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„ОДГОВОРИ ПРАВНЕ НАУКЕ НА ИЗАЗОВЕ САВРЕМЕНОГ
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Издавач:

Универзитет Привредна академија у Новом Саду
Правни факултет за привреду и правосуђе у Новом Саду
Гери Кароља бр. 1, телефон: 021/ 400 - 499
Web: www.pravni-fakultet.info

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За издавача:

Др Милан Почуча, редовни професор

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ПРОФ. ДР МИЛАН ПОЧУЧА - председник Научног одбора

Декан Правног факултета за привреду и правосуђе, Универзитет Привредна академија у Новом Саду | Република Србија

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Akademija za ekonomske studije u Bukureštu | Rumunija

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Универзитет Привредна академија у Новом Саду | Република Србија

Организациони одбор:

ПРОФ. ДР ЈОКО ДРАГОЈЛОВИЋ - ПРЕДСЕДНИК ОРГАНИЗАЦИОНОГ ОДБОРА

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Секретар:

МСР АЊА КОПРИВИЦА, асистент

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Adela Danaj, PhD,

Department of Political Science and International Relations, Faculty of Law and Social Sciences, University of New York in Tirana, Albania

email: adeladanaj@unyt.edu.al

Jovana Škorić, PhD,

Department of Social Work, Faculty of Philosophy, University of Novi Sad, Serbia, Centre for Missing and Exploited Children, Novi Sad

email: jovana.skoric@ff.uns.ac.rs

Milena Galetin, PhD,

Faculty of Law for Commerce and Judiciary in Novi Sad, University Business Academy in Novi Sad, Serbia

email: milena.galetin@pravni-fakultet.info

COMPARATIVE ANALYSIS OF THE LEGAL FRAMEWORKS OF THE REPUBLIC OF SERBIA AND REPUBLIC OF ALBANIA: THE APPLICATION OF ARTIFICIAL INTELLIGENCE AND CHILD PROTECTION

Summary:

Artificial Intelligence undoubtedly offers various opportunities for children, but it also increases the risk of compromising and violating their rights. An increasing number of studies aim to better understand the risks associated with the use of artificial intelligence, particularly in the realm of child protection, which is one of the main efforts of policy makers. In light of this, the paper seeks to present and analyze the current state of different legal regulations and/or adopted guidelines related to child protection in the context of the application and responsible use of artificial intelligence systems in the Republic of Serbia and the Republic of Albania. It will outline the main challenges regarding child protection in this domain within both countries and discuss the process of transitioning to more effective protection strategies. At the end of the paper, there is space for a discussion on potential solutions

that could lead to more proactive policies and responsible use of artificial intelligence systems in the context of protecting children's rights.

Keywords: *Children's rights, Artificial Intelligence, Protection, Republic of Serbia, Republic of Albania.*

I. Introduction

Artificial intelligence systems are becoming increasingly prevalent in various aspects of children's lives, including their presence in devices, applications, services, education, games, and more¹. It's undeniable that AI systems offer numerous possibilities, such as personalized teaching and learning through intelligent systems, algorithms for monitoring and filtering harmful (or age-inappropriate) content on the internet, social robots that provide new experiences and entertainment, and so on. However, it is crucial to be aware of the risks that this trend brings. Moreover, in the future, AI systems are predicted to become even more present in various children's applications due to their great utility in creating engaging, adaptive, and personalized user activities. Such systems could play a significant role in creating more inclusive and accessible systems tailored to the real needs of children². Nevertheless, despite the various mentioned benefits, it is still not sufficiently explored how the *risks and different ethical issues* related to artificial intelligence affect children, raising questions about whether the use of AI systems in different domains is concerning for children, especially in the context of protecting (and promoting) children's rights. In other words, do we need new legal regulations, strategies, and guidelines to protect children's rights and encourage more responsible use of AI?

Children's rights and the application of artificial intelligence are complex issues that require special attention and carefully crafted solutions. Ensuring adequate (legal) protection of children in the context of artificial intelligence necessitates the adoption of specific laws, ethical standards, education, and control. Only a combination of these measures can ensure that artificial intelligence contributes to the development of children while protecting their rights and safety. Conversely, relevant literature³ indicates that research and policy creation aimed at protecting children from the risks of AI application are often minimally connected, highlighting the need for improved collaboration, including the participation of children themselves. Therefore, harmonized and coordinated action is imperative when it

¹ UNICEF, 2020a, 2022; Mukherjee, Pothong & Livingstone, 2021.

