ARTIFICIAL INTELLIGENCE AS A SUBJECT OF PROPERTY RIGHT: PROBLEMS AND PROSPECTS

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UOT 342.7; 347.22
DOI: https://doi.org/10.71404/NP.2025.3.21

As artificial intelligence systems develop, new legal, philosophical and ethical questions about their place in society become relevant. One of these issues is related to the legal personality of artificial intelligence. Depending on the answer to this question, the dilemma about the ownership of artificial intelligence will also find its positive or negative solution.

Keywords: Artificial intelligence, legal personality, property rights, arguments, counter-arguments, robot ethics.

In modern times, science and technology are developing rapidly and continuously. However, sometimes there is an imbalance between the pace of development of technical science and its achievements and the pace of development of the humanities, including law. An example is the dynamics of the development of artificial intelligence and robotic systems, as well as the state of development of concepts for regulating legal relations related to these systems. Thus, in modern conditions, the creation of robots with artificial intelligence is progressing every day, and these robots are inevitably integrated into the life of society. In other words, the integration of robots.

Although at the conceptual level there are no difficulties in considering robots as objects of legal relations, or rather, this point of view is more consistent with a more traditional worldview for people (for example, when a robot is considered as an object of purchase and sale, an individual or legal entity selling and buying a robot is easily understood as a subject of legal relations, and a robot is easily understood as an object of legal relations), the attitude towards them as subjects of legal relations (for example, the ability of a robot to own property, acquire property, to extract income by selling this property, the robot's ability to own intellectual property).

Although the widespread use of artificial intelligence systems in our country is one of the priorities, there are practically no norms at the legal level reflecting the official legal attitude towards artificial intelligence.

Thus, the Concept approved by Decree of the President of the Republic of Azerbaijan dated June 3, 2019 No. 718 on the creation of the "Government Cloud" (G-cloud) and measures in the field of cloud services provision states that in accordance with global development trends in the world of "machine learning", "machine-to-machine interaction" (M2M), Artificial intelligence (AI), Big Data and the Internet of Things will become important elements in the life of society and will be widely used in the Republic of Azerbaijan [2].

According to the "Strategy of Socio-economic Development of the Republic of Azerbaijan for 2022-2026", approved by Decree of the President of the Republic of Azerbaijan dated July 22, 2022 No. 3378, one of the main activities is to improve the management of agricultural lands through the use of artificial intelligence [3]. The "Information and Cybersecurity Strategy of the Republic of Azerbaijan for 2023-2027", approved by the Decree of the President of the Republic of Azerbaijan dated August 28,

2023 No. 4060, specifically mentions artificial intelligence engineering among modern and new challenges and best practices taken into account when carrying out activities in the field of information security and cybersecurity [4].

However, we see that the legislation of the Republic of Azerbaijan still contains provisions related to artificial intelligence only in documents of a conceptual and strategic nature, as a rule, in the form of ideological statements. The current legislation does not contain a legal definition of artificial intelligence and its legal status.

In our opinion, we can agree with the authors who express the opinion that the issue of granting artificial intelligence legal personality is not only a legal, but also a political issue.

According to the document "Definition of artificial intelligence: main capabilities and disciplines" (A definition of AI: Main capabilities and disciplines), prepared by the High-Level Expert Group on Artificial Intelligence (High-Level Expert Group on Artificial Intelligence), created by the European Commission, artificial intelligence is systems that perceive their environment through collecting data based on knowledge and making decisions about the most appropriate actions that need to be taken to achieve the goal. Systems based on artificial intelligence can be represented as software running in virtual space (for example, voice assistants, image processing systems), as well as embedded software in physical devices (for example, autonomous cars, intelligent robots).

There are various classifications of artificial intelligence systems, but among the most common classifications are the following types of artificial intelligence [5, p. 14]:

- jet cars. These machines have no memory, they are not capable of storing data. Therefore, they cannot rely on the experience of previous years, but only respond to the information provided;

- limited memory. These artificial intelligence systems have the ability to analyze their past experiences;

- theory of intelligence. This type of artificial intelligence system is a system that understands that each person has their own beliefs, emotions, opinions, and expectations, and acts accordingly;

- self-awareness. This includes computationally intelligent systems with a higher level of consciousness. They, as humans, are able to understand the environment and other people's feelings and be aware of their desires.

As for the fields of activity of artificial intelligence systems, they are usually classified as follows [5, p. 15]:

- Voice recognition (for example, Alexa voice assistant);

- visual recognition (for example, the Face ID identification system);

- word processing algorithms (for example, the General Architecture for Text Engineering (GATE) software);

- reasoning. It is this line of activity that is based on such functions as rational "thinking" and decision-making, problem solving, analytical response and analytical analysis. This application can now be considered a more rational form. Because the artificial intelligence created here is capable of thinking and reasoning like a human.

