THE DRAFT EU LAW ON ARTIFICIAL INTELLIGENCE 2023

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Abstract: *On February 2, 2024, The Committee of Permanent Representatives of the EU Member States approved the draft law on artificial intelligence (The AI Act - AIA). The final draft law will be adopted in April 2024 in the form of an EU Regulation. European lawyers and politicians have expressed the opinion that AIA is the world's first comprehensive law regulating AI in various applications and contexts. The purpose of this study is to analyze the provisions of the EU AI Bill 2023. This study used empirical methods of comparison, description, interpretation; theoretical methods of formal and dialectical logic. The results of the study show that the statements of European scientists about the "world's first AI law" are not entirely accurate. Back in 2019, Decree of the President of the Russian Federation No. 490 dated 10.10.2019 "On the development of artificial intelligence in the Russian Federation" was issued, also in 2022-2023 a number of laws of the People's Republic of China in the field of AI regulation, including generative AI, were published, a number of regulations were adopted in the USA and other countries. These points are not taken into account and are not commented on by European scientists in any way. However, a number of provisions of the EU draft law seem to the authors of this article to be well-founded, correct and subject to consideration when developing legislation in the field of AI regulation at the international level and in other countries of the world, including in the Russian Federation (we are talking about prohibited methods of working with AI listed in Article 5 of the EU draft law, as well as the concept of "Deep fake", enshrined in paragraph 44 (bl) of Article 3 of the AI Act Project). The following shortcomings of the draft law were identified: a) insufficient regulation of mandatory basic safety standards; b) the ambiguity of regulating "open source" AI models; c) lack of regulation of the impact of AI systems on the environment; d) the need to supplement the AI Law with much more substantial public investments in AI; e) the consolidation in the draft law of a formal, costly and undifferentiated approach to suppliers and users of AI systems, which resulted in a significant administrative and material burden for enterprises and companies - the production of documentation (plans, reports, etc.); f) the draft law does not contain new tools to protect against the risks posed by the use of AI systems, which EU citizens could effectively use., etc.*

Keywords: *AI Act, European Union, "Deep fake", prohibited methods of working with AI, High-risk systems AI, b) "filter regulation" for high-risk AI models.*

INTRODUCTION

On December 8, 2023, after several months of intensive negotiations, the European Parliament and the Council reached a political agreement on the EU Law on Artificial Intelligence (The AI Act - AIA) [1]. Initially, Germany, France and Italy opposed the final text of the bill, but during January 2024 their objections were withdrawn, and on February 2, 2024, the Committee of Permanent Representatives of the EU member States approved the bill [2]. Now it needs final approval by the European Parliament, one of the three legislative branches of the EU government. This is expected to happen in April 2024. If the text remains unchanged, as analysts expect, the AIA will enter into force in 2026 [3]. The AI Act Project, passed by an overwhelming majority of votes by the European Parliament, gives an idea of the future of AI governance in the EU. The AI Act Project is aimed at protecting fundamental human rights and ensuring the ethical development of AI in Europe and

beyond. According to German author Urs Gasser, this is by far the most ambitious concept designed to guide the development and use of AI [5]. The final draft law will be adopted in April 2024 in the form of an EU Regulation. European lawyers and politicians have expressed the opinion that AIA is the world's first comprehensive law regulating AI in various applications and contexts. It is expected that the consequences of the adoption of the AIA will be similar to the adoption of the General Data Protection Regulation (GDPR) and will change the practice of AI research worldwide [4].

Recall that in the last few years, the debate about AI governance has mainly focused on the ethical foundations and obligations to comply with the fundamental principles of AI. In 2019, there was an international consensus that AI technology should be subject to certain technical standards and possibly certification procedures, just as other technical systems require certification before deployment. At the same time in 2019 Intergovernmental bodies and international organizations have come up with a number of ambitious projects and guidelines aimed at identifying common ethical norms and values applicable to the development of AI technologies. Although these documents were only advisory in nature, their potential impact on national policy development and, ultimately, specific legislative provisions should not be underestimated [6, p.30].

