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ОБЗОР ПРЕДМЕТНОГО ПОЛЯ | SCOPING REVIEW

Approaches adopted to the “right to contest” AI decisions at international and national levels

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Abstract

This article discusses the problem of the “right to contest” decisions adopted by artificial intelligence (hereinafter — AI) and reviews the approaches taken to such contestation both at international and national levels. The author examines how the European Union has become a pioneer in the sphere of AI regulation through the introduction and evolvement of the “right to contest” decisions adopted by AI, while the Council of Europe has established the state-level obligations to develop the “right to contest” AI decisions. Regarding the national regulatory frameworks, this article finds out that Russia and China prioritise state-driven and top-down strategies for the technological sovereignty of the AI systems but both lack explicit mechanisms for contesting AI decisions, while the approaches of Brazil and the UK (pre-Brexit) to the “right to contest” have been developed under significant influence of the European Union AI regulatory framework. It is also revealed that the AI regulation in the USA is fragmented, as the current federal regulation in fact opposes the approaches of the most progressive states, such as Colorado and New York.

Key words: artificial intelligence, right to contest, European Union, Council of Europe, OECD

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Подходы к праву на «оспаривание решений» искусственного интеллекта на международном и национальном уровнях

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Аннотация

Статья посвящена проблеме «права на оспаривание» решений, принятых искусственным интеллектом (далее — ИИ). Автор рассматривает подходы к «праву на оспаривание», предусмотренные как на международном, так и на национальном уровне. Первопроходцем среди регуляторов в данной сфере стал Европейский союз, который признал соответствующее право в Регламенте защиты персональных данных (GDPR), в то время как Совет Европы обязал государства-члены принять на национальном уровне меры для обеспечения граждан эффективными инструментами оспаривания решений, принятых ИИ. В статье также рассмотрены подходы к решению проблемы «права на оспаривание», принятые в ряде государств, не являющихся членами ЕС. Так, в России и Китае, где действуют продвигаемые государством стратегии обеспечения технологического суверенитета систем искусственного интеллекта, отсутствуют четкие механизмы оспаривания решений, в то время как подходы Бразилии и Великобритании (до Brexit) к «праву на оспаривание» решений разрабатывались с учетом тренда в области регулирования ИИ, заданного Европейским союзом. В статье также освещены проблемы, с которыми сталкиваются США ввиду фрагментарности регулирования ИИ, поскольку на настоящий момент федеральное регулирование фактически противоречит подходам наиболее прогрессивных штатов, таких как Колорадо и Нью-Йорк.

Ключевые слова: искусственный интеллект, право на оспаривание, Евросоюз, Совет Европы, ОЭСР

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Introduction

Artificial intelligence (hereinafter — AI) is one of the most powerful and mysterious forces driving the progress of humanity. Recent and rapid advances in AI research and technologies are widely expected to bring about pervasive and far-reaching social transformation on a global scale. The celebratory rhetoric that accompanied the emergence of these technologies several years ago has recently become considerably more muted in the face of rising public anxiety about possible adverse effects associated with the "rise of the machines" (Yeung, 2020, p. 30). For example, in the recent annual report published by the World Economic Forum, AI was called one of the main challenges, along with net zero and gender parity.[1]

Certain concerns about the rapid development of AI technologies are understandable. Though AI is capable of doing things that human intelligence cannot even imagine, AI decision-making may be inaccurate and biased, and this may have harmful consequences and might lead to discrimination (Ploug & Holm, 2021, p. 21). For instance, an error or bias in the AI decision-making process can result in "incorrect classifications" and "assessments based on imprecise projections".[2] Finally, this may have a negative impact on separate individuals. In these circumstances, states and organisations are trying to change existing legal framework as quickly as AI is changing the world around us and including in their policies, conventions, and regulations "right to contest" decisions adopted by AI.

Therefore, this article, in order to contrast the proactive stance on AI governance with the fragmented regulation of this issue, examines the approaches adopted to the contestation of AI both at international level, i.e. in the European Union (hereinafter — EU), Council of Europe (hereinafter — CoE) and Organisation for Economic Co-operation and Development (hereinafter — OECD), and national level, i.e. in Russia, Brazil, China, the United States of America (hereinafter — USA) and the United Kingdom of Great Britain and Northern Ireland (hereinafter — UK).

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1 World Economic Forum. (2023–2024). Annual Report 2023–2024. https://www3.weforum.org/docs/WEF_Annual_Report_2023_2024.pdf.

2 Guidelines on Automated individual decision-making and profiling for the purposes of Regulation 2016/679, European Data Protection Board/WP29. (as last Revised and Adopted on 2018, February 6). P. 27. https://ec.europa.eu/newsroom/article29/items/612053.

1. Approaches to the contestation of AI decisions adopted at the international level

1.1. The European Union

Among the first jurisdictions globally, the EU moved to develop AI governance with the objective of ensuring that AI technologies are deployed in a manner consistent with robust protections for health, safety, and fundamental rights.[3] In May 2018, the EU adopted the General Data Protection Regulation (hereinafter — GDPR), which establishes a “complex set of regulations of algorithmic decision-making that span multiple contexts and sectors” (Kaminski & Urban, 2021, p. 1963). Among other rights for data subjects, GDPR in Article 22 provides a right for “data subject <…> not to be subject to a decision based solely on automated processing” and recognises the right “to express his or her point of view and to contest the decision [based solely on automated processing]”.[4] Recital 71 of the GDPR (referred to Article 22) further affirmed the centrality of this right in relation to AI decisions that produce legal effects concerning a person or otherwise similarly significantly affect them, such as the automatic refusal of an online credit application or e-recruiting practices carried out without human intervention.[5]

In 2018, the European Data Protection Board (hereinafter — EDPB) issued the Guidelines on Automated Individual Decision-making and Profiling, further elaborating the scope and application of the right set forth in Article 22 of the GDPR. In the Guidelines, the EDPB interpreted Article 22(1) of the GDPR as establishing a passive right that, in substance, amounts to a general prohibition on decision-making based solely on automated processing. This prohibition applies irrespective of whether the data subject takes any action in relation to the processing of their personal data.[6] According to the EDPB’s interpretation, the safeguards set out in Article 22(3) constitute active rights, in contrast to the passive right established under Article 22(1). These active rights apply only in the exceptional circumstances in which automated decision-making is permitted,

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[3] Regulation (EU) 2024/1689 of the European Parliament and of the Council of 13 June 2024 laying down harmonized rules on artificial intelligence and amending Regulations (EC) No 300/2008, (EU) No 167/2013, (EU) No 168/2013, (EU) 2018/858, (EU) 2018/1139 and (EU) 2019/2144 and Directives 2014/90/EU, (EU) 2016/797 and (EU) 2020/1828, European Parliament and Council, subclause 1. (2024). https://www.euaiact.com

[4] European Parliament and Council. (2016, May 4). 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). *Official Journal of the European Union L 119*, art. 22(1) and 22(3). https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32016R0679

[5] Ibid. Recital 71.

[6] Guidelines on automated individual decision-making and profiling for the purposes of Regulation 2016/679. P. 19.

namely the exhaustive grounds enumerated in Article 22(2)(a)-(c) of the GDPR.[7] In accordance with the Guidelines, the rights to human intervention, to express one's view, and to contest a decision are non-negotiable baseline protections. Controllers are required to ensure such rights where they adopt measures to secure data subjects' rights, freedoms, and legitimate interests.[8]

One of the most important cases reviewed by the Court of Justice of the European Union (hereinafter — CJEU) in the context of Article 22 of the GDPR is the case *OQ v. Land Hessen*. In this case, the CJEU interpreted and applied Article 22 of the GDPR in connection with the issue of "probability values (or scorings) that are made to evaluate and predict the future payment capacity of individuals when they request credits to financial institutions" (Noguera, 2024, pp. 957–959). Finally, the CJEU confirmed that the following criteria shall exist together to apply Article 22 of the GDPR: the decision must be necessary; it must be "based solely on automated processing, including profiling"; and it must produce "legal effects [concerning the data subject]" or affect "in a similarly significant way their person" (Falletti, 2024, p. 4).

Consistent with the GDPR framework, the right to obtain human intervention, to express one's view, and to contest AI decisions (specifically in the context of automated creditworthiness assessments) was incorporated into the European Commission Proposal for a Directive on Consumer Credits. Article 18(6) of the Proposal closely tracks Article 22(3) of the GDPR, though its application is confined to assessments that involve profiling or other forms of automated personal data processing.[9]

An opinion on the Proposal was issued in August 2021 by the European Data Protection Supervisor (EDPS), an independent EU body tasked with safeguarding the fundamental rights and freedoms of individuals with respect to personal data processing by EU institutions, and with providing advisory guidance to those institutions and to data subjects on related matters.[10] In the Opinion, the EDPS provided several recommendations to ensure a good alignment of the Proposal's text with the general principles set forth in the GDPR and highlighted that AI systems which are used to evaluate the credit score or

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7 Guidelines on automated individual decision-making and profiling for the purposes of Regulation 2016/679. P. 34.

8 Ibid. P. 27.

9 European Parliament and Council. Proposal for a Directive of the European Parliament and the Council on consumer credits to repeal and replace Directive 2008/48/EC on credit agreements for consumers. Art. 18(6).

10 European Parliament and Council. (2018, November 21). Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC. *Official Journal of the European Union L 295,* art. 52(2). https://eurlex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32018R1725.

creditworthiness of natural persons shall be classified as high-risk AI systems, as they “determine [natural] persons’ access to financial resources or essential services”.[11] Further, the EDPS announced that it welcomes the inclusion in the Proposal of rights to obtain human intervention, express his or her view and contest AI based assessment of the creditworthiness. The EDPS also noted that the granted rights are similar in substance to the rights provided by Article 22 of the GDPR in cases involving automated decision making.[12] According to the EDPS, the provision contributes to greater legal predictability and alignment across credit assessment frameworks, sets out binding rules applicable to creditors, and advances consumer protection in the context of automated credit assessments. This extends specifically to scenarios involving profiling or automated decision-making as defined under Article 22 of the GDPR.[13]

A central concern raised by the EDPS in its Opinion pertains to the identity of the reviewer of AI-generated decisions and the applicable procedural framework. These questions draw attention to the broader issue of human intervention in automated decision-making processes. In this connection, the EDPS emphasised that any individual entrusted with reviewing an AI-based decision shall have an appropriate level of capability to change the decision and possess appropriate authority.[14] Moreover, the reviewer is required to conduct a comprehensive evaluation of all pertinent data, including any supplementary information submitted by the data subject. However, the EDPS neither attempted to provide any criteria, allowing to determine the “capability to change the decision”, nor tried to clarify the term “appropriate authority”. Referring to the second controversy, the EDPS only mentioned that the controller should provide “a simple way for the data subject to exercise these rights”.[15]

Indeed, despite the EDPS position welcoming the inclusion of the abovementioned rights to the Directive (EU) 2023/2225 of the European parliament and of the Council of 18 October 2023 on credit agreements for consumers and repealing Directive 2008/48/EC (hereinafter — Directive), in the final version of the Directive adopted in October 2023 Article 18(6) was changed. The expressly written in the Proposal “right to contest” the AI-based “assessment of the creditworthiness and the decision” in the Directive was replaced with the right to “request a review of the assessment of the creditworthiness and the decision on the granting of the credit by

[11] European Data Protection Supervisor. (2021, August 26). Opinion 11/2021 on the Proposal for a Directive on consumer credits (Proposal for a Directive of the European Parliament and the Council on consumer credits to repeal and replace Directive 2008/48/EC). P. 8–9.

[12] Ibid. P. 10. Para. 27.

[13] Ibid. P. 10. Para. 27.

[14] Ibid. P. 8–9

[15] Guidelines on Automated individual decision-making and profiling for the purposes of Regulation 2016/679. P. 27 (on Recital 71).

the creditor".[16] Nevertheless, the Directive introduced obligations requiring the creditor to inform the consumer that the creditworthiness assessment is based on an AI decision, and to notify the consumer of their right to human review and the applicable procedure for contesting the automated decision.[17]

To improve the existing legal framework in the sphere of AI and create a comprehensive regulation, in August 2024 the EU Artificial Intelligence Act (hereinafter — EU AI Act) was adopted. The EU AI Act aims to improve the functioning of the internal market and putting into service and the use of AI systems within the EU.[18] The EU AI Act applies to both the usage of AI in the public service and in the private sector. It provides exemptions for certain applications of AI relating to, among other, national defence, national security, open-sourced models and personal use. According to the EU AI Act, usage of AI "may generate risks and cause harm to public interests and fundamental rights", including "physical, psychological, societal or economic harm".[19] Notably, however, the EU AI Act makes no reference to a "right to contest" decisions adopted by AI systems.

To sum up, the EU's proactive approach to AI governance, as exemplified by the GDPR and EU AI Act, reflects a commitment to balancing technological innovation with fundamental human rights. Article 22 of the GDPR establishes critical safeguards against purely automated decision-making, ensuring the right to human intervention and contestation in cases with significant legal or personal impact. The EU AI Act aims to improve the functioning of the internal AI market and applies to the use of AI both in public and private sectors.

1.2. The Council of Europe

In 2020, the Committee of Ministers of the CoE adopted Recommendation CM/Rec(2020)1 to the member states on the human rights impacts of algorithmic systems (hereinafter — Recommendations). The CoE explained in these Recommendations that individuals shall be granted with the "effective means to contest relevant determinations and decisions" (Kaminski & Urban,

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16 European Parliament and Council. (November 3, 2023). Directive (EU) 2023/2225 of the European Parliament and of the Council of 18 October 2023 on credit agreements for consumers and repealing Directive 2008/48/EC. *Official Journal of the European Union L, 2023/2225*. Art. 18(8)(c). https://eurlex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ%3AL_202302225.

17 Directive (EU) 2023/2225 of the European Parliament and of the Council of 18 October 2023 on credit agreements for consumers and repealing Directive 2008/48/EC, art. 18(9).

18 Regulation (EU) 2024/1689 of the European Parliament and of the Council of 13 June 2024 laying down harmonized rules on artificial intelligence and amending Regulations (EC) No 300/2008, (EU) No 167/2013, (EU) No 168/2013, (EU) 2018/858, (EU) 2018/1139 and (EU) 2019/2144 and Directives 2014/90/EU, (EU) 2016/797 and (EU) 2020/1828. Subclause 1.

19 Ibid. Subclause 4.

2021, p. 1965).[20] In accordance with the position of CoE, contestation shall “include an opportunity to be heard, a thorough review of the decision and the possibility to obtain a non-automated decision”.[21] Moreover, “right to contest” AI decisions cannot be “waived” and shall “be affordable and easily enforceable”.[22]

In February 2023, the CoE Committee on Artificial Intelligence published the “zero” draft of the Framework Convention on Artificial Intelligence and human rights, democracy and the rule of law (hereinafter — Convention). The Convention “constituted a preliminary proposal for the AI future regulatory framework”.[23] The Convention was opened for signature on 5 September 2024, in Vilnius, and to date is signed by Andorra, Georgia, Iceland, Liechtenstein, Montenegro, Norway, Republic of Moldova, San Marino, Switzerland, Ukraine, the UK, Canada, the European Union, Israel, Japan, the USA and Uruguay. In comparison with the EU AI Act adopted by the EU, the Convention places obligations on states rather than on private or legal entities.