Against this background, it becomes obvious that as artificial intelligence systems develop with the ability to self-awareness and judgment functions, the issue of their decision-making in their own interests, and as a logical consequence of this, the issue of the legal personality of artificial intelligence, will inevitably become a real problem that needs to be resolved.

However, the issue of the legal personality of artificial intelligence is quite controversial in legal doctrine. Thus, some authors studying this problem generally exclude consideration of artificial intelligence as a subject of law. Another group of authors, in principle, allows the possibility of considering artificial intelligence as one of the subjects of law, however, among this group of authors there is an acute debate about the choice of a concept on the basis of which the legal personality of artificial intelligence should be recognized.

By the way, it should be noted that both opponents and supporters of the idea considered in the doctrine, as well as scientists who support the validity of certain concepts, are trying to justify their personal opinions in various ways, but so far there is no clearly dominant approach between these two fronts.

For example, Z.N.Aslanov, who can be attributed to the first group of authors, in his work "Scientific and technological progress, artificial intelligence and law" quite interestingly presents counterarguments on the issue of the legal personality of artificial intelligence. According to the approach of this author, in order for artificial intelligence to have any rights and exercise them (according to the approach of the author in question, this is impossible, since the exercise of rights is aimed at satisfying any conscious need, whereas artificial intelligence does not have such needs), it must first of all be free (have the right to freedom) [1, p. 108]:

Some authors also oppose the idea of considering artificial intelligence as a subject of law. They note that the idea of recognizing artificial intelligence as a legal entity sharply contradicts such concepts of a legal entity as socio-legal value, dignity, autonomy of the legal will, as well as legal structures such as the composition of a legal relationship and the composition of a legal offense, and generally devalues the institution of representation. Artificial intelligence does not possess the necessary features inherent in a legal entity — it cannot independently acquire and implement subjective rights and obligations.

In the doctrine, along with the opponents of recognizing the legal personality of artificial intelligence, there are also many supporters of this idea. Moreover, among the latter, the main topic of discussion is no longer the question of the permissibility of the very idea of the legal personality of artificial intelligence, but on the basis of which concept it should be implemented.

Various concepts concerning the legal personality of artificial intelligence have been analyzed and classified in the legal literature. Thus, some authors consider it more appropriate to approach the issue of recognizing artificial intelligence as a legal entity based on the concept of quasi-legal personality and, among the existing models of regulating its legal status, primarily highlights the model of legal fiction.

The model of legal fiction, or the model of the approach to artificial intelligence as persona ficta, is considered as a possible analogue of the application of the concept of a legal entity to artificial intelligence. It is known that the idea of a legal entity existed in ancient Roman law, since in the Roman legal system, along with individuals, the possibility of organizations participating in separate legal relations was recognized. In other words, in Roman law, an organization could be considered on an equal basis with a person. This idea was subsequently developed by the glossators in the context of the principle of quod universitatis est, non est singulorum, dating back to Roman law.

Legal fiction is the assumption or acceptance as existing of a fact that does not actually take place, in order to build and regulate legal relations based on this premise. Through legal fiction, a fact that obviously does not exist in reality can be considered as existing (just as a non-existent person can be considered as existing), and vice versa, a fact that reliably exists can be recognized as non-existent. In this sense, a legal entity, although it does not physically exist in reality and is perceived by people as an existing entity, as a legal entity.

The persona ficta approach provides an opportunity to enter into legal relations between real-life entities, that is, individuals, and legal entities or artificial intelligence that do not actually exist, but whose existence is legally recognized, and these relations themselves are subject to legal regulation. The persona ficta approach was originally developed to ensure the participation of organizations in civil law relations with individuals, and it was for this purpose that it began to be applied in law. However, as a result of the development of society and the evolution of legal thought, the participation of legal entities has become inevitable.

Thus, the persona ficta approach to artificial intelligence can indeed bring significant clarity to the issue of its legal personality, as well as to one of the issues, an integral part of which is related to property rights.

Among the existing models for regulating the legal status of artificial intelligence, some researchers include the following:

- a new model of the legal entity. It is intended to create a new entity, which will be called as an "electronic person", "agent" or "artificial person", etc. The peculiarity of this approach is that the rights and legal capacity of the new legal entity will be a priori limited and cannot be expanded;

- the AI Unit model. This model assumes the use of a legal structure designed to solve specific tasks of civil, economic, financial and, to some extent, criminal law. The main difference between the AI Unit model approach and the persona ficta approach is the consideration of the autonomy of the subject's will. Thus, the autonomy of the will of legal entities is a highly relative concept, since all decisions on behalf of a legal entity are in any case made by people.

This model assumes consideration of artificial intelligence as an analogue of the model of legal personality of individuals, but as a subject with limited legal liability.

Some researchers note that in relation to the legal regulation of the status of artificial intelligence (the authors whose opinions are cited refer to artificial intelligence as a "digital being"), the following models can be considered:

– the exclusive model, or the model of exclusive legal personality (exclusivism). Within the framework of this model, the category of legal personality refers exclusively to biological human individuals; only a person can be a subject of law and a bearer of legal capacity.

– the minimal inclusivism model. According to this model, a digital being can be considered as an autonomous agent, but an agent without legal capacity; the legal personality of a digital being is excluded.

– a model of moderate inclusivism. Within the framework of this model, a digital being can act as an autonomous (independent) agent and have legal capacity, but it still should not be recognized as a subject with independent legal personality.

– a model of total inclusivity (extreme inclusivism). According to this model, a digital being can have an independent legal personality, have rights inherent in a person, as well as their own significant interests.

Having listed these concepts, some researchers come to the conclusion that for the current level of development of artificial intelligence, the model of exclusive legal personality is sufficient for its legal regulation, since the capabilities of artificial intelligence can still be considered weak compared to its potential and prospects. However, the authors do not rule out that the constant development of artificial intelligence technologies will eventually lead to a transition to a fully inclusive model.

Regarding the possible models of legal personality of artificial intelligence, there are other interesting studies. For example, it is noted that within the framework of legal relations to artificial intelligence, in principle, three different approaches are possible:

- equating the legal status of artificial intelligence with the legal status of animals;

- equating the legal status of artificial intelligence with the legal status of humans;

- providing artificial intelligence with a special legal status - the status of an "artificial person".

Expressing his opinion on the legal validity of each of the listed approaches, it is also noted that equating the legal status of artificial intelligence with the legal status of animals is the most difficult from the point of view of implementation, since currently in the legal systems of the vast majority of countries animals are considered as objects in themselves, and not as subjects of legal relations; equating the legal status of artificial intelligence with human intelligence requires a revision of a number of constitutional provisions, which is a very difficult model to implement, given the specifics of legal systems.

In our opinion, when discussing the legal personality of artificial intelligence, an approach based on the factor of classifying artificial intelligence systems by power indicators is quite reasonable. Thus, it is noted that at the current stage of technological progress there are only highly specialized weak artificial intelligence (Narrow AI) and general (universal) strong artificial intelligence (General AI). Super-powerful artificial intelligence (Super AI) systems have not yet been developed, and their existence in the future remains only a predictable phenomenon.

In general, current trends indicate that in the future the position of the second group of authors, namely those who consider artificial intelligence as a subject of law, will prevail over the opponents of this idea. For example, the fact that Saudi Arabia granted citizenship in 2017 to a humanoid robot named Sofia, which is essentially a chatbot, are now real examples

of how states treat artificial intelligence as persona ficta.

As mentioned earlier, recognizing the existence of artificial intelligence (robots) rights to own, use, and dispose of property is not only a legal issue, but also raises serious philosophical and ethical concerns. This, in turn, actualizes the need to work on the issue of ethical standards of behavior of artificial intelligence (robot) and their reflection in official sources of legalization.

Currently, thinking about the ethics of artificial intelligence is usually conducted by lawyers and legal philosophers through the prism of the "three laws of robotics". These laws were first formulated by Isaac Asimov in 1942 in a short story called "Round Dance" in the framework of the novel "I, robot". Later, in 1986, he also put forward the zero law of robotics in his novel Robots and Empire. Since this law does not concern the safety of individuals, but of the whole of humanity, even though it was formulated later than the other three laws. So, these laws are as follows:

— a robot cannot harm humanity or, by its inaction, allow humanity to be harmed (zero law);

— a robot cannot harm a person or, by its inaction, allow a person to be harmed (the first law);

— a robot must obey human orders, unless these orders contradict the first law (the second law);

— a robot must take care of its own safety to the extent that it does not contradict the first and second laws (the third law).

Considering the issue of ownership of robots in the light of these laws, the first aspect that attracts attention is the idea of prioritizing the safety of humanity and humans. In this context, if in the future the independent ownership of artificial intelligence systems is recognized and the independent exercise of this right in civil circulation is ensured, then the possession, use and disposal of artificial intelligence own property should not pose a threat to harm the life and health of humanity as a whole and individuals (in our opinion, also to human property and the environment environment).

In this direction, in the future, the lists of property with limited and prohibited civil circulation for individuals and legal entities and similar lists for artificial intelligence systems may be differentiated. Depending on the results of appropriate risk and threat assessments, the range of objects, materials, substances, and other things that artificial intelligence can own or in relation to which it can make decisions about their use in one form or another may be regulated more strictly.

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