The EU's initial efforts led to the creation of a high-level Expert Group on AI, which in April 2019 presented the European Union's Ethics Guidelines for Trustworthy AI [7]. The EU initiative has received a positive response. But it has become obvious to EU politicians that neither self-regulation of the industry nor ethical standards will be sufficient in such a complex area [8]. In the spring of 2020 The European Commission has submitted for public discussion the draft Law on AI, which includes four options: from "soft law only" to a wide range of mandatory requirements and their combinations to eliminate the risks associated with the development and use of certain AI applications. A year later, on April 21, 2021, after extensive public debate, the EU Commission published the single draft AIA. At the same time, the Commission has taken a clear step beyond ethics by introducing mandatory rules for AI systems placed on the EU market. The 2021 project First of all, it was aimed at regulating "high-risk" systems through mandatory requirements and prohibitive measures. This approach left a wide range of AI systems, potentially seriously affecting fundamental rights, simply unregulated with respect to risks directly related to AI [9]. After 1 year and 8 months, in December 2023, after fierce debate, the final version of the draft AIA was published, the main provisions of which the authors explore in this article.

The study of foreign experience in AI regulation seems to be especially relevant in view of the need to adopt in Russia a full-fledged law regulating AI, including generative AI, which has been rapidly developing all over the world in the last three years. Generative artificial intelligence is an AI system that is used to create new content such as texts, images, music, etc. For example, generative AI allows you to automate the creation of texts using short queries. In April 2023 The Russian bank Sber has announced the launch of the GigaChat network, which can answer questions, generate texts and images, etc. Thus, generative AI systems are already working in Russia, and their legal regulation is late.

1. General provisions of the draft law

Over the past few years, governments around the world have developed many artificial intelligence strategies aimed at maximizing the benefits of AI and minimizing potential harm. Many foreign authors identify two main concepts of AI regulation – "soft" and "hard". As a rule, proponents of "soft" regulation include countries of the Anglo-Saxon legal tradition, primarily the United States and Great Britain. Many scientists also consider Russia to be supporters of "soft" or "neutral" regulation.

The U.S. policy regarding the regulation of artificial intelligence has also been called a "laissez-faire" policy. However, this policy has been repeatedly criticized due to its inability to stimulate investment in AI, develop talent and minimize the harm caused by AI systems.

The European Union and China have a model of "strict" AI regulation that protects the citizens of these countries and society as a whole from the negative external consequences of aggressive data-based technologies. For example, a study conducted by UNESCO in 2024 - "Bias against women and girls in large language models" - revealed the presence of disturbing trends in large language models (LLM) related to gender stereotypes, homophobia and racial prejudice. In one language model,

women are four times more likely than men to be described as domestic workers, associated with words such as "home", "family" and "children", while men are attributed words such as "business", "manager", "salary" and "career".

Note that, the primary the EU draft of AIA of 2021 consolidated the model of "soft" regulation. But after fierce discussions, at the end of 2023, the new draft of AIA was submitted for a "strict" model for regulating AI systems. Mandatory rules have been introduced for AI systems placed on the EU market. However, according to European analysts, the policy of "strict" regulation of AI raises concerns that excessive regulation could hinder innovation and harm European companies.

A risk-based approach to AI regulation

Unlike the first version of the bill, published in 2021, the developers of the bill 2023 have consolidated the so-called risk-based approach to AI regulation: the higher the potential risk from the use of the AI system in relation to individual citizens and society as a whole, the stricter the rules. Potential risks from the use of AI systems include the leakage of personal data, the dissemination of illegal information, the spread of fake news, etc. Many States are trying to legislate to solve these problems. Considering the risk-based approach, the EU Draft Law divides AI systems into:

1) completely prohibited (those that contradict EU values and are considered a clear threat to fundamental rights for example, so-called "social scoring" systems or certain types of biometric surveillance);

2) high-risk AI systems (those that carry significant potential harm to health, safety, fundamental rights, the environment, democracy and the rule of law rights; for example, AI systems for selecting job candidates or conducting educational assessments, as well as those used by law enforcement agencies);

3) AI systems with limited risk (e.g. online chat bots that respond to simple queries; text summarization software, some emotion recognition and biometric categorization systems, some deepfake generating systems, etc.);

4) AI systems with minimal risk (e.g., recommendation systems with AI support or spam filters).

For high-risk AI systems, the draft law establishes a number of registration and supervision obligations (Articles 9, 10, 12 of the draft law).

AI systems that pose only a limited risk will be subject to very lenient transparency obligations, for example, disclosure of information that the content was created by AI so that users can make informed decisions about further use. This category includes systems and interacting with people, emotion recognition systems, as well as systems and related to images, audio, and video content. These latest AI systems must explicitly show that the content was generated by artificial intelligence. For "minimal risk" AI systems, suppliers will only have to ensure "an adequate level of AI literacy" from users, and ensure that individuals know when they interact with the AI system (clause 4b of Article 52 of the draft law).

However, the final version adopted some exceptions to the classification system that may allow dangerous AI systems to escape regulation. We are talking about the "filter provision" (paragraph 2a of Article 6 of the draft law). "Risk reduction" must be justified and documented by suppliers of AI systems, as well as registered in a publicly available database (Articles 51, 60 of the draft law).

The content of the draft law of 2023

The draft of AIA consists of 12 sections, which include 85 articles, and section eight consists of two sections – 8 and 8A. You can give the names of the sections: 1) General provisions; 2) Prohibited methods of working with AI; 3) High-risk AI systems; 4) Obligations to ensure transparency for suppliers and dealers of certain AI systems and GPAI models; 5) Measures to support innovation; 6) Management; 7) EU database on high-risk AI systems; 8) Post-market monitoring, information exchange, market surveillance; 8A) General-purpose AI models; 9) Codes of conduct; 10) Confidentiality and penalties; 11) Delegation of authority and committee procedure; 12) Final Provisions. The draft law is quite voluminous, since some articles include up to 44 paragraphs, which in turn are divided into sub-paragraphs (e.g., Article 3 of the "Definitions" of the AIA draft law). The AIA bill also includes comments on each article. The draft AIA law is published on 107 pages [1].

The section "General provisions" includes the purpose of this Regulation, its scope, definitions, as well as the article "AI literacy". The goals do not differ from the goals of AI development enshrined in the regulations of other states [10].

Paragraph 1 of Article 3 of the draft law defines an AI system as a system with different levels of autonomy that can be adaptive. The most common definition of an adaptive system is as a system that automatically changes the data of its functioning algorithm and its structure in order to maintain or achieve an optimal state when external conditions change.

We have already addressed this issue earlier [6, p.18-29]. To date, no generally accepted definition of "AI" has been created. As a rule, scientists argue that AI is the ability of a system to perform tasks that usually require human intelligence [11]. This concept is often associated with systems riddled with capabilities related to "intelligence" such as learning, planning, and generalization ability. As a rule, experts distinguish between narrow and general AI. It is narrow and capable of performing a specific task, such as translating between languages. The general AI will have the same cognitive abilities as the human mind and will be able to solve various tasks.

Decree of the President of the Russian Federation No. 490 dated 10.10.2019 "On the development of artificial intelligence in the Russian Federation" defined AI as a set of technological solutions that allows simulating human cognitive functions [12]. From our point of view, the definition of AI, formulated in the above-mentioned Decree of the President of the Russian Federation No. 490, is broader in nature. In addition, the mentioned definition is clearer and more understandable than the definition of an AI system in the EU bill 2023. It is obvious that the developers of the EU bill sought to move away from comparing the activities of an AI machine system with human intellectual activity. How and to what extent this has been achieved can only be shown by the practice of using the EU draft law on AI when it is adopted in its final form.