The position of the CoE with regard to the inclusion of the “right to contest” in the Convention has been amended from time to time. For example, the revised “zero” draft of the Convention contained a requirement in Article 19 to guarantee “an effective possibility of contesting the application of the system or challenging the decision(s) affecting the artificial intelligence subject’s rights and freedoms” and make “available effective redress mechanisms”.[24] Meanwhile, the final version of the Convention requires from each Party to adopt measures which allow to “ensure the availability of accessible and effective remedies for violations of human rights resulting from the activities within the lifecycle of artificial intelligence systems”.[25] The list of the measures provided in the Convention is non-exhaustive and includes:

(a) measures, allowing to ensure that “relevant information” regarding [AI] systems which “have the potential to significantly affect human rights and their relevant usage is documented” and provided to [relevant] bodies;

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20 Recommendation CM/Rec(2020)1 of the Committee of Ministers to Member States on the Human Rights Impacts of Algorithmic Systems, Committee of Ministers of the Council of Europe, clause B(4.2).

21 Ibid. Clause B(4.2).

22 Ibid. Clause B(4.2).

23 Ręgorowicz, M., & Konieczny, P. (2023, March 22). *Council of Europe Convention on Artificial Intelligence: article. Chambers and partners*. https://chambers.com/articles/council-of-europe-convention-on-artificial-intelligence.

24 Council of Europe. (2023, January). Council of Europe revised 'zero' draft of the Convention on Artificial Intelligence and Human Rights, Democracy and the Rule of Law. Art.19 (b)-(c). https://rm.coe.int/cai-2023-01-revised-zero-draft-framework-convention-public/1680aa193f.

25 Council of Europe Framework Convention on artificial intelligence and human rights, democracy and the rule of law. Art. 14(1).

(b) obligation to ensure that information provided by states is "sufficient for the affected persons to contest the decision(s) made or substantially informed by the use of the system"; and

(c) obligation to provide "an effective possibility for persons concerned to lodge a complaint to competent authorities".[26]

In the Explanatory Report to the Convention (hereinafter — Explanatory Report), the CoE clarified that due to the technical complexity of the AI systems human interaction with them can be "affected by the problem of opaqueness of artificial intelligence systems and information asymmetry".[27] According to the CoE position, this can negatively impact human rights of the affected or potentially affected persons, who may not be aware of such impacts or have the necessary information to exercise their rights.[28] To fight with these negative consequences, the Convention requires remedies to be both effective and accessible. The Explanatory Report clarifies that an "effective" remedy shall "be capable of directly remedying the impugned situations", and an "accessible" remedy shall "be available with sufficient procedural safeguards in place to make the remedy meaningful for the person concerned".[29]

Article 14 of the Convention, which requires Parties to adopt or maintain specific measures to protect individuals in cases of AI decision-making, is consistent with the principle of transparency and oversight set forth in Article 8 of the Convention and the principle of accountability and responsibility set forth in Article 9. Therefore, the Explanatory Report specifically underlines that the remedies adopted by states in accordance with Article 14 shall be "context-appropriate, sufficiently clear and meaningful", and they shall "provide a person concerned with an effective ability to use the information in question to exercise their rights".[30] Moreover, according to the Explanatory Report, the drafters of the Convention wished to highlight the phrase "significantly affect human rights" in subparagraph (a) of paragraph 2 of Article 14 of the Convention as it introduces a threshold requirement for application of the provided remedies. It means that the requirements provided in Article 14 do not apply automatically to all AI systems falling within the scope of Article 3 of the Convention and that the AI systems, which have no significant effect or impact

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26 Ibid. Art. 14(2(a)-(c)).

27 Council of Europe. (2024, September 5). Council of Europe Explanatory Report to Council of Europe Framework Convention on artificial intelligence and human rights, democracy and the rule of law. Clause 96. https://rm.coe.int/1680afae67.

28 Ibid. Clause 97.

29 Ibid. Clause 98.

30 Council of Europe Explanatory Report to Council of Europe Framework Convention on artificial intelligence and human rights, democracy and the rule of law. Clause 99.

on human rights do not fall under the obligations provided in Article 14 of the Convention.[31]

With regard to the subparagraph (b) of Article 14 of the Convention, the phrase “substantially informed by the use of the [AI] system”, in accordance with the Explanatory Report, also introduces a threshold requirement which means that “not every use of an [AI] system in decision-making triggers the application of subparagraph (b)”.[32] These measures should apply only in cases where the decision is “substantially informed” by the use of the system. Moreover, the meaning of “substantially informed” and “significant effect or impact” is defined at the discretion of the Parties to the Convention, as these terms shall be consistent with Parties’ applicable international and domestic human rights law.[33]

Likewise, the CoE included a “right to contest” the AI decision-making in its Convention for the protection of individuals with regard to the processing of personal data (hereinafter — Convention 108+). Article 9(1) of the Convention 108+ indicates that “[e]very individual shall have a right <…> not to be subject to a decision significantly affecting him or her based solely on an automated processing of data without having his or her views taken into consideration”.[34] According to Article 9(2) of the Convention 108+, this right “shall not apply if the decision is authorised by a law to which the controller is subject”, and which “lays down suitable measures to safeguard the data subject’s rights, freedoms and legitimate interests”.[35]

In the Explanatory Report to the Convention 108+ (hereinafter — Report), it is clarified that “article [9 of the Convention 108+] lists the rights that every individual should be able to exercise” and each Party to the Convention 108+ “shall ensure, within its legal order, that all those rights are available for every data subject together with the necessary legal and practical, adequate and effective means to exercise them”.[36] According to the Report, the data subject should “have the opportunity to substantiate the possible inaccuracy <…> the irrelevance of the profile to be applied to his or her particular situation”, or any other factors which “will have an impact on the result of the automated decision”.[37] This is essentially important in the cases where “individuals are

31 Ibid. Clause 101.
32 Ibid.
33 Ibid.
34 Council of Europe Convention for the protection of individuals with regard to automatic processing of personal data. 1981, January 28. ETS No. 108, https://www.europarl.europa.eu/meetdocs/2014_2019/plmrep/COMMITTEES/LIBE/DV/2018/09-10/Convention_108_EN.pdf, art. 9(1(a)).
35 Ibid. Art. 9(2).
36 Council of Europe Explanatory Report to the Convention for the protection of individuals with regard to automatic processing of personal data. (2018, June). Clause 71.
37 Ibid. Clause 75.

stigmatised by application of algorithmic reasoning resulting in limitation of a right or refusal of a social benefit", or, for example, where they find "their credit capacity evaluated by a software only".[38]

Convention 108+ has some exceptions to the application of the right to be exempt from automated decision-making established in Article 9. The essence of the fundamental rights and freedoms, guaranteed under Article 9 of the Convention 108+ can be limited in case of the essential objectives of general public interest if the restrictions set by the state are provided by law and constitute a necessary and proportionate measure in a democratic society.[39] The restrictions can be provided in order to protect "national security, defense, public safety, important economic and financial interests of the State, the impartiality and independence of the judiciary or the prevention, investigation and prosecution of criminal offences and the execution of criminal penalties", and "data subject or the rights and fundamental freedoms of others, notably freedom of expression".[40] Moreover, if "there is no recognisable risk of infringement of the rights and fundamental freedoms of data subjects", the automated processing of data and automated decision-making can occur with regard to the "public interest, scientific or historical research purposes or statistical purposes", due to the fact "this data is published in aggregate form and provided that appropriate data protection safeguards are in place".[41]

While both the EU and the CoE recognise the importance of addressing the human rights implications of AI, their approaches differ. The EU focuses on regulating AI systems directly, imposing obligations on developers of AI and private entities. The CoE, on the other hand, places obligations on states in order to ensure that remedies are available for human rights violations stemming from AI activities. By requiring transparency of the AI decisions, the CoE aims to empower individuals affected by AI decision-making. This signifies a broader, state-level commitment to safeguarding human rights.

1.3. The Organisation for Economic Co-operation and Development

The "right to contest" AI decision develops quickly not only in Europe. The OECD, an intergovernmental economic organisation, which "recommendations have historically formed the basis of data protection laws [and, currently, the AI

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38 Ibid.

39 Council of Europe Convention for the protection of individuals with regard to automatic processing of personal data. Art. 11(1).

40 Ibid. Art. 11(1).

41 Council of Europe Convention for the Protection of Individuals with Regard to Automatic Processing of Personal Data, art. 11(2); Council of Europe Explanatory Report to the Convention for the protection of individuals with regard to automatic processing of personal data. Clause 97.

laws] around the world” adopted the first intergovernmental standard on AI by the OECD Council meeting at Ministerial level on 22 May 2019 (hereinafter — the AI Principles) (Kaminski & Urban, 2021, p. 1963). By adoption of the AI Principles, the OECD desired to foster innovation and trust in AI by “promoting the responsible stewardship of trustworthy AI while ensuring respect for human rights and democratic values”.[42] In June 2019, at the Osaka Summit, G20 Leaders welcomed the G20 AI Principles, drawn from the AI Principles.[43] It is important to note that China and Russia, both the G20 members, are not members of the OECD, and, therefore, their willingness to approve the text of the AI Principles is both unusual and significant. However, enforcement of the AI Principles and implementation into domestic legislation is not binding for the signatories.

In accordance with clause 1.3 of the AI Principles, the AI actors “should commit to transparency and responsible disclosure regarding AI systems”, and, therefore, among other obligations, shall “provide information that enable those adversely affected by an AI system to challenge its output”.[44] This principle aims to ensure that “users are aware when they are interacting with AI systems and can question the results <…> based on transparent and comprehensible information about the variables involved and the reasoning behind predictions, recommendations, and decisions”, as one of the core proposals for AI actors is to emphasize responsible disclosure so that anyone can understand the mechanisms behind AI decision-making (Morandín-Ahuerma, 2023, p. 97). The AI Principles have influenced Brazil and Canada to include the right to request a review of decisions taken by AI in their domestic legislation.

The AI Principles represent a significant step forward at the intergovernmental level to include the “right to contest” the AI decisions. However, one has to wait “when attempts made to operationalize those principles to specific contexts that conflicting interpretations <…> [will] be understood and applied begin to surface” to assess how the AI Principles will influence international standard-setting for AI governance (Yeung, 2020, p. 30).

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42 Organisation for Economic Co-operation and Development (OECD). (2019). Background information to recommendation of the Council on Artificial Intelligence. OECD Publishing. https://legalinstruments.oecd.org/en/instruments/OECD-LEGAL-0449.

43 G20. (2019). Ministerial Statement on trade and digital economy. https://wp.oecd.ai/app/uploads/2021/06/G20-AI-Principles.pdf

44 Organisation for Economic Co-operation and Development (OECD). (2019, May 5). Recommendation of the Council on Artificial Intelligence. *OECD Legal Instruments*, §1.3.iv.. https://legalinstruments.oecd.org/en/instruments/OECD-LEGAL-0449.

2. Approaches to the contestation of AI decisions adopted at the national level

2.1. Russia

In Russia the regulation of AI started with the adoption by the Government of the National Program "Digital Economy of the Russian Federation" in 2018.[45] The National Program has played a significant role in advancing the regulatory framework for AI. The main outcome of this initiative was the adoption in 2021 of the Federal Law "On Experimental Legal Regimes" by which the so-called "regulatory sandboxes" were introduced to permit the testing and deployment of AI technologies across different areas in Russia. These areas include, but are not limited to, healthcare, transportation, agriculture, finance, remote commerce, and urban development (Kuteynikov et al., 2022, p. 13).

Key provisions of the regulation in the sphere of AI in Russia were introduced by Presidential Decree No. 490 of 10 October 2019 (as amended by Presidential Decree No. 124 of 15 February 2024), which approved the "National strategy for the development of artificial intelligence for the period until 2030". The National Strategy aims to regulate public relations for the development and use of AI technologies.[46]

In 2020, the Russian Government approved the Concept of development of the regulation of relations in the sphere of artificial intelligence technologies (hereinafter — Russia AI Concept).[47] Among other developments, the Russia AI Concept marked a problem of the "use of probabilistic estimates for decision-making" by AI systems and "the impossibility in some cases to fully explain their decisions (the problem of algorithmic transparency of artificial intelligence systems)".[48] In order to develop specific regulatory solutions, the Russia AI Concept introduced a risk-based approach to assess the potential harm to these values in comparison with the potential positive effect from the introduction of AI systems and take measures to minimize the relevant risks.[49]

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45 Government of the Russian Federation. (2019). National Strategy for the development of artificial intelligence for the period until 2030. http://static.government.ru/media/files/9gFM4FHj4PsB79I5v7yLVuPgu4bvR7M0.pdf.

46 Decree of the President of the Russian Federation No. 490 "On the development of artificial intelligence in the Russian Federation," (2019, October 10). http://www.kremlin.ru/acts/bank/44731/page/3; Decree of the President of the Russian Federation No. 124 "On amendments to Decree of the President of the Russian Federation No. 490 of October 10, 2019 'On the development of artificial intelligence in the Russian Federation' and to the National Strategy approved by this Decree," (2024, February 15). http://www.kremlin.ru/acts/bank/50326.

47 Government of the Russian Federation. (2020). Concept on the Use of Artificial Intelligence Technologies in Public Administration, Government of the Russian Federation. http://static.government.ru/media/acts/files/1202008260005/pdf.

48 Ibid. P. 7.

49 Ibid. P. 8.

The Russia AI Concept also underlines that the sphere of AI self-regulation shall be supported, including “the adoption and use of documents of the national standardization system, codes (sets) of ethical rules and other documents”.[50]

On 26 October 2021, the AI alliance in Russia adopted the Code of Ethics in the sphere of AI (hereinafter — AI Code). In accordance with the AI Code, AI actors should “take necessary measures aimed at preserving human autonomy and free will in decision-making”, and “prevent the development of information and communication technology systems that purposefully cause such consequences”.[51] Moreover, AI actors shall not be allowed to “delegate responsibility for the consequences of AI decision-making”, as a “human being <…> [including legal entities] should always be responsible for all consequences” of the AI decisions.[52]

Despite the extensive system of acts regulating or setting the framework for the development of AI in Russia, none of these documents contains explicit “right to contest” AI decisions. On 12 May 2025, the Russian Government announced that it would establish a center for AI development.[53] It is hoped that this center will continue to develop a regulatory framework in Russia in the sphere of AI, including “right to contest” AI decisions.

2.2. Brazil

Brazil is definitely a trendsetter in the sphere of AI regulation in Latin America with its initiatives to be “at the forefront of AI policy making” in the region (Belli, Gaspar, & Curzi, 2022, p. 3).

In 2021 the Ministry of Science, Technology, and Innovation (hereinafter — MSTI) introduced the Brazilian Strategy for Artificial Intelligence, which “enhance[s] the development and use of AI to advance scientific progress and solve[s] concrete national problems by identifying priority areas with the highest

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50 Ibid.

51 Rospotrebnadzor (Federal Service for Surveillance on Consumer Rights Protection and Human Wellbeing). Kodeks etiki v sfere iskusstvennogo intellekta [Code of ethics in the field of Artificial Intelligence]. P. 6. https://apanasenkovskijr07.gosweb.gosuslugi.ru/netcat_files/userfiles/Novosti/Rospotrebnadzor/Kodex_etiki_v_sfere_II_-_text.pdf.

52 Ibid. P. 6.

53 Government of the Russian Federation. (2025, May 12). *The Russian Government Establishes Centre on AI Development.* CNews. https://gov.cnews.ru/news/top/2025-05-12_pravitelstvo_rossii_sozdaet.

potential for benefits".[54] In August 2021, Brazilian General Data Protection Law (hereinafter — LGPD) fully entered into force.

In accordance with Article 20 of the LGPD, "[t]he data subject has the right to request a review of decisions taken solely on the basis of automated processing of personal data affecting his/her interests, including decisions aimed at defining his/her personal, professional, consumer and credit profile or personality aspects".[55] The "right to contest" AI decisions is provided under two circumstances. First, the controller "shall provide, whenever requested, clear and adequate information regarding the criteria and procedures", which will be used "for the automated decision, in compliance with commercial and industrial secrets".[56] Second, in case of "non-disclosure of the information <…> the national authority may perform audits to verify discriminatory aspects in automated processing of personal data".[57]

In connection with Article 20 of the LGPD, it is suggested that "some problems inherent to the implementation of AI systems" might be resolved by "creation of a specialized and independent regulatory body, capable of reviewing and licensing algorithmic decision systems" (Gaspar & Curzi, 2021, p. 2-3). This approach is also supported by other scholars.[58] Such authority shall (1) have "the function of defining what types of audits can be carried out and what technical and/or legal requirements must be met for each case"; (2) determine "possible types of decisions or contexts in which the use of machine learning algorithms should be prohibited, due to their 'intrinsic opacity'"; (3) state "any types of decision or contexts that require a more accurate explanation of the decision or the possibility of human review", and (4) "define the technical requirements to be followed by organisations both in the development and in the use of AI systems" (Gaspar & Curzi, 2021, p. 3).

Generally, the Brazilian approach to the "right to contest" AI decisions follows that of the EU: LGPD, in many aspects, repeats GDPR. Particularly, it replicates

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54 Brazil Ministry of Science, Technology, and Innovation (MCTI). (2021). Estratégia Brasileira de Inteligência Artificial (EBIA): Diretrizes para o Desenvolvimento da IA no Brasil [Brazilian Strategy for Artificial Intelligence: Guidelines for AI Development in Brazil]. P. 5. https://regulations.ai/regulations/RAI-BR-NA-EBDIAXX-2021; OECD. (2020). *OECD reviews of digital transformation: going digital in Brazil, Organisation for Economic Co-operation and Development (OECD)*. https://www.oecd.org/en/publications/oecd-reviews-of-digital-transformation-going-digital-in-brazil_e9bf7f8a-en.html.

55 Brazil. Lei Geral de Proteção de Dados (LGPD) [General Data Protection Law]. Law No. 13.709, art. 20 (2018, August 14). https://www.gov.br/anpd/pt-br/centrais-de-conteudo/outros-documentos-e-publicacoes-institucionais/lgpd-en-lei-no-13-709-capa.pdf.

56 Ibid. Art. 20.

57 Ibid.

58 See, for example, Fjeld et al. (2020).

the provision for the right to review decisions based on the automated processing of personal data.

2.3. China

In July 2017, China’s State Council released national strategy for developing AI, titled “New Generation Artificial Intelligence Development Plan” (新一代人工智能发展规划), which outlines a goal to achieve global AI leadership by 2030. The Plan underlines that AI is a trillion-yuan economic driver and asserts China’s ambition to shape international AI ethical norms and technical standards (Roberts et al., 2020, pp. 66–67). This initiative is “intended to be a blueprint for a complete AI ecosystem for the country” (Wu et al., 2020, p. 313).

Advancing this vision, in 2018 China issued the White Paper on Artificial Intelligence Standardization, which reviews technical AI standards already in place domestically and internationally, and introduces the principle of “consistency of rights and responsibilities” (Filipova, 2024, p. 50). The principle refers to the idea that, on the one hand, “necessary business data should be properly recorded, the corresponding algorithm should be supervised, and commercial applications [of the AI Systems] should be subject to a reasonable review”, and, on the other hand, “commercial entities can still use reasonable intellectual property rights or trade secrets to protect the core parameters of the enterprise”.[59] The China White Paper seeks to strike a balance between accountability and innovation and mandates algorithmic oversight mechanisms, as well as ethical reviews for commercial AI applications.

In September 2021, the Ministry of Science and Technology of the People’s Republic of China published the Code of Ethics for New Generation Artificial Intelligence. Article 3 of the Code of Ethics indicates that “[a]ll kinds of artificial intelligence activities shall follow the <…> basic ethical norms”, including responsibility of the “human beings as the ultimate subject of responsibility”, and establishment of “an artificial intelligence accountability mechanism”, which will not “avoid responsibility review”.[60]

China has a specific approach to the AI regulation, distinguished by several features. The first one is responsiveness of regulation: the Chinese government quickly responses to technological challenges, and makes all the AI principles

[59] China Electronics Standardization Institute (CESI). (2018). White Paper on Artificial Intelligence Standardization. Clause 3.3.2. https://digichina.stanford.edu/work/translation-excerpts-from-chinas-white-paper-on-artificialintelligence-standardization/

[60] China National Professional Committee for the Governance of the New Generation of Artificial Intelligence. (2021, September 25). Code of Ethics for the New Generation of Artificial Intelligence, China National Professional Committee for the Governance of the New Generation of Artificial Intelligence. Art. 3. https://www.most.gov.cn/kjbgz/202109/t20210926_177063.html.

and regulations clear to developers, investors and users. The second one is iterative regulation: Chinese state authorities “adopt an act, test it, then adopt a new act or a new version of the previous act depending on the results obtained, gradually specifying the rules” (Filipova, 2024, p. 11). The third particularity is sectoral regulation: separate normative legal acts are adopted to solve sector-specific difficulties in the field of AI regulation. Finally, ideological control includes “presence of censorship, in particular, censorship of algorithms” (Filipova, 2024, p. 11).

China's vast territory encompasses regions of great diversity, and the state, therefore, allows each of them to develop their own strategies (Wu, Huang, & Gong, 2020, p. 307). It does not contradict the New Generation Artificial Intelligence Development Plan, which includes a “wish list” that encourages local authorities to implement new technologies in order to achieve the general public interests.[61]

The Chinese approach to the regulation of AI and, specifically, the “right to contest” AI decisions is “shaped by multiple actors and their varied approaches, ranging from central and local governments to private companies, academia and the public” (Roberts et al., 2020, pp. 66–67; Arcesati, 2021, p. 2).

2.4. The USA

First, it should be noted that the US model is co-regulatory in nature, where “federal agencies set principle-based documents and private sector actors implement them” (Belli, Gaspar, & Curzi, 2022, p. 6). Additionally, individual states enact legislation independently of the federal regulator, often with considerable effect in specific sectors. Accordingly, further analysis will cover both federal and state approaches to the "right to contest".

With regard to the regulation of AI at the federal level, the Executive Order “On the Safe, Secure, and Trustworthy Development and Use of Artificial Intelligence” issued on 30 October 2023 (hereinafter — Biden’s Executive Order) should be mentioned. The Biden’s Executive Order was based on “voluntary commitments from major US companies (such as Amazon, Google, Meta, Microsoft and OpenAI) to drive safe, secure, and trustworthy AI development” (Szczepański, 2024, p. 1). The Biden’s Executive Order covered several policy fields, including but not limited to “AI impact”, “a risk-informed method towards AI implementation”, and “military ethics and AI safety” (Szczepański, 2024, p. 2). However, the Biden’s Executive Order was rescinded

[61] Digg, J. (2018, March 14). *Deciphering China’s AI dream: context, components, and capabilities*. GovAI. https://www.governance.ai/research-paper/deciphering-chinas-ai-dream-the-context-components-capabilities-and-consequences-of-chinas-strategy-to-lead-the-world-in-ai.

by the new USA President, Donald Trump, “within hours of his assuming office” on 20 January 2025, and, thus, does not apply anymore.[62]

Prior to the Executive Order, the administration of President Joe Biden in October 2022 issued the Blueprint for an AI Bill of Rights: Making Automated Systems Work for the American People. Under the Blueprint for an AI Bill of Right, the White House Office of Science and Technology Policy (hereinafter — OSTP) formed the framework for AI regulation. In accordance with the Blueprint for an AI Bill of Rights everyone “should have access to timely human consideration and remedy by a fallback and escalation process” in cases when an automated system fails, or a person “would like to appeal or contest its [automated system] impacts” on him or her.[63] Particularly, such human consideration, fallback, and “right to contest” shall be “accessible, equitable, effective, maintained, accompanied by appropriate operator training, and should not impose an unreasonable burden on the public”, as “[t]he American public deserves protection via human review against these outlying or unexpected scenarios [when an automated system fails or causes harm]”.[64] It was expected that this mechanism would operate on the basis of the already existing right “for an individual to contest the contents of a record about them” regarding “personal information” stored “in a particular system of records”.[65]

Moreover, the Blueprint for an AI Bill of Rights also provided the “right to explanation”, as the American public “should know that an automated system is being used, and understand how and why it contributes to outcomes that impact” to them.[66] According to the Blueprint for an AI Bill of Right, the automated systems “now determine opportunities, from employment to credit, and directly shape the American public’s experiences”, though this “expansive impact is not always visible”.[67] Therefore, as “people are often denied the knowledge they need to address the impact of automated systems on their lives”, notice and explanations “serve an important safety and efficacy purpose,

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62 Shepardson, D. (2025, January 21). *Trump revokes Biden Executive Order addressing AI risks*. Reuters. https://www.reuters.com/technology/artificial-intelligence/trump-revokes-biden-executive-order-addressing-ai-risks-2025-01-21/.

63 The White House (USA). (2022). Blueprint for an AI Bill of Rights, Office of Science and Technology Policy. P. 46. https://marketingstorageragrs.blob.core.windows.net/webfiles/Blueprint-for-an-AI-Bill-of-Rights.pdf

64 Ibid. P. 46.

65 The Privacy Act of 1974, 5 U.S.C. § 552a (2018). https://www.govinfo.gov/content/pkg/USCODE-2018-title5/pdf/USCODE-2018-title5-partI-chap5-subchapII-sec552a.pdf; The White House (USA). (2022). Blueprint for an AI Bill of Rights, Office of Science and Technology Policy. P. 39.

66 The White House (USA). (2022). Blueprint for an AI Bill of Rights, Office of Science and Technology Policy. P. 40.

67 Ibid. P. 40.

allowing experts to verify the reasonableness of a recommendation before enacting it".[68]

However, one may ascertain that the political situation in the USA significantly influences the existing legal landscape, especially in the mainstream areas, such as AI regulation. It is therefore improbable that the Blueprint for an AI Bill of Rights will see further development during the next four years, in light of President Trump's negative disposition toward AI and the notion of a federal "right to contest" AI-generated decisions.[69]

Separately, the Federal Trade Commission has released guidance for AI system deployment at the federal level, in which it has been emphasised that such systems should be "transparent, explainable, fair, and empirically sound while fostering accountability".[70] Still, it contains no word about "right to contest" the decisions of AI systems.

Turning to state-level AI regulation in the United States, one of the most prospective examples of the AI regulation is the Senate Bill 24-205l concerning "Consumer Protections in Interactions with Artificial Intelligence Systems" enacted by the General Assembly of the State of Colorado in May 2024 (hereinafter — Colorado AI Bill). According to the Colorado AI Bill, everyone shall have "an opportunity to appeal an adverse consequential decision concerning the consumer arising from the deployment of a high-risk artificial intelligence system", and such appeal "must, if technically feasible, allow for human review unless providing the opportunity for appeal is not in the best interest of the consumer, including in instances in which any delay might pose a risk to the life or safety of such consumer".[71]

On 8 January 2025, the New York State Senator Kristen Gonzalez introduced the Senate Bill S1169, which relates to the development and use of certain AI systems (hereinafter — New York AI Bill). The New York AI Bill indicates that "any deployer that employs a high-risk AI system for a consequential decision must <…> provide and explain a process for the end user to appeal the decision, which must at minimum allow the end user to (a) formally contest the decision, (b) provide information to support their position, and (c) obtain meaningful human review of the decision".[72] The New York AI Bill

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68 Ibid. P. 40–41.

69 Mastrangelo, D. (2024, February). *Trump: AI 'maybe the most dangerous thing out there'*. The Hill. https://thehill.com/homenews/media/4444138-trump-ai-dangerous-bartiromo-fox-business/amp/

70 Federal Trade Commission. (2022). Artificial Intelligence. https://www.ftc.gov/industry/technology/artificial-intelligence.

71 Colorado Senate. (2024). Colorado Senate Bill no. 24-205 Concerning Consumer Protections in Interactions with Artificial Intelligence Systems, Colorado Senate, clause 6-1-1703(4(b)(III)). https://leg.colorado.gov/bill_files/47770/download

72 New York Senate. (2025). New York Senate Bill no. S1169 An Act to Amend the Civil Rights Law and the Executive Law, in Relation to the Use of Artificial Intelligence Systems, New York Senate, §86-A(2). https://www.nysenate.gov/legislation/bills/2025/S1169.

is the first act which provides a specific procedure for the user to appeal AI decisions. For example, it limits the deployer’s time for a response to 45 days, taking into account the complexity and number of appeals.

Other states leading in the sphere of AI, such as California,[73] Florida and Washington, either do not have their own AI acts or their acts do not contain any provisions regarding the “right to contest” AI decisions.

In addition to federal and state regulatory efforts, various organisations have published their own initiatives and principles concerning AI governance. For example, the Institute of Electrical and Electronics Engineers (hereinafter — IEEE), a charitable foundation established in 1973 to support and promote technology education, innovation, and excellence, issued a Global Initiative on Ethics of Autonomous and Intelligent Systems. The Initiative states that “[e]very human should have the right to appeal an <…> [AI] decision to a human being, not another <…> [AI] system” and that the “[i]ndividuals should be provided a forum to make a case for extenuating circumstances that the <…> [AI System] may not appreciate — in other words, a recourse to a human appeal”.[74]

The “right to contest” is presently evolving only within individual US states, led by Colorado. Nevertheless, the USA retains significant potential to establish a federal “right to contest” AI decisions, should work on the Blueprint for an AI Bill of Rights resume.

2.5. The UK

In the domestic policy of the UK, the “grand challenge” of putting the state “at the forefront of the AI and data revolution” has been the government’s first priority since 2017.[75] However, scholarship from 2019, based on contemporaneous reports and surveys, found that “law and legal institutions have been fundamentally side-lined” in favor of AI ethics debates, while questions of legal liability for AI decisions remained unaddressed (Yeung, 2019; Drake et al., 2021, p. 4; Puri, 2020). In 2021, the UK released its new national AI strategy, now the principal policy document in this field. It highlights the UK’s strengths and signals “the start of a step-change for AI in the UK, recognising

[73] Californai Senate. (2024). California Senate Bill no. 1047 Safe and Secure Innovation for Frontier Artificial Intelligence Models Act. https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202320240SB1047

[74] Hudson, V. (2023, May 29). *Perspective: 3 principles for nations grappling with AI*. Deseret News. https://www.deseret.com/2023/5/29/23738971/ai-decisions-aidm-human-rights-chatgpt/; Institute of Electrical and Electronics Engineers (IEEE). (2019). Global Initiative for Ethical Considerations and Autonomous Systems, Institute of Electrical and Electronics Engineers (IEEE). P. 91. https://ieeexplore.ieee.org/document/7886245/metrics

[75] Department for Business, Energy & Industrial Strategy (BEIS). (2017). Industrial Strategy: Building a Britain Fit for the Future. P. 34. https://assets.publishing.service.gov.uk/media/5a8224cbed915d74e3401f69/industrial-strategy-white-paper-web-ready-version.pdf

the power of AI to increase resilience, productivity, growth and innovation across the private and public sectors".[76]

From 2020 to 2022, popular protest and litigation against AI systems intensified in the UK, exerting a direct influence on the "right to contest" AI decisions. For instance, in *R Bridges v. CC South Wales Police* it was proven that "police trials involving automated facial recognition (AFR) software in public places" breach "applicable data protection, equalities and human rights laws" and that "established a key reference point for the AFR debate".[77]

The Home Office of the UK has also suffered a series of high-profile setbacks and has agreed to stop using an AI computer algorithm which helped to decide visa applications after allegations as it contained "entrenched racism", and solve the problem of cheating with help of the AI program on the English language tests for visa approval.[78] Regarding the first issue, Chai Patel, the legal policy director of the Joint Council for the Welfare of Immigrants, noticed that this scandal had shown the Home Office was "oblivious to the racist assumptions and systems it operates" as the used AI program "took decades of institutionally racist practices, such as targeting particular nationalities for immigration raids, and turned them into software".[79] During the Covid-19 pandemic issues of participation and trust in connection with the use of AI became more prominent and provocative. For example, there were high-profile public protests against the AI algorithms in connection with the "A-level grading controversy in Summer 2020", though in fact it did not involve AI technologies.[80]

In these circumstances, the UK's approach to policy of the "right to contest" AI decisions has been narrower than one proposed by the USA or EU, particularly declining "the idea that the AI revolution needs a broad-based legal response" (Drake et al., 2021, p. 5). During the Brexit process the UK implemented the EU's GDPR via the UK Data Protection Act 2018 (hereinafter — the UK Act). As was discussed earlier, under Article 22 of

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76 Secretary of State for Digital, Culture, Media and Sport. (2021, September). National AI Strategy. https://assets.publishing.service.gov.uk/media/614db4d1e90e077a2cbdf3c4/National_AI_Strategy_-_PDF_version.pdf

77 *R Bridges v. CC South Wales Police*, EWCA Civ 1058. (2020). https://www.judiciary.uk/wp-content/uploads/2020/08/R-Bridges-v-CC-South-Wales-ors-Judgment.pdf; see also Drake et al. (2021, p. 3).

78 *Home Office drops 'racist' algorithm from visa decisions*. (2020, August 4). BBC News. https://www.bbc.com/news/technology-53650758; National Audit Office. (2019). Investigation into the response to cheating in English language tests. https://www.nao.org.uk/wpcontent/uploads/2019/05/Investigation-into-the-response-to-cheating-in-English-language-tests.pdf.

79 Black, G. (2020, August 4). *Home Office drops 'racist' algorithm from visa decisions*. UVenco. https://uvenco.co.uk/home-office-drops-racist-algorithm-from-visa-decisions.html.

80 Burgess, M. (2020, August 20). *The lessons we all must learn from the a-levels algorithm debacle*. Wired UK. https://www.wired.co.uk/article/gcse-results-alevels-algorithm-explained.

the GDPR, individuals have a right to not be subjected to a solely automated decision-making process with significant effects.

In 2021, the Department for Digital, Culture, Media & Sport (hereinafter — DCMS) issued a report announcing that “the UK's data protection regime alone cannot be the right vehicle” to address the limitations set in Article 22 of the GDPR and that these limitations “can be considered too restrictive to ensure that the UK GDPR remains principle-based and future-proofed in light of evolving machine learning and AI technologies”.[81] Further the DCMS stated that “[t]he need to maintain a capability to provide human review may, in future, not be practicable or proportionate”.[82] Earlier, the Taskforce on Innovation, Growth and Regulatory Reform characterised the requirements of Article 22 of the GDPR as burdensome, costly, and impractical for organisations seeking to automate routine processes with AI. It was therefore proposed that the article be removed from the UK Act.[83]

Following these declarations, the DCMS considered removing the provision from the UK Act. Ultimately, however, it was decided to permit the use of solely automated AI systems where justified by legitimate or public interests. This amendment effectively eliminates the right not to be subject to a decision based solely on automated processing, including in cases where such decisions carry legal or similarly significant effects for data subjects. A comparison of the relevant provisions under the GDPR and the amended UK Act[84] is presented in the table below.

GDPR (Article 22(1))	UK Act 2018 (Clause 49)
The data subject shall have the right not to be subject to a decision based solely on automated processing, including profiling, which produces legal effects concerning him or her or similarly significantly affects him or her.	Right not to be subject to automated decision-making (1) A controller may not take a significant decision based solely on automated processing unless that decision is required or authorised by law.

[81] Department for Digital, Culture, Media & Sport. (2021). Data Reform Consultation Document. Clause 97(b). https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1022315/Data_Reform_Consultation_Document__Accessible_.pdf.

[82] Ibid. Clause 98.

[83] Smith, D., Villiers, T., & Freeman, G. (2021). Taskforce on innovation, growth and regulatory reform. The pro-innovation regulation of technologies review, clauses 223, 225. https://assets.publishing.service.gov.uk/media/60c99a42d3bf7f4bd842e34a/FINAL_TIGRR_REPORT__1_.pdf.

[84] UK Government. (2018). Great Britain Data Protection Act. https://www.gov.uk/government/collections/data-protection-act-2018#documents.

	(2) A decision is a “significant decision” for the purpose of this section if, in relation to a data subject, it (a) produces an adverse legal effect concerning the data subject, or (b) significantly affects the data subject.

The deletion of "right to contest" provisions from UK regulation stands in marked contrast to the regulatory trajectory of both the EU and China, each of which is seeking to govern this area and afford greater protection to consumers.

Conclusion

This article has examined approaches to the “right to contest” AI decisions as adopted at the international level, particularly within the EU, CoE, and OECD, and across selected national jurisdictions, including Russia, Brazil, China, the United States, and the United Kingdom.

A comparison of international approaches to contesting AI decisions reveals that the EU emerged as a pioneer in AI regulation. The “right to contest” AI decisions was first introduced in the GDPR and expanded through the special regulations such as the EU AI Act and the Proposal. The central point of the EU regulation of the “right to contest” AI decisions is Article 22 of the GDPR, which establishes the safeguards against fully automated decision-making and retains the right to human intervention, explanation, and contestation. A further cornerstone of the EU AI regulatory framework is the EU AI Act, which introduces a risk-based classification of AI systems and articulates explicit provisions for contesting AI-generated decisions. The EU regulatory strategy concerning the “right to contest” may be seen as an improvement upon existing frameworks, striking a balance between innovation and fundamental rights. Nevertheless, certain gaps remain in the EU regulatory framework, including the definition of human reviewer “capability” and the need for consistent enforcement across the sectors.

The CoE pursues a distinct approach to AI governance, grounding its framework in state-level obligations to protect human rights — in contrast to the EU’s direct regulation of private actors. The CoE Recommendations, along with the Convention 108+, emphasise transparency in AI regulation and have significantly shaped the development of the “right to contest” AI decisions. Key provisions of the CoE AI regulatory framework, notably Article 14 of the Convention 108+, require states parties to implement into their national legislations rules concerning the impact of the AI systems and the contestation of AI decisions that produce “significant effect” on the consumers. Nevertheless,

the CoE’s framework introduces certain ambiguities. Terms such as “significant effect” or “substantially informed” remain undefined, affording member states considerable interpretive latitude and thereby increasing the risk of inconsistent enforcement of the “right to contest” in practice. With its emphasis on state responsibility, the CoE regulation complements the EU’s regulatory model, but it also underscores the CoE’s distinctive role in shaping global AI regulation.

The OECD’s AI Principles offer a soft law example for global AI governance, centered on transparency, accountability, and contestability of the AI. The adoption of AI Principles by G20, including China and Russia, demonstrates widespread interest in AI development, but creates no binding obligations. Lacking enforcement mechanisms, the Principles remain aspirational and highlight the disconnect between global standards and local regulation.

At the national level, regulatory frameworks are shaped by divergent priorities, cultural contexts, and governance philosophies. Although all the jurisdictions recognise the transformative potential of AI, their respective approaches diverge accordingly to legal traditions, social values, and political imperatives.

Russia and China prioritise state-driven and top-down strategies for the technological sovereignty of the AI systems. Russia’s experimental regulatory sandboxes and China’s “consistency of rights and responsibilities” principle highlight the efforts of these states to foster implementation of AI into the economics, however, both national frameworks lack explicit mechanisms for contesting AI decisions. In the cases of Brazil and the UK (prior to Brexit), approaches to the “right to contest” have been significantly influenced by the EU AI regulatory framework. Brazil’s LGPD effectively mirrors Article 22 of the GDPR, whereas the UK’s post-Brexit has moved to exclude the already transposed “right to contest” AI decisions from national law. In the USA, AI regulation suffers from significant fragmentation: current federal policy stands in tension with the approaches adopted by the most progressive states such as Colorado and New York. While this decentralised model may encourage innovation of the AI technologies within individual states, it constrains the development of coherent national regulation, particularly given that the geographical boundaries of AI decisions are increasingly difficult to delineate, even within a single jurisdiction.

Список литературы / References

1. Кутейников, Д. Л., Ижаев О. А., Зенин, С. С., Лебедев, В. А. (2022). Ключевые подходы к правовому регулированию использования систем искусственного интеллекта. *Вестник Тюменского государственного*

университета. Социально-экономические и правовые исследования, 8(1), 209–232.

Kuteynikov, D. L., Izhaev, O. A., Zenin, S. S., & Lebedev, V. A. (2022). Key approaches to the legal regulation of artificial intelligence. *Vestnik Tyumenskogo Gosudarstvennogo Universiteta. Sotsial'no-Ekonomicheskie i Pravovye Issledovaniya, 8*(1), 209–232.

2. Arcesati, R. (2021). Lofty principles, conflicting incentives: AI ethics and governance in China. MERICS.
3. Belli, L., Gaspar, W., & Curzi, Y. (2022). AI regulation in Brazil: advancements, flaws, and the need to learn from the data protection experience. Computer Law & Security Review, 48 (Special Issue: Artificial Intelligence and Data Protection in Latin America). https://doi.org/10.1016/j.clsr.2022.105767
4. Drake, A., Keller, P., Pietropaoli, I., Puri, A., Maniatis, S., Tomlinson, J., Maxwell, J., Fussey, P., Pagliari, C., Smethurst, H., Edwards, L., & Blair, S. W. (2021). Legal contestation of artificial intelligence-related decision-making in the United Kingdom: reflections for policy. *International Review of Law, Computers & Technology, 36*(2), 251–285. https://doi.org/10.1080/13600869.2021.1999075
5. Falletti, E. (2024). Credit scoring under scrutiny by the Court of Justice of the European Union: brief remarks on the "schufa decision." SSRN Electronic Journal. https://doi.org/10.2139/ssrn.4726282
6. Fjeld, J., Achten, N., Hilligoss, H., Nagy, A., & Srikumar, M. (2020). Principled artificial intelligence: Mapping consensus in ethical and rights-based approaches to principles for AI. SSRN Electronic Journal. https://doi.org/10.2139/ssrn.3518482
7. Filipova, I. A. (2024). Legal regulation of artificial intelligence: Experience of China. *Journal of Digital Technologies and Law, 2*(1), 46–73. https://doi.org/10.21202/jdtl.2024.4
8. Gaspar, W., & Curzi, Y. (2021). *Report: Artificial Intelligence in Brazil Still Lacks a Strategy*. Center for Technology and Society at FGV Law School.
9. Kaminski, M. E., & Urban J. M. (2021). The right to contest AI. *Columbia Law Review, 121*(7), 1957–2048.
10. Morandín-Ahuerma, F. (2023). *Diez recomendaciones de la Unesco sobre ética de la inteligencia artificial*. Consejo de Ciencia y Tecnología del Estado de Puebla.
11. Noguera, A. M. (2024). Case C-634/21, OQ V. Land Hessen (C.J.E.U.). *International Legal Materials, 63*(5), 946–961. https://doi.org/10.1017/ilm.2024.23
12. Ploug, T., & Holm, S. (2021). The Right to Contest AI Profiling Based on Social Media Data. *The American Journal of Bioethics, 21*(7), 21–23. https://doi.org/10.1080/15265161.2021.1926585

13. Puri, A. (2020). Moral imitation: can an algorithm really be ethical? *Rutgers Law Record, 48*(1), 47–57.
14. Roberts, H., Cowls, J., Morley, J., Taddeo, M., Wang, V., & Floridi, L. (2020). The Chinese approach to artificial intelligence: an analysis of policy, ethics, and regulation. *AI & Society, 36*(1), 59–77. https://doi.org/10.1007/s00146-020-00992-2
15. Szczepański, M. (2024). United States approach to artificial intelligence. *European Parliamentary Research Service*, PE 757.605
16. Wu, F., Lu, C., Zhu, M., Chen, H., Zhu, J., Yu, K., Li, L., Li, M., Chen, Q., Li, X., Cao, X., Wang, Z., Zha, Z., Zhuang, Y., & Pan, Y. (2020). Towards a new generation of artificial intelligence in China. *Nature Machine Intelligence, 2*(6), 312–316. https://doi.org/10.1038/s42256-020-0183-4
17. Wu, W., Huang, T., & Gong, K. (2020). Ethical principles and governance technology development of AI in China. *Engineering, 6*(3), 302–309. https://doi.org/10.1016/j.eng.2019.12.015
18. Yeung, K. (2019). *AI and the Law*. University of Birmingham.
19. Yeung, K. (2020). Recommendation of the Council on Artificial Intelligence (OECD). *International Legal Materials*, *59*(1), 27–34. https://doi.org/10.1017/ilm.2020.5