

The challenges of artificial intelligence in safeguarding fundamental rights

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Abstract

Artificial intelligence represents one of the most revolutionary technologies of the 21st century, capable of profoundly transforming the relationship between the individual, the state, and society. The rapid development of machine learning algorithms, facial recognition systems, and predictive analytics technologies raises complex issues regarding constitutionally guaranteed fundamental rights and freedoms.

In the Republic of Moldova, the process of adapting the legal framework to new digital challenges is ongoing, while doctrinal debates are shaped by experiences from other European and international jurisdictions. This study aims to analyze the challenges posed by artificial intelligence in relation to fundamental rights, with particular emphasis on the constitutional dimension and comparative models in different countries.

Keywords: artificial intelligence, technology, algorithm, freedoms, challenges, adaptation, digital.

Introduction

In the Republic of Moldova, the process of normative modernization in relation to global digital transformations is gradually taking shape, benefiting from the benchmarks established by international doctrine and jurisprudence. The present research aims to investigate the challenges that artificial intelligence (hereinafter referred to as the– AI) poses to the constitutional protection of fundamental rights, through a comparative analysis of existing regulatory models.

In a narrow sense, artificial intelligence is a branch of computer science focused on creating programs and systems that simulate human reasoning and are endowed with the ability to learn, reason, plan, and even display creativity. In a broader sense, AI may be defined as the instrumentalisation of algorithmic reasoning, whereby information systems are programmed to analyse data, identify correlations, and make autonomous decisions, thereby imitating human cognitive processes.

This technological evolution is grounded in significant developments in fields such as machine learning (Buzu, 37), which involves algorithms capable of self-improvement by processing vast datasets. These datasets enable the management and analysis of extensive

volumes of information with considerable impact, including facial recognition, increasingly employed for security purposes, yet raising acute issues regarding the protection of privacy, as well as autonomous robots, capable of performing independent activities with minimal human intervention.

In the global context, accelerated digitalization has generated a new type of challenge for both democratic governance and the rule of law. On the one hand, emerging technologies facilitate scientific, economic, and administrative progress, enhancing process efficiency and producing undeniable benefits for societal development. On the other hand, they raise fundamental concerns about how individual rights and freedoms are respected and guaranteed.

Artificial intelligence systems have the potential to exacerbate social inequalities through algorithmic discrimination, to infringe upon freedom of expression by enabling information manipulation, and to erode the right to privacy through widespread and uncontrolled surveillance.

Consequently, an increasingly visible tension arises between technological advancement and the observance of constitutional rights, which necessitates the development of new methods of legal analysis and the establishment of appropriate institutional mechanisms to ensure a fair balance between innovation and the protection of fundamental rights.

For the Republic of Moldova, the issue of artificial intelligence holds particular legal significance. Considering that the country is currently engaged in an extensive process of European integration, there is an urgent need to adapt both national legislation and institutional structures to European standards, including those concerning data protection, digital security, and technological governance. Institutional vulnerabilities such as the limited capacity of regulatory authorities and the absence of coherent digitalization policies are compounded by the lack of a specific legal framework governing AI. In this context, the risk that emerging technologies may be deployed without effective legal oversight is substantial, with potential consequences for both the protection of fundamental rights and the credibility of the rule of law.

This research seeks to undertake a critical analysis of the constitutional challenges arising from artificial intelligence, with reference to the fundamental rights enshrined in the Constitution of the Republic of Moldova, as well as through a comparative examination of relevant models from the European sphere including Romania, Italy, Spain, and Germany and from non-European jurisdictions such as the United States, Russia, and China.

Through this approach, the study aims to promote an interdisciplinary and cross-border perspective, contributing to the global legal discourse on integrating emerging technologies into society without undermining the essence of fundamental rights and freedoms.

To conduct this research, a multidisciplinary methodology was employed, combining normative and doctrinal analysis with historical, comparative, and statistical approaches. The study draws not only upon the constitutional and legislative framework of the Republic of Moldova but also upon international instruments of reference and numerous acts of the European Union. Furthermore, the research incorporates relevant jurisprudence, particularly the case law of the European Court of Human Rights, as well as international reports issued by organizations such as the Council of Europe and the United Nations, alongside specialized academic literature devoted to digital rights and AI governance.

The phenomenon of artificial intelligence is also examined from a comparative legal perspective, drawing on the experiences of various states to highlight the differences between democratic and authoritarian regulatory models. This perspective allows for the

identification of best practices, as well as the recognition of significant risks that the Republic of Moldova may encounter in the absence of coherent digital policies and regulatory mechanisms.

The methodology of this research integrates several complementary methods, namely: *normative legal analysis*, by examining the existing constitutional and legislative framework in the Republic of Moldova and in other jurisdictions; *doctrinal interpretation*, through the use of specialized literature to substantiate theoretical concepts related to fundamental rights in the digital era; *comparative legal research*, to identify similarities and divergences among the legal systems studied and to extract lessons relevant for the Moldovan legal order; *case study analysis*, focusing on concrete examples of AI application in sectors such as justice, security, and public administration.

By integrating these methodological approaches, the study seeks to identify legislative and institutional gaps within the Republic of Moldova, to highlight constitutional risks associated with the deployment of AI, and to formulate recommendations for legal reform aimed at strengthening the protection of fundamental rights in a digital and cross-border context.

Results and discussion

In the Republic of Moldova, the 1994 Constitution guarantees a range of fundamental rights. However, these rights were conceived within a historical context in which algorithm-based technologies either did not exist or had only a very limited scope of application. As a result, rights such as the right to privacy, the right to equality, and freedom of expression do not contain explicit provisions addressing the protection of individuals against automated decision-making or digital surveillance.

Among the fundamental rights most seriously affected by the advancement of artificial intelligence technologies is the right to privacy, enshrined in Article 28 of the Constitution of the Republic of Moldova (Constituția RM, 1994). This right is also recognized and safeguarded at the international level by Article 8 of the European Convention on Human Rights (ECHR, 1950), which protects the individual's private and family life against unlawful interference by public authorities or private entities.

With the acceleration of the digitalization process, new AI technologies have begun to provide both states and private actors with extremely powerful tools for the collection, analysis, and interpretation of personal data (Rodica Ciobanu, p. 21). Among these, facial recognition and complex data analytics occupy a central place, enabling large-scale and almost continuous monitoring of citizens. In the absence of clear legal regulation, such technologies may be used by public authorities or private companies in a disproportionate manner, without adequate democratic oversight.

It is noteworthy that, following the adoption of the new Law No. 195 of 25 July 2024 on the Protection of Personal Data, which is set to enter into force in 2026 (Law No. 195/2024), the previous Law No. 133/2011 in the same field was repealed. This repeal constitutes a natural and necessary step in the process of legislative modernization, given that the former act, although it provided certain safeguards against the abusive processing of personal data, no longer corresponded to the current technological realities and to the complexity of AI-based data processing.

Thus, Law No. 195/2024 is seamlessly integrated into the ongoing process of adapting the legal order of the Republic of Moldova to the challenges of the digital era, constituting an essential instrument for the ethical and legal regulation of artificial intelligence and emerging technologies.

Another finding of the research reveals that the National Center for Personal Data Protection of the Republic of Moldova currently possesses limited competences and insufficient

resources to effectively monitor the implementation of AI applications. Although the institution has issued certain recommendations on cybersecurity and data protection, these remain inadequate to counteract the complex risks associated with automated decision-making algorithms. It is anticipated that, upon the entry into force of Law No. 195/2024, the National Center for Personal Data Protection will acquire additional competences, expanding its mandate in the regulation and supervision of AI use particularly with respect to the protection of fundamental rights and the ensuring of compliance of personal data processing with the new legal standards.

While the adoption of the first legal instruments relevant to the field of artificial intelligence in the Republic of Moldova represents a significant development, there remains a pressing need to adapt both the normative framework and the institutional structures in order to ensure a coherent, effective, and technologically up-to-date system of regulation, consistent with the evolving requirements of fundamental rights protection (Stănilă Sergiu, p. 119).

Comparative Legal Analysis of the Implementation of Digital Law Norms in Selected European States

The replacement of Law No. 133/2011 with an updated legal framework demonstrates the authorities' commitment to harmonizing national legislation with European standards and to strengthening the legal mechanisms that ensure the protection of privacy in light of new risks generated by digitalization, automation, and machine learning.

The new Law No. 195/2024 modernizes existing regulations, aligning them with European Union standards, including Regulation (EU) 2016/679 (the General Data Protection Regulation, GDPR), and introduces particularly important provisions concerning AI-based technologies. The act addresses legal challenges arising from machine learning processes, which involve the massive and continuous processing of personal data, as well as issues related to the use of biometric data and automated decision-making. Through these provisions, the national legislator seeks to ensure a balance between technological innovation and the protection of privacy, reinforcing both the principle of informational self-determination and the accountability of data controllers employing intelligent systems.

To better understand the challenges and potential solutions, it is useful to conduct a comparative examination of several relevant legal systems, as follows:

In recent decades, Romania has recorded significant progress in the digital and technological sectors, and with respect to artificial intelligence, several important measures have been adopted which may serve as positive benchmarks in a comparative perspective. Among the most notable achievements is the adoption, in July 2024, of the National Strategy for Artificial Intelligence 2024–2027, which aims to align Romania with the European Union's strategic directions and to promote the responsible integration of AI within both the public and private sectors (National Strategy for Artificial Intelligence, 2024). The strategy establishes priority areas such as digital public administration, digital economy, digital education, cybersecurity, and communication infrastructure, reflecting the state's intention to standardize and regulate AI use at the national level.

In 2025, the Senate of Romania registered a draft law aimed at ensuring the responsible regulation of artificial intelligence, containing provisions designed to guarantee transparency in automated decision-making and the protection of fundamental rights in critical sectors. Among its key provisions are the restriction of fully automated decisions without human oversight, the requirement for certification of AI systems operating in sensitive fields, and the establishment of penalties for the abusive use of AI technologies, including manipulation through deepfake content (Draft Law, 2025).

In Germany, the jurisprudence of the Federal Constitutional Court has recognized, since as early as 1983, the concept of “informational self-determination” (Selection of Decisions of the Federal Constitutional Court of Germany, 2015, online). This notion grants every individual the right to determine how their personal data is collected, used, and disseminated. This landmark jurisprudence has become a cornerstone of data protection law in Europe, later influencing the development of European data protection standards, including the adoption of the General Data Protection Regulation. The German model demonstrates that a robust constitutional approach can provide effective safeguards against technological risks, ensuring a balance between innovation and the protection of privacy.

In Spain and Italy, experience in the field of privacy and personal data protection shows that the success of digital technology implementation largely depends on the existence of specialized, independent, and well-consolidated supervisory institutions. Both states have established dedicated supervisory authorities: in Spain, the Agencia Española de Protección de Datos (Responsible Innovation and the Defense of Human Dignity in the Digital Era, 2025, online), and in Italy, the Garante per la Protezione dei Dati Personali (Italian Yearbook of Human Rights, 2025, online). These institutions have become European benchmarks for how the challenges of the digital age can be effectively managed through strong regulatory and institutional frameworks.

These authorities do not confine themselves to the traditional, passive role of monitoring compliance with data protection legislation; rather, they exercise a broad range of regulatory and enforcement powers. First, they ensure the uniform application of data protection norms through periodic audits, investigations, and inspections of how public institutions and private entities process citizens’ data. Second, they possess significant sanctioning authority, being empowered to impose substantial administrative fines on companies or institutions that use AI technologies abusively or in a manner contrary to the public interest, thereby reinforcing the effective protection of the right to privacy.

Moreover, the supervisory authorities in both Spain and Italy also perform educational and preventive functions. They issue guidelines and recommendations to inform society about the risks associated with AI, facial recognition, and complex data analytics, while also explaining how individuals can protect their rights. In this way, not only state institutions but also private companies and citizens are made aware of applicable data protection standards. Furthermore, these authorities actively participate in public and academic debates, serving as key actors in shaping national and European digital policies (Mirela-Carmen Dobrilă, 2024, p. 49).

In contrast, in the Republic of Moldova, although a basic legal framework and a responsible authority the National Center for Personal Data Protection formally exist, its competences and resources remain limited. The lack of qualified personnel, insufficient financial resources, and the absence of an institutional culture oriented toward prevention and education render the protection of privacy more theoretical than practical. In addition, the Moldovan authority has low public and academic visibility, which further weakens its capacity to foster a culture of digital rights and to ensure effective data protection governance.

By comparison, the Spanish and Italian models demonstrate that a robust, transparent, and independent institutional framework is indispensable for countering the potential abuses arising from the use of artificial intelligence technologies. In the absence of such mechanisms, there is a significant risk that the right to privacy may be systematically infringed, leaving citizens without effective means of legal redress.

Accordingly, the Republic of Moldova can draw important lessons from these examples both regarding the strengthening of its national data protection authority and its active involvement in public education and the prevention of technological abuses.

Comparative Legal Aspects of Digital Regulation in Non-European States

At the opposite end of the spectrum, China has developed a „social credit system” (Credite sociale, 2020, online) based on the collection and analysis of citizens’ data through advanced technological means. This system seeks to evaluate the social conduct of individuals, correlating their daily behaviors with access to public services, education, or employment opportunities. From the standpoint of international human rights law, such a model flagrantly contravenes the principles underlying the right to privacy, transforming technology into an instrument of social and political control. This negative experience serves as a warning to democratic states, including the Republic of Moldova, regarding the risks associated with the instrumentalization of artificial intelligence for repressive purposes.

In the Republic of Moldova, there is no relevant constitutional jurisprudence concerning artificial intelligence, which indicates a lack of public and doctrinal debate on the subject. This represents a major vulnerability, as it leaves a protection gap in relation to emerging technologies. Another significant finding of the research concerns freedom of expression. AI technologies enable the creation of synthetic content generated through artificial intelligence, which may be used to manipulate public opinion or to discredit public figures. In consolidated democracies, the issue of disseminating false information, commonly referred to as „deep fake”, has become a central subject of legal and political debate, being regarded as a direct threat to democratic processes, freedom of expression, and the right to accurate information. The development of artificial intelligence technologies capable of generating highly realistic yet entirely fabricated images and videos has created an urgent need for adequate normative responses.

An analysis of the situation in the United States of America reveals that, given the highly competitive and digitally driven nature of electoral campaigns, several states have already enacted specific legislation sanctioning the use of deepfakes in the electoral context. For instance, Texas and California have introduced legal provisions prohibiting the dissemination of AI-generated false video or audio materials when such materials are intended to manipulate voters or undermine the integrity of the democratic process (S.R. Peppet, 2014, online). By mid-2025, at least eighteen U.S. states had adopted laws regulating manipulated media in electoral campaigns, differing in definitions, sanctions, and temporal applicability. Many of these laws merely require labelling, disclosure, or distribution restrictions near election periods, while some proposals seek to extend these rules throughout the entire electoral cycle (P. Cortes, p. 15). However, in many cases, such laws remain reactive and have not yet been widely applied or tested, leaving their real impact on electoral integrity still to be assessed. These regulatory efforts reflect a growing concern for safeguarding the public sphere from sophisticated forms of disinformation, even though no unified federal legislation yet exists.

In Italy and Spain, the authorities increasingly consider that the use of deepfakes no longer falls solely within the sphere of freedom of expression, but constitutes a form of fraud and manipulation comparable to other categories of digital criminality. Consequently, legislative proposals have been introduced not only to prohibit the use of deepfakes for electoral purposes, but also to criminalize their use when they damage personal reputation, disturb public order, or threaten national security (Iosif Friedmann-Nicolescu, p. 12).

On the other hand, Russia and China represent distinct cases, as both states generally restrict freedom of expression through legislative and repressive means, yet fail to regulate the deepfake phenomenon in a balanced or rights-based manner. Rather than protecting citizens from digital manipulation, these political regimes employ artificial intelligence technologies, including synthetic content generation tools, as instruments of political propaganda and state power consolidation. In China, control over the Internet and mass media facilitates the use of such technologies to reinforce official narratives and to discredit dissenting voices. Similarly, in Russia, deepfake technology is used for disinformation campaigns, both domestically and within the international geopolitical sphere.

The comparative analysis outlined above reveals a fundamental distinction between democratic and authoritarian approaches. In consolidated democracies, the emphasis lies on achieving a balance between freedom of expression and the protection of citizens against digital manipulation. Conversely, in authoritarian regimes, deepfake technologies are deployed for political purposes, with no genuine concern for the protection of fundamental rights.

This divergence in practice serves as an important lesson for transitional states, such as the Republic of Moldova, which must orient themselves toward democratic models of regulation and avoid the instrumentalization of emerging technologies as tools of political control. The absence of specific regulation exposes society to serious risks of disinformation and undermines the integrity of the democratic information environment.

Harmonization of the Republic of Moldova's Digital Legal Framework with the European Union Standards

In the context of emerging technological realities, the Republic of Moldova faces the imperative of strengthening the constitutional protection of fundamental rights within the digital environment. The rapid evolution of technologies based on artificial intelligence, data analytics, and electronic communications necessitates an expansion of the traditional conceptual framework of human rights to reflect the new forms of interaction between the individual and the digital sphere.

Drawing on the models and practices of the states analyzed above, one can observe a diversity of approaches to integrating new technologies within the legal order and safeguarding fundamental rights. While some legal systems have adopted strict regulatory frameworks concerning digital surveillance and personal data protection, others have opted for more flexible regimes, oriented toward innovation and responsible technological governance.

In this regard, it would be advisable to integrate the notion of „digital rights” into the national normative framework, either through an amendment to the constitutional text or by adopting a dedicated framework law, inspired by the European Declaration on Digital Rights and Principles (European Declaration on Digital Rights and Principles, online). Such an approach would enable the explicit recognition of key guarantees, including personal data protection, freedom in the digital space, equitable access to technology, and cybersecurity.

The European legislator, through Regulation (EU) 2024/1689 establishing harmonized rules on artificial intelligence, enshrines a legal and technological definition of an artificial intelligence system, understood as a software-based system developed on the basis of specific AI techniques and methods expressly enumerated in the annexes to the Regulation. Such a system is designed to achieve predefined human objectives and possesses the capacity to generate autonomous outputs including digital content, predictions, recommendations, or decisions that are capable of producing effects on the socio-technological environment with which it interacts.

Through this formulation, the European legislator not only establishes an operational definition, but also delineates a conceptual framework for identifying the legal sphere of artificial intelligence, recognizing its dynamic, adaptive, and potentially transformative character within contemporary legal and social relations.

Accordingly, the European Union may be regarded as having responded promptly to the accelerated technological developments, seeking to establish a uniform legal framework governing artificial intelligence and to assert its position as a normative leader through the adoption of the first comprehensive Western regulation dedicated to this field (Valentin-Stelian Bădescu, p. 23).

In this context, Regulation (EU) 2024/1689 on Artificial Intelligence, which entered into force on 1 August 2024, lays down a set of directly applicable rules across all Member States of the Union. The Regulation adopts a risk-based approach, classifying AI systems into four principal categories: unacceptable risk, high risk, limited risk, and minimal risk. Depending on the level of risk, the Regulation establishes differentiated obligations for providers, manufacturers, and users, designed to ensure the protection of fundamental rights, the observance of ethical principles, and the safety of digital technologies (Andrei Duțu-Buzura, 2025, p. 54).

With respect to the Council of Europe, it likewise adopted, on 17 May 2024, a Framework Convention on Artificial Intelligence (Council of the EU Decision, 2024, online), which emphasizes the protection of human rights, democracy, and the rule of law in the context of AI-based technologies. This legal instrument seeks to establish common pan-European principles, applicable both to European Union Member States and to non-EU countries, in order to ensure the responsible development and use of artificial intelligence, in full conformity with the fundamental values of democratic society.

It is particularly noteworthy that, on 5 September 2024, the Republic of Moldova signed the Council of Europe Framework Convention on Artificial Intelligence, Human Rights, Democracy, and the Rule of Law. The act of signature, on behalf of the Moldovan Government, was performed by the Minister of Justice, Veronica Mihailov-Moraru, during an official visit to the Republic of Lithuania (Signing of the Framework Convention, 2024, online).

This Framework Convention constitutes the first international legal instrument of global scope establishing a coherent normative framework for the regulation of AI systems throughout their life cycle. Through its provisions, the treaty ensures respect for human rights, the strengthening of democratic principles, and the upholding of the rule of law in the context of emerging technologies. The Republic of Moldova's signature of this instrument represents a firm commitment to align with European and international standards concerning the responsible development and use of artificial intelligence. At the same time, this step marks a significant milestone toward the creation of a consolidated national framework of regulations and public policies aimed at ensuring the ethical and secure integration of AI systems into society.

From the standpoint of contemporary constitutional law, the international commitments undertaken by the Republic of Moldova in the field of artificial intelligence outline the trajectory of a normative evolution directed toward the effective protection of the individual within the digital environment. In a context where AI-based technologies are increasingly intertwined with public and private decision-making processes, it becomes imperative to redefine traditional constitutional safeguards so as to encompass the digital dimension of fundamental rights.

This legal dynamic paves the way for a new stage of digital constitutionalism, in which the principles of human dignity, freedom, and equality must be reinterpreted through the prism of emerging technologies, thereby ensuring a balance between technological innovation and the protection of the fundamental values of the rule of law. The strengthening of the legal framework on artificial intelligence should not be seen merely as a legislative reaction to technological change, but rather as a manifestation of the constitutional maturity of democratic states capable of integrating innovation within the bounds of law and ethics. Only through such a balanced approach can technology remain a tool at the service of humanity, rather than a threat to liberty and the foundational values of society.

Conclusions

In light of the accelerated technological transformations, the constitutional protection of fundamental rights in the Republic of Moldova requires the adoption of a new legal paradigm that of the comprehensive digitalization of social life. Digitalization no longer constitutes a mere technological context but rather an autonomous sphere for the exercise of rights and freedoms, within which the traditional principles of human dignity, liberty, and equality must be reinterpreted and expanded.

In conclusion, it can be affirmed that artificial intelligence currently represents an unprecedented challenge to fundamental rights and contemporary constitutionalism. The Republic of Moldova finds itself at a critical juncture: it must either remain within a framework of limited protection or adopt a proactive model aligned with European and international standards. The comparative experience discussed above demonstrates that European states such as Germany and Italy provide best practices worthy of emulation, whereas non-European authoritarian regimes, such as China and Russia, serve as warnings against the instrumentalization of AI to the detriment of citizens.

Therefore, the concept of a digital rule of law must become a strategic direction of modern Moldovan constitutionalism, wherein democratic values are reconfigured to guarantee the effective protection of the individual in the era of artificial intelligence and big data. Only through such a coherent and forward-looking vision can fundamental rights be safeguarded and reaffirmed in the face of the challenges posed by the digital revolution.

The protection of fundamental rights in a digital society requires a modern constitutional vision, clear legislation, and effective institutional mechanisms, all grounded in international cooperation and guided by the overarching principles of human dignity, accountability, and democratic governance.

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