Article 2 of the EU Draft Law on AI defines its scope and lists the persons to whom it applies. The 1st group is AI suppliers, regardless of whether these suppliers are established or located within the EU or in a third country. Group 2 - developers of AI systems created or located within the EU. Group 3 - suppliers and developers of AI systems created or located in a third country whose products are used in the EU. Group 3 is divided into 4 subgroups: a) importers and distributors of AI systems; b) manufacturers the AI system; c) representatives of suppliers who are not registered in the EU; d) affected persons who are located in the EU.

Paragraph 3 of Article 2 of the draft law states that it does not apply to areas beyond the scope of EU legislation and does not affect the competence of EU member States with regard to national security. The draft law also does not apply to AI systems and models created solely for the purpose of scientific research and development. Article 2 of the draft law contains a number of other restrictions.

The provisions of Article 2 of the draft law are supplemented by Article 3 – "Definitions", where the concepts are disclosed: AI system, risk, AI supplier, AI developer, authorized representative, importer, distributor, operator, etc. In total, Article 3 of the draft law contains at least 44 definitions (44 paragraphs), but some paragraphs of the article contain sub-paragraphs (e.g., paragraph 44 of Article 3 contains 29 sub-paragraphs).

Let's reveal some definitions of Article 3 of the bill. Thus, "risk" means a combination of the probability of harm and the severity of that harm. "AI system recall" means any measure aimed at preventing the emergence of an AI system in the supply chain in the market. "Deep fake" means an AI-generated image, audio or video content that resembles existing people, objects, places or other entities or events and falsely appears to a person to be authentic or truthful (paragraph 44 (bl) of Article 3 of the bill). From our point of view, the above definition of "Deep fake" is sufficiently clear, clear and complete and deserves to be enshrined in the AI laws of all countries of the world. In the Russian Federation, it is only planned to make appropriate changes to the Law on Personal Data. This was announced by the chairman of the State Duma Committee A. Khinstein on January 25, 2024. According to the deputy, first of all, it is necessary to define the concept of deepfakes and possible concepts of their regulation at the legislative level [13]. According to the authors of this article, the

experience of the EU and other countries in this area should be taken into account when developing the relevant draft law.

Article 4 of the draft law "AI Literacy" noted that suppliers and distributors of AI systems should take measures to ensure a sufficient level of AI literacy for their employees and other persons associated with the creation and distribution of AI systems [14].

2. Prohibited methods of working with AI

The use of certain types of AI involves a level of risk that is considered unacceptable according to the provisions of the draft law, and therefore these systems will be banned in the EU. The bill completely prohibits cognitive behavioral manipulation, the non-targeted extraction of facial images from the Internet or CCTV recordings, emotion recognition in the workplace and in educational institutions, social assessment, biometric categorization to obtain confidential data such as sexual orientation or religious beliefs, as well as some cases of predictive control by the police for individuals (Article 5 of the draft law) [15].

From our point of view, the prohibited methods of working with AI listed in Article 5 of the EU draft law seem to us to be quite reasonable and correct. These methods are aimed at protecting human rights and fundamental freedoms. We believe that governments around the world should recognize that some AI technologies (including those using political, religious, philosophical beliefs, sexual orientation, race, using images of faces from the Internet, recognizing people's emotions at work and school, exploiting people's vulnerabilities due to their age, disability, social or economic status, etc.) pose a potential threat to the entire society and should be completely and completely prohibited. Moreover, the list of prohibited AI systems should be fixed at the international level as an international treaty or convention.

3. Classifying AI systems as high-risk

High-risk systems can threaten the fundamental rights and security of citizens, and they can be distinguished depending on the scope of action. In fact, some of them will be regulated by current EU legislation (for example, product safety legislation). Systems and others will require special registration and additional steps before they are evaluated and allowed (or prohibited).

Suppliers of "high-risk" systems will have to iteratively "identify", "assess" and "eliminate" the "reasonably foreseeable risks" of their system [...] to health, safety or fundamental rights" (Article 9), establish practices of "proper data management" (Article 10) and keep logs of their system's activities (v. 12) [2].

According to the draft law, a wide range of high-risk AI systems will be allowed, but subject to compliance with a number of requirements and obligations to gain access to the EU market (Articles 6 - 51 of the draft law). These requirements have been clarified and adjusted by legislators in such a way that they are more technically feasible and less burdensome for stakeholders, for example, with regard to data quality or with regard to technical documentation that must be compiled by enterprises.

Article 6 of the draft law states that an AI system is considered high-risk if the AI system is intended to be used as a component of product safety, or the AI system itself is a product subject to EU legislation listed in Annex II to the draft law (a total of 19 regulations, e.g. Directive 2014/33/EU on harmonization the laws of the Member States concerning elevators and safety components for elevators). In addition, the list of high-risk AI systems is fixed in Annex III to the draft law. "High-risk AI systems" used in the following areas:

1). Biometric data, if their use is permitted by the relevant legislation of the EU or the country, e.g. remote biometric identification systems.

2). Critical infrastructure, e.g., AI systems designed to be used as safety components in the management and operation of critical digital infrastructure, traffic and water, gas, heating and electricity supplies.

3). Education and vocational training, e.g., AI systems for determining access or enrollment or for sending individuals to educational and vocational educational institutions at all levels.

4). Employment, employee management and access to self-employment, e.g., AI systems, etc., e.g., AI systems used in hiring or selecting individuals to place targeted job advertisements, analyze and filter job applications and evaluate candidates.

5). Access to and use of basic private services and basic public services and benefits, e.g., AI systems used by government agencies to assess the right of individuals to receive basic benefits and public assistance services, including medical services.

6). Law enforcement agencies, to the extent their use is permitted by the relevant legislation of the EU or the country, e.g., AI systems used by law enforcement agencies or EU institutions, agencies, etc. to assess the risk of an individual becoming a victim of criminal offenses.

7). Management of migration, asylum and border control, to the extent their use is permitted by the relevant legislation of the EU or the country, e.g., AI systems used by competent government authorities as lie detectors and similar tools.

8). Administration of justice and democratic processes, e.g., AI systems used by a judicial authority to assist the judiciary in researching and interpreting facts and the law, as well as in applying the law to a specific set of facts, or used in a similar way in alternative dispute resolution; or e.g., AI systems used to influence on the results of elections or referendums or on the behavior of individuals when voting in elections or referendums.

Since AI systems are developed and distributed within complex value chains, the draft law establishes the distribution of responsibilities between various participants in these chains, in particular suppliers and users of AI systems. It also clarifies the relationship between responsibilities under the AI Law and responsibilities that already exist under other legislation, such as relevant EU data protection legislation or industry legislation [15].

It should be noted that the law on artificial intelligence will give citizens the right to file complaints against artificial intelligence systems and receive explanations about decisions based on high-risk artificial intelligence systems that affect their rights [16].

4. General purpose AI models with systemic risk

Section VIIIA of the bill regulates the supply of general-purpose AI models with systemic risk. Systemic risk is the possibility of high impact on individual citizens and society as a whole. Article 52a of the draft law states that such models include AI models, where the amount of calculations used for its training, measured in floating point operations (FLOPs), exceeds 10^{25}. Also, such models can be determined by the decision of the ex officio Commission.

Article 52b of the draft law stipulates that the supplier of a general-purpose AI model with a systemic risk must notify the Commission of the delivery of such a model within two weeks. The Commission publishes a list of AI models with high systemic risk.

Article 52c defines the responsibilities of suppliers of AI models with high systemic risk. The supplier is obliged to compile and keep up-to-date all technical documentation on such AI models, as well as provide access to this documentation to AI developers who intend to use it. The supplier is obliged to comply with the EU copyright policy (paragraph 1c of Article 52c of the draft law). The supplier is required to compile a summary of the content used to train the AI model. The supplier is obliged to cooperate with the EU Commission and the national competent authorities.

General-purpose AI models with systemic risk include generative AI (GAI) models. GAI is often defined as an unsupervised machine learning environment that allows semantically editing input samples, generating distributions used to match the distribution of target samples. Generative AI can be applied in a wide variety of industries, including software development, marketing, and fashion. Investments in generative AI increased dramatically in the early 2020s. Generative AI (GAI) is a type of AI system capable of generating text, images, or other media data in response to prompts. Generative AI uses generative models, such as large language models, to statistically sample new data based on the training dataset that was used to create them. It should be noted that at the time of writing the first version of the bill in 2021, generative AI had not yet become widespread in Europe, therefore it was not regulated in the specified initial version.

5. Criticism of the AI Act Project

European lawyers noted that the final text of the EU AI bill was an outstanding technical achievement, it embodies the most pressing problems of modern AI policy, but at the same time the bill vividly highlights the gaps in AI regulation that have been ignored. For example, the German researcher F. Hacker identified the following unresolved issues in the AI bill published in December 2023 [17]:

a) insufficient regulation of mandatory basic safety standards and (as noted by other foreign authors, e.g. P. Friedl and G. Gaziola [2], U. Gasser [5], T. Krarup and M. Horst 18], S. Mach, M. Borelli and C. Kerrigan [19], etc.);

b) the ambiguity of regulating "open source" AI models (let's explain that such models can be modified, supplemented to suit their needs without violating the copyrights of developers, as well as studied for vulnerabilities, used to develop other programs, etc.; e.g. – TensorFlow, Auto-GPT, OpenAI Cookbook);

c) lack of regulation of the impact of AI systems on the environment;

d) the need to supplement the AI Law with much more substantial public investments in AI.

F. Hacker called these problems not just theoretical problems, but real and urgent ones. Other European authors joined his opinion. For example, German researchers P. Friedl and G. Gaziola noted that the most controversial aspects of the bill were its rules on high-risk systems, its positions on general-purpose AI and, finally, its management and enforcement systems [2]. An editorial in the journal Nature, published in January 2024, noted that there are holes in the European AI law, and researchers can help fill them [20]. The rapid development of artificial intelligence technologies, exemplified by the recent releases of Google Gemini, Mixtral 8x7B, Claude 2.1 and others, requires an equally rapid and thoughtful political response. The draft law on artificial intelligence, although a step in the right direction, does not sufficiently address the main problems, as a result of which the EU becomes vulnerable in key areas of development and regulation of artificial intelligence.

a) insufficient regulation of "general-purpose AI models"

The first glaring omission in the Artificial Intelligence Bill is the comprehensive security framework of artificial intelligence for all basic models, including cybersecurity, the mandatory work of the anti—illegal content team and content moderation. Large language models are capable of generating content on an unprecedented scale. The rapid development of AI technologies, as exemplified by the recent releases of Google Gemini, Mixtral 8x7B, Claude 2.1 and others, requires an equally rapid and thoughtful policy response. The AI bill, although a step in the right direction, does not sufficiently address the main problems, as a result of which the EU becomes vulnerable in key areas of AI development and regulation. According to foreign authors, the provisions of article 16 and subsequent articles of the Law on Digital Services, including trusted senders of signals and the mechanism of notification and actions, should be urgently extended to the field of generative artificial intelligence. One of the problems is that AI developers will in many cases be able to independently evaluate products that are considered high-risk. According to the bill, such providers will have to explain the methodologies and methods used to obtain training data, including where and how this data was obtained and how the data was cleaned, as well as confirm that they comply with copyright laws. Ideally, the regulator should create an independent third—party verification system that can also verify raw data if necessary - even if it only checks a representative sample. Once established, the AI Office must fulfill the commission's promise to work closely with the scientific community, using all available experience to provide answers to these questions [20].

European experts believe that the provisions of article 16 and subsequent articles of the EU Law on Digital Services, including trusted senders of signals and the notification and action mechanism, should be urgently extended to the field of generative AI. The reason for this is to create a more efficient and decentralized system for labeling and removing toxic, harmful or overtly dangerous content created by AI systems that still haunt GenAI, which is crucial ahead of the next global election cycles (in the US, EU and beyond). This mechanism will strengthen existing, voluntary practices in the industry by including community oversight (e.g. through registered NGOs) [17].

Another problem is that the minimum standards for "general purpose AI models" are actually extremely weak – they include simple transparency and limited copyright provisions.

By default, stricter rules for high–performance models take effect if the model was trained with more than 10^25 FLOP (floating-point operations roughly equivalent to calculation steps; let's explain that FLOP is an off-system unit used to measure computer performance, showing how many floating-point operations per second a given computing system performs the system). However, as far as we know, only the GPT-4 and possibly Gemini, as well as one or two other models, cross this threshold. As the recent Mistral model shows, there is a tendency to develop more powerful, smaller models. However, even "smaller" models, for example, in the 10^24 FLOP range (e.g. Bard, ChatGPT), demonstrate significant AI and cybersecurity risks that cannot be left to self-regulation.

Consequently, the EU needs to seriously rethink its position on open source and open source models, which are currently exempt from regulation, unless they represent systemic risk models. Starting from a certain performance threshold (for example, significantly lower than the current one: for example, 10^23 FLOP or performance equivalent to GPT 3.5), a ban on full open source code should take effect.

b) lack of regulation of the impact of AI systems on the environment

We share the opinion of European authors that large AI models are linked to another truly existential "security problem": climate change. The Artificial Intelligence Bill includes the first provisions regarding the impact of artificial intelligence systems on the environment, which is a commendable step towards sustainable regulation of artificial intelligence. However, they lack a more comprehensive structure. While AI applications can be beneficial to the environment, the astronomical computing power and water resources needed to train and deploy large-scale AI models also contribute significantly to climate change, complicating global sustainability efforts at a time when immediate action is vital. By 2027, artificial intelligence models are projected to consume energy equivalent to that of countries such as Argentina or the Netherlands [17].

c) other shortcomings of the AI bill

- lack of flexibility of the AI technology regulation system enshrined in the draft law: the classification of AI systems by different types of risk should be reviewed due to the emergence of new AI systems and new AI technologies (e.g., generative AI became widespread in 2021, after the initial publication of the draft law on AI); the draft law does not allow rapid changes in the classification of AI systems;

- the consolidation in the draft law of a formal, costly and undifferentiated approach to suppliers and users of AI systems, which resulted in a significant administrative and material burden for enterprises and companies - the production of documentation (plans, reports, etc.) and labeling of AI systems, registration actions, etc.; this mistake has already been committed, for example, in relation to GDPR;

- the draft law does not contain new tools to protect against the risks posed by the use of AI systems, which EU citizens could effectively use; the draft law enshrines an abstract form of protection associated with the risk management model; protection mechanisms will be basically the same as those provided for by the GDPR, such as the right of access, the right to delete data and the right to on data portability. It is obvious that it is necessary to create a new model of liability for losses caused by AI systems, which goes beyond the approach provided for in the draft law of 2023.

The authors of this study believe that the desire of the European legislator to position the EU as a leader in the field of AI regulation, which became "the very first continent to establish clear rules for the use of AI", led to the fact that the final text of the bill contains significant flaws that are clearly visible to all specialists in this field – insufficiently clear regulation of AI models "general assignments", high-risk AI models, fixing the "filter provision", etc.

6. Can the AI Act Project be called the first in the world?

Rapid evolution has forced the world's largest economies to formulate ambitious strategies to exploit the economic, geopolitical and other potentials of this field of technology. "In this context, many consider the EU to be a slow-reacting player, but given the extensive regulatory activity since about 2017, today it is rather a purposeful and ambitious attempt to compete for global leadership," noted Danish scientists T. Krarup and M. Horst, analyzing the EU bill on AI 2023 [18].

From our point of view, the statements of European scientists about the "world's first AI law" are not entirely accurate. Back in 2019, Decree of the President of the Russian Federation No. 490 dated

10.10.2019 "On the development of artificial Intelligence in the Russian Federation" was published, which, together with the "National Strategy for the Development of Artificial Intelligence until 2030", which consolidated the normative definition of AI [12].

We also recall that the lawyers of the American firm Latham & Watkins LLP wrote in August 2023 that China had adopted three regulations governing AI during 2022-2023, including the "Regulation on Generative AI" from July 2023. [21]. Note that "generative AI" is defined as "a technology that uses deep learning models to create generative information materials (text, images, videos, etc.) in response to a human request." [22].

Currently, in the appendix to the "Legislative Work Plan of the State Council of the People's Republic of China for 2023" dated 05/31/2023, it is indicated that the draft Law "On Artificial Intelligence" will be submitted to the Standing Committee of the National People's Congress of the People's Republic of China. This was also written by Canadian authors Christopher Ferguson and Julie He [23] and Russian scientists E. P. Rusakova [24], E.V. Vasyakina [25], A. Neznamov [26]. Therefore, it is at least incorrect to call the EU draft law on AI the first in the world. At the same time, European experts do not comment on the regulations of Russia and China in any way.

Regarding the EU draft law on AI, the statement of one of the speakers at the meeting of the European Parliament on December 8, 2023, Dragos Tudorake (Romania), who stated, should be considered more correct: "The EU was the first in the world to put in place reliable AI regulation, focusing its development in a human-oriented direction" [27]. Indeed, it is the human orientation, the protection of the rights and freedoms of citizens that distinguishes the AI Act Project.

However, according to Russian news agencies from December 2023, "businesses are not always ready to take into account the risks associated with technology. Representatives of the European business community - Siemens, Airbus, Renault, Heineken, Henkel, Danone, Ubisoft, etc. - they opposed, in their opinion, too strict regulation of AI in the European Union. The heads and founders of companies believe that regulation will undermine the competitiveness of Europe, and innovative companies will simply flee to countries with a more favorable legal regime." [28]. As Chinese researcher Li Yao emphasized, the authors of the letter are especially concerned about generative AI, «since the new rules will strictly regulate chatbots regardless of the purpose of their use. Companies developing and implementing such systems will face disproportionately high compliance costs, the letter said» [22].

CONCLUSION

We agree with the opinion of such authors as S. Mach, M. Borelli and C. Kerrigan that the EU AI bill is capable of shaping international standards, as well as promoting harmonization and influencing the development of AI worldwide [19]. However, this bill cannot be called the "first in the world", since similar regulations already exist in other countries (e.g., China, the USA, the Russian Federation).

We also share the opinion of European politicians that the EU AI bill provides reliable regulation of AI, focusing its development in a human-oriented direction. The bill establishes rules for AI models and offers reliable guarantees for citizens and democracies against any misuse of technology. From our point of view, the prohibited methods of working with AI listed in Article 5 of the EU draft law seem to us to be quite reasonable and correct. These methods are aimed at protecting human rights and fundamental freedoms.

The following shortcomings of the draft law were identified: a) insufficient regulation of mandatory basic safety standards; b) the ambiguity of regulating "open source" AI models; c) lack of regulation of the impact of AI systems on the environment; d) the need to supplement the AI Law with much more substantial public investments in AI; e)the consolidation in the draft law of a formal, costly and undifferentiated approach to suppliers and users of AI systems, which resulted in a significant administrative and material burden for enterprises and companies - the production of documentation (plans, reports, etc.); f) the draft law does not contain new tools to protect against the risks posed by the use of AI systems, which EU citizens could effectively use.; etc.

In addition, it should be emphasized that representatives of the business community consider the EU bill on AI to be too harsh. In their opinion, such a bill could undermine Europe's competitiveness, as innovative companies will leave for countries with more "soft" regulation.

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