinping Thought on Socialism with Chinese Characteristics for a New Era.[34]

The emergence of new artificial intelligence capabilities and related negative phenomena have forced a critical look at liberalised policy of the government. The legislative plan for 2023 has announced the formulation of a law to comprehensively regulate the issue,[35] which, in the light of recent divergences between industry and academia, is not yet definitive.[36]

Efforts undertaken to regulate artificial intelligence locally did not prevent the adoption, in early July 2024, of the Shanghai Declaration on Global AI Governance, the ideological foundations of which, although strongly linked to universal values, are characteristic of the Confucian philosophy, in particular the assumption of collective (global) responsibility for the harmonious and balanced development of artificial intelligence worldwide.[37]

2. EUROPEAN CONCEPT OF ARTIFICIAL INTELLIGENCE REGULATION

European Union law, currently the most important component of European legal culture, makes up a supranational system referring to the cultural sources of the Member States. For the Old Continent, legal culture is one of the central elements of identity, since law is one of the key elements of European heritage [Pomian 2024, 25-27; Tokarczyk 2000a, 208]. Respecting cultural and legislative traditions, the EU lawmakers actively

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[33] See https://www.twobirds.com/en/insights/2024/china/ai-governance-in-china-strategies-initiatives-and-key-considerations [accessed: 30.05.2024].

[34] See https://www.ft.com/content/10975044-f194-4513-857b-e17491d2a9e9?countryCode=POL [accessed: 07.08.2024].

[35] See https://www.gov.cn/zhengce/content/202306/content_6884925.htm [accessed: 31.05.2024].

[36] See https://www.scmp.com/news/china/politics/article/3270544/china-likely-ditch-unified-ai-legislation-due-considerable-disagreement-timing [accessed: 07.08.2024].

[37] See http://www.chinaview.cn/20240704/b1ca8d45f8f54ba9b954fcd969a2304f/c.html [accessed: 07.08.2024].

respond to the challenges being faced, especially those posed by the dynamically changing reality [Tokarczyk 2000b, 16]. Dynamism, closely linked to integralism, is an emanation of the European legal system based on the idea of creating a coherent system of norms that prospectively regulate the phenomena that are of importance to EU citizens [Tokarczyk 2000b, 19]. It should therefore come as no surprise that three years after Thierry Breton, Commissioner for the Internal Market, had presented the idea of developing a regulation governing the principles for operation of artificial intelligence.[38] The Council of the European Union adopted on 21 May 2024 the world's first comprehensive regulation on artificial intelligence – the Regulation of the European Parliament and of the Council laying down harmonised rules on artificial intelligence (Artificial Intelligence Act, the so-called *AI Act*).[39]

The first mention of the EU legislature's interest in artificial intelligence emerged as early as in 2018, with the gradual formation of specialised expert units being established at the European Commission.[40] A landmark moment was 19 February 2020, when the "White Paper on Artificial Intelligence: a European approach to excellence and trust"[41] was presented, including the axiology of artificial intelligence and the directions of development of norms governing the innovative technology. The aim of the development of a common European law on artificial intelligence was to counter disintegration and regulatory fragmentation within the European Union, which would undoubtedly arise if the initiative in this matter was left to the Member States' authorities.[42]

The intention of the EU legislature was to base the revolutionary technology on common values and fundamental rights shared by all the European Union member states, in particular human dignity and the protection of privacy,[43] which is also reflected in recitals 6 and 8 of the Regulation. The main subject of the legislative work was to develop an "ecosystem of trust"[44] underpinned by human leading and supervisory role, technological soundness and security, privacy protection and data management, transparency,

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[38] See *Proposal for a Regulation of the European Parliament and of the Council, Laying Down Harmonised Rules On Artificial Intelligence (Artificial Intelligence Act) and Amending certain Union Legislative Acts*, https://data.consilium.europa.eu/doc/document/ST-8115-2021-INIT/en/pdf [accessed: 31.05.2024].

[39] Ibid.

[40] See https://ec.europa.eu/commission/presscorner/detail/en/IP_18_1381 [accessed: 31.05.2024].

[41] See https://eur-lex.europa.eu/legal-content/PL/TXT/?uri=CELEX%3A52020DC0065 [accessed: 31.05.2024].

[42] *White Paper on Artificial Intelligence: a European approach to excellence and trust*, Brussels, 19.02.2020, COM (2020) 65 final, p. 3, https://commission.europa.eu/publications/white-paper-artificial-intelligence-european-approach-excellence-and-trust_en [accessed: 31.05.2024].

[43] Ibid., p. 2.

[44] Ibid., p. 10.

diversity, non-discrimination and fairness, societal and environmental wellbeing and accountability.[45] The regulatory framework was intended to be the foundation for the creation of trustworthy models and to provide genuine protection for EU citizens.[46]

According to the official communication from the Council, the provisions contained in the Regulation are intended to support the development and deployment of secure artificial intelligence systems in the single market of the European Union, which will work in compliance with fundamental rights of EU citizens while not acting as a brake on the development of new technologies.[47]

According to the draft, the types of artificial intelligence were classified based on the criterion of the risk they posed. Thus, a distinction was made between safe systems, artificial intelligence systems posing limited risk, high-risk artificial intelligence systems, and artificial intelligence systems based on social scoring and cognitive-behavioural manipulation, which are prohibited.[48] Classifying an artificial intelligence model as one of these groups will affect the scope of requirements, restrictions and even prohibitions applicable to these systems. The provisions of the Regulation also introduce the rules for introducing systems in the market, the formulas of market supervision and ways to support undertakings.

The management of artificial intelligence in the European Union is based on a complex system that has been regulated in a multilayer way [Cantero and Mardsen 2024], and its landscape is complemented by the provisions of the GDPR[49] and the Digital Services Act.[50]

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[45] See *White paper…*, 11; *Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions. Building Trust in Human-Centric Artificial Intelligence*, Brussels, 8.04.2019, COM (2019) 168 final, https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2019:0168:FIN:EN:PDF [accessed: 01.06.2024].

[46] Ibid., p. 12.

[47] See https://www.consilium.europa.eu/en/press/press-releases/2024/05/21/artificial-intelligence-ai-act-council-gives-final-green-light-to-the-first-worldwide-rules-on-ai/ [accessed: 01.06.2024].

[48] Ibid.

[49] *Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation)* (Text with EEA relevance), https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32016R0679 [accessed: 02.06.2024].

[50] *Regulation (EU) 2022/2065 of the European Parliament and of the Council of 19 October 2022 on a Single Market For Digital Services and amending Directive 2000/31/EC (Digital Services Act)* (Text with EEA relevance), https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32022R2065&qid=1717344407343 [accessed: 02.06.2024].

3. ARTIFICIAL INTELLIGENCE – A CHALLENGE FOR THE CONTEMPORARY LEGISLATION

Before 2020, most countries limited their activities to observing this outstanding technological phenomenon. The unexpected emergence of generative models of artificial intelligence, the predisposition of which went beyond all possible predictions of the legislators, caused a heated discussion about possible legislative developments. It has become clear that artificial intelligence and its evolution affect the shape of the global economy, national security and human relations [Parinandi, Crosson, Peterson, et al. 2004, 240].

The issue of artificial intelligence requires resolute legislative action, which is now not questioned by the legislative bodies of technologically leading countries. The original question "Should artificial intelligence be regulated?" has now been replaced by the dilemma "How should it be done?" M. Rojszczak argued in 2019 that too little attention had been paid to seeking regulatory direction to support the development of artificial intelligence [Rojszczak 2019, 2].

It appears that the adoption by the United States, China and the European Union of initially different legislative strategies with regard to artificial intelligence was not conditional on reformulated strategies such as economic development, but was indeed determined by the pre-existing conflicting value systems rooted in the tradition of a particular legal culture.

The US system, promoting freedom and openness has been based, unlike that of the European Union, on non-binding guidelines, the enforceability of which is debatable,[51] although the governance model, like that of the European Union, is based "on the principle of risk" and seeks to create technological constructs that are trustworthy.[52] The Chinese model, on the other hand, is designed for pursuing collective interest, patriarchal authority and to support the hierarchisation of social relations [Huang 2024, 73; Englehart 2000, 548-68]. All countries/organisations, regardless of their legal culture, must now face the same challenge: to formulate an adequate response to the unexpected emergence of far-reaching negative consequences of the widespread and uncontrolled improvement of artificial intelligence models.

However, the existing regulations do not set out the operating principles of the technology itself, but are limited to indicating the scope of their possible application and possibly minimising the damage they may cause. The issue of clash of artificial intelligence with industrial property rights

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[51] See https://www.brookings.edu/articles/the-eu-and-us-diverge-on-ai-regulation-a-transatlantic-comparison-and-steps-to-alignment/#anchor3 [accessed: 01.06.2024].

[52] See https://www.nist.gov/system/files/documents/2023/01/26/crosswalk_AI_RMF_1_0_OECD_EO_AIA_BoR.pdf [accessed: 01.06.2024].

and copyright, which seem anachronistic and incompatible with the new digital reality, is also marginalised [G'sell 2024].

CONCLUSION

The analysis of strategies for implementing AI regulation in the United States, China, and the European Union confirms the main thesis of the article: legal cultures play a major role in shaping the approach to AI regulation. Pierre Legrand's concept of *mentalité juridique* is fully reflected here, showing how deeply rooted values and legal traditions affect the formulation of regulatory strategies.

Guided by the ideals of freedom and individualism, the United States has adopted an "open innovation ecosystem" model with minimal regulatory interference. China, in accordance with the Confucian tradition of obedience to the authorities and the primacy of collective interest, has implemented a centralized, top-down control system. The European Union, striving for integration and protection of fundamental rights, has created a comprehensive, harmonized legal framework in the form of the AI Act. The various approaches illustrate how seemingly universal regulatory solutions are in practice interpreted and adapted through the prism of local values and ways of thinking. However, despite these cultural differences, all of the actors studied face similar challenges as a result of the unexpected consequences of AI development. The dynamics of technological progress force constant adaptation of regulations, posing the difficult task of balancing between supporting innovation and ensuring the security and ethical functioning of models for society. The need for a new "social contract" that takes into account the relationship between humanity and AI is indispensable, taking into account both local cultural contexts and global challenges. Effective regulatory strategies require not only an understanding of the specificity of a given legal culture, but also flexibility in adapting to rapidly changing technological realities.

Guided by the ideals of freedom and individualism, the United States has adopted a model of "open innovation ecosystem" with minimal regulatory interference. China, in accordance with the Confucian tradition of obedience to authority and the primacy of collective interest, has implemented a centralised, top-down control system. The European Union, striving for integration and protection of fundamental rights, has created a comprehensive, harmonised legal framework in the form of the AI Act. These various approaches illustrate how seemingly universal regulatory solutions are in practice interpreted and adapted in the light of local values and mindsets. However, despite these cultural differences, all these actors face similar challenges as a result of the unexpected consequences of AI development.

The pace of technological progress forces constant adaptation of regulations, which makes the legislators to face a demanding task of balancing between supporting innovation and ensuring the security and ethical functioning of AI models for society.

It is indispensable to address the need for a new "social contract" covering the relationship between humanity and AI[53] that would take into account both local cultural contexts and global challenges. Effective regulatory strategies require that characteristics of a given legal culture be understood, but they also must be flexible to adapt to rapidly changing technological realities.

In conclusion, the analysis of the cases of the US, China and EU confirms the view that legal cultures have a fundamental impact on the development of AI regulatory strategies. At the same time, it points to the need to develop more universal solutions which, according to Clifford Geertz, would allow "[…] the formulation of assumptions, interests and frameworks of action typical of one type of legal sensitivity in terms specific to another" [Geertz 2005, 179]. This ambitious task seems necessary in the face of unprecedented global challenges posed by the development of "thinking machines" as they were referred to as by Alan Turing [Turing 1950, 433-60; Idem 1937, 230-65; Jefferson 1949, 1105-121].

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[53] An example of attempts of this type is the initiative of *Future of Life Institute* under leadership of Max Tegmark. See online: https://futureoflife.org/ [accessed: 20.06.2024].

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