² E.g., Gillingham, 2019.

³ UNICEF, 2020a.

comes to the context of child protection and minimizing risks and harmful impacts on their privacy, safety, and development⁴.

II. Legal Framework and International Alignment for Child Protection in AI

2.1. The Serbian Context

Although numerous initiatives across Europe by governmental and non-governmental bodies propose various guidelines to respect children's rights in the context of artificial intelligence, the Republic of Serbia has only recently started to show interest in the topic of artificial intelligence in general. However, there are still no relevant documents that specifically address the protection of children in this domain. On the other hand, it is crucial to adopt a child-focused approach to understand the specific challenges AI has introduced regarding the risks children are exposed to daily.

In the Republic of Serbia, the legislative framework for protecting children's rights includes several key documents such as the *Law on Personal Data Protection*⁵ and the *Law on Social Protection*⁶ which protects marginalized individuals and/or groups and mentions the right to data confidentiality and the right to privacy in *Articles 37 and 38*. Furthermore, the *Law on Juvenile Offenders and Criminal Protection of Juveniles*⁷ regulates certain educational and corrective measures for minors to influence their proper development and prevent the recurrence of various criminal acts. These laws form the foundation for protecting children's rights and privacy; however, specific provisions on artificial intelligence are still not incorporated in any of these regulations. In this context, it is important to mention that the draft *Law on Children's Rights and the Protector of Children's Rights* is in progress in the Republic of Serbia, aiming to introduce comprehensive measures for protecting and promoting children's rights. Some of the key areas include education, protection from violence, social protection, healthcare, children's participation, and the introduction of a children's rights protector⁸. However, this law currently does not indicate that one of the protection areas will be related to the risks of applying artificial intelligence.

On the other hand, in 2019, the Government of the Republic of Serbia, adopted the *Artificial Intelligence Development Strategy in the Republic of Serbia for the*

⁴ UNICEF, 2020a.

⁵ Law on Personal Data Protection, 2019.

⁶ Law on Social Protection, 2011.

⁷ Law on Juvenile Offenders and Criminal Protection of Juveniles, 2005.

⁸ Draft Law on Children's Rights and the Protector of Children's Rights, n.d.

period 2020-2025 and *The Artificial Intelligence Development Strategy in the Republic of Serbia for the period 2025-2030* is currently in preparation. It is important to emphasize that neither of these documents recognizes the protection of children or addresses the issue of children's rights in relation to artificial intelligence. Terms like *protection from discrimination* and *protection from misuse of personal data* are mentioned in the strategy, but these terms are not explicitly connected to children. In addition to the strategy, the Government of the Republic of Serbia in 2022 conceptualized the *Ethical Guidelines for the Development, Implementation, and Use of Reliable and Responsible Artificial Intelligence*, whose main goal is to ensure that AI processes do not become a threat to humans or a factor leading to their neglect. Thus, it is important that the application of AI does not jeopardize the concept of human existence or human rights. However, even in this document, children are not seen as a specific category with different needs compared to adults. One valuable tool in the context of artificial intelligence is certainly the establishment of the *Research and Development Institute for Artificial Intelligence of Serbia*. Its mission is to create a distributed research and development institute that can utilize the entire research potential in the field of artificial intelligence in the Republic of Serbia and beyond⁹. Unfortunately, neither this initiative nor their project activities focus on the protection of children.

It can be observed that in the Republic of Serbia there are individual efforts and various partial solutions in this context, however, integrated solutions that combine different aspects of child protection, such as prevention, early problem recognition, and interventions aimed at protecting children, are lacking. Additionally, in the Republic of Serbia, there is almost no research on the topic of child protection in the application of artificial intelligence, which further complicates the implementation of new approaches and strategies. Furthermore, all of this implies the thesis that awareness of the risks of artificial intelligence is still not sufficiently present in the territory of the Republic of Serbia, and potential solutions are not recognized as a priority in child protection policy.

2.2. The Albanian Context

In Albania, the legal framework for safeguarding children, especially concerning AI, is continually evolving. At the core of this framework stands the Criminal Justice for Children Code, enacted in 2017 through collaboration between the Ministry of Justice in Albania and UNICEF. This Code prioritizes the best interests of the child, privacy protection, and safeguards against exploitation and abuse. Albania's approach aligns with international standards such as the EU's AI Act,

⁹ Research and Development Institute for Artificial Intelligence of Serbia, n.d.

the Council of Europe's Convention on Cybercrime, the OECD's Recommendation on AI, and various UN guidelines. While AI technology holds promise for enhancing child protection systems, it also raises concerns about privacy, safety, and potential abuse. This section examines Albania's legal framework within the context of AI, emphasizing the principles and provisions of the Criminal Justice for Children Code and its alignment with global standards.

Albania's Criminal Justice for Children Code, established in 2017 with UNICEF's support, serves as the cornerstone of the country's legislation on child protection, particularly concerning AI. It embodies fundamental principles such as the best interests of the child and robust privacy rights¹⁰. Internationally, several key documents provide guidelines for child protection in AI contexts. For instance, the EU's AI Act emphasizes transparency, accountability, and human oversight in AI systems, critical for child-focused applications¹¹. Similarly, the Council of Europe's Convention on Cybercrime underscores protection against online exploitation, echoing Albania's efforts to fortify its legal framework amid digital challenges¹². The OECD's Recommendation on AI stresses aligning AI with human rights, crucial for shielding children from harmful AI impacts¹³. Various UN guidelines highlight privacy, data protection, and safeguards against online risks, mirrored in Albania's evolving legal framework¹⁴.

2.2.1. The Criminal Justice for Children Code (2017)

Albania's Criminal Justice for Children Code represents a significant reform effort in its juvenile justice system, guided by UNICEF to uphold children's rights and dignity. It integrates international legal standards, including those from the United Nations Convention on the Rights of the Child (CRC). The Code prioritizes the best interests of the child, ensuring their welfare is paramount in all legal proceedings¹⁵. This legal framework also addresses the critical issue of safeguarding children's privacy in the age of AI. It mandates stringent controls to prevent misuse and unauthorized access to children's personal data, reflecting Albania's proactive approach to align with international standards¹⁶. Additionally, the Code addresses the imperative of protecting children from AI-facilitated exploitation and abuse, such as

¹⁰ Ministry of Justice, 2017, p. 35.

¹¹ European Commission, 2021a.

¹² Council of Europe, 2001, p. 8.

¹³ OECD, 2019, p. 16.

¹⁴ UNICEF, 2020b, p. 25.

¹⁵ Ministry of Justice, 2017; UNICEF, 2021.

¹⁶ Ministry of Justice, 2017.

online grooming and cyberbullying, thus fortifying Albania's legal defenses against emerging AI threats.

Albania's commitment to aligning its child protection laws with international norms underscores its proactive stance in adapting to the challenges posed by AI. The "National Justice for Children Strategy 2017-2020" by Albania's Ministry of Justice emphasizes AI-compatible legal frameworks that prioritize children's best interests, privacy, and protection from digital risks¹⁷. This strategy complements the Criminal Justice for Children Code by advocating for comprehensive approaches that integrate AI technologies while safeguarding children's rights. Moreover, the World Vision study "Children's Rights in the Digital Environment" (2024) supports stringent privacy protections, safe digital access, and digital literacy education to safeguard children online, highlighting international collaboration for cohesive child protection frameworks¹⁸. This perspective aligns with Albania's efforts, reflecting global consensus on the need for robust legal and educational measures to protect children in the digital age.

Therefore, Albania's evolving legal framework, exemplified by the Criminal Justice for Children Code and supported by initiatives such as the National Justice for Children Strategy and insights from international studies like World Vision's, reflects a proactive approach to addressing the complexities of AI in child protection. However, ongoing adaptation and enforcement remain crucial to effectively safeguarding children's rights amidst the rapid evolution of AI technologies.

III. Integration of AI in Child Protection Systems

The integration of artificial intelligence (AI) into child protection systems marks a significant stride in improving the identification and response to cases of abuse and neglect. Scholars highlight AI's potential to revolutionize child protection through enhanced detection capabilities and operational efficiency. Machine learning algorithms, renowned for their ability to analyze extensive datasets, significantly enhance the early identification of patterns indicative of abuse or neglect¹⁹. This technological advancement supports early intervention efforts, potentially transforming the monitoring and safeguarding of child welfare. Additionally, AI systems promise to streamline administrative tasks within child protection agencies, thereby freeing resources for more personalized interventions and support services²⁰.

¹⁷ Ministry of Justice, Albania, 2020.

¹⁸ World Vision, 2024.

¹⁹ Lupariello et al., 2023.

²⁰ Kaban et al., 2023.

In this context, it is also important to mention UNICEF's two-year project that specifically focused on children's rights in the context of artificial intelligence²¹. The aim of this project was to better understand how AI-based systems will impact children and their rights, and what actions are needed to protect and empower them. UNICEF's standpoint in this context is based on the assumption that children have difficulties understanding AI-based systems and do not have the opportunity to express their opinions in decision-making processes. For this reason, involving children in the process of creating relevant guidelines and in the domain of their protection was a priority. UNICEF invited a wide range of stakeholders, including children, governmental and non-governmental organizations, businesses, as well as experts in the field of artificial intelligence and children's rights to contribute to the development of a set of guidelines for AI and children's rights. Organizing a series of global and regional workshops with experts and children was key to developing these guidelines. Children from different parts of the world had the opportunity to discuss their experiences with artificial intelligence and to try to understand the risks and opportunities it presents in their lives. A review of various national AI strategies showed that most only superficially mention children and their specific needs. Moreover, very little attention is explicitly paid to the protection of children's rights in an algorithm-driven society, and guidelines for preparing children for the world of artificial intelligence are almost non-existent. Considering this, the UNICEF report calls on policymakers to reconsider children's rights in national policies in the context of artificial intelligence and publishes a report with the following guidelines:

- Support the development and well-being of children;
- Ensure the inclusion of children;
- Prioritize fairness and non-discrimination of children;
- Protect children's data and privacy;
- Ensure the safety of children;
- Ensure transparency, explainability, and accountability for children;
- Empower governments and businesses with knowledge of AI and children's rights;
- Prepare children for present and future developments in AI;
- Create an enabling environment for child-centered AI²².

Additionally, the report highlights specific opportunities and risks associated with particular AI-based technologies.

Similarly, the *United Nations Educational, Scientific and Cultural Organization* (UNESCO) also recognizes that artificial intelligence can be a useful tool for addressing current global challenges. Likewise, they recognize that these

²¹ UNICEF, 2020a.

²² UNICEF, 2020a, p.14.

technologies can have negative implications that may affect inequality and discrimination. To this end, in 2019, UNESCO published a draft recommendation on the ethics of artificial intelligence to ensure that AI works for the benefit of humanity and to prevent potential harm, misuse, and/or violations of human rights, including children's rights²³. These recommendations identify AI as one of the key new areas of research because children are particularly vulnerable, especially in the online space, and because they experience technology differently than adults. Also, various AI systems can lead to potential biases against certain groups of children from different socioeconomic or ethnic backgrounds, as well as to various other forms of discrimination. For example, if facial recognition systems use insufficiently representative data or take into account stereotypes, this can lead to inaccurate identifications or inappropriate behavior towards children from certain groups, which can further have negative implications for their rights. As mentioned above, different governments and global organizations are developing various initiatives and establishing frameworks for creating reliable and child-centered AI technology²⁴.

However, alongside these advancements, ethical and legal considerations remain paramount. Concerns about data privacy, algorithmic bias, and unintended consequences necessitate rigorous oversight and regulatory frameworks to ensure responsible AI deployment²⁵. In Albania, these complexities are addressed through a robust legal framework established by the Criminal Justice for Children Code. This framework not only underscores Albania's commitment to aligning with international standards but also anticipates specific challenges posed by AI technologies in child protection. Influenced by the EU's General Data Protection Regulation (GDPR), Albanian legislation mandates stringent measures to securely collect, store, and process children's personal information, essential for preventing unauthorized access and misuse of sensitive data. Ensuring effective collaboration between AI and human professionals is crucial in navigating these complexities, as it maintains human oversight to ensure that AI tools complement, rather than supplant, human judgment in critical decision-making processes concerning child welfare²⁶. This approach is reinforced by the Code's mandate that any automated decision-making process involving children undergo human oversight, ensuring AI tools enhance the professional judgment of child protection workers. The integration of AI into child protection systems under Albania's legal framework represents a proactive approach to harnessing technological advancements while safeguarding children's rights and welfare. On the other hand, the Republic of Serbia, despite developing a range of different tools that can be useful for more responsible use of artificial intelligence,

²³ UNESCO, 2022.

²⁴ See also UNICEF, 2020a.

²⁵ Lim et al., 2023.

²⁶ Kawakami et al., 2022.

still struggles with the lack of specific laws and regulations in the field of child protection. An analysis of various documents has also shown difficulties in conceptualizing an interdisciplinary approach that requires the cooperation of different sciences, scientific disciplines, and various sectors.

Guaranteeing these regulations are effectively implemented requires continual adaptation and enforcement, especially given the rapid evolution of AI technologies. Globally, there are initiatives to standardize AI applications in child protection, focusing on regulatory frameworks that balance innovation with the protection of children's rights²⁷. Moving forward, ongoing research is critical to assess the long-term impacts of AI on child protection outcomes and to develop ethical guidelines for its deployment. Addressing these challenges will promote the ethical and effective use of AI in safeguarding children's well-being, aligning technological advancements with the highest standards of child protection²⁸. Therefore, collaborative efforts with international organizations and ongoing research are vital to further refine and enhance Serbian and Albanian approaches, ensuring that AI systems contribute effectively to child protection while upholding ethical standards and legal safeguards.

IV. Concluding remarks

While Albania's legal framework for child protection in the context of AI is robust, Serbian legal framework is still in the process of formation and transition. There are still several challenges remaining in the territory of both states. Capacity building is essential, requiring ongoing training and development for professionals within the child protection system to effectively utilize AI tools while adhering to legal and ethical standards. Furthermore, the development of comprehensive legal and ethical frameworks specifically tailored to AI in child protection is crucial. This involves establishing clear protocols for the ethical use of AI and guidelines for managing associated risks. Additionally, international cooperation is vital due to the global nature of AI technology. Both states should collaborate with other countries and international organizations to exchange best practices and develop harmonized standards for AI implementation in child protection. In conclusion, while AI technology offers significant opportunities to enhance child protection systems, it also presents challenges related to privacy, safety, and potential misuse.

Albania's robust legal framework, particularly the Criminal Justice for Children Code, aligns with international standards and effectively safeguards children's rights in the digital age. By prioritizing the best interests of children, ensuring privacy protection, and maintaining transparency and accountability,

²⁷ UNICEF, 2022.

²⁸ Lim et al., 2023.

Albania is establishing a strong foundation for child protection in the era of AI. However, ongoing efforts are necessary to address emerging challenges and ensure that AI technologies are deployed ethically and effectively to bolster child protection efforts.

Through a comparative analysis of existing regulatory frameworks and literature on AI systems, it is concluded that both countries need to develop specific normative acts and legislation to regulate the use of AI in the context of child protection. These laws should define the legal obligations and responsibilities of those who create and use AI systems. It has also been observed through the analysis of legal regulations that neither country has a developed set of ethical standards for the use of artificial intelligence in the context of children's rights and/or ethical principles such as fairness, transparency, safety and non-discrimination. In addition to designing and developing tools that will enable the responsible use of AI, it is also very important to raise the level of education and awareness of children's rights in the context of artificial intelligence, which is very low in both countries.

Dr Adela Danaj

Departman za političke nauke i međunarodne odnose, Fakultet pravnih i društvenih nauka, Univerzitet New York u Tirani, Albanija

Dr Jovana Škorić

*Filozofski fakultet, Odsek za socijalni rad, Univerzitet u Novom Sadu, Srbija;
Centar za nestalu i zlostavljanu decu, Novi Sad*

Dr Milena Galetin

*Pravni fakultet za privredu i pravosuđe u Novom Sadu,
Univerzitet Privredna akademija u Novom Sadu*

KOMPARATIVNA ANALIZA ZAKONSKIH OKVIRA REPUBLIKE SRBIJE I REPUBLIKE ALBANIJE: PRIMENA VEŠTAČKE INTELIGENCIJE I ZAŠTITA DECE

Apstrakt:

Veštačka inteligencija nesumnjivo nudi (deci) različite mogućnosti, ali takođe povećava i rizik od ugrožavanja i narušavanja njihovih prava. Sve veći broj istraživanja nastoji da bolje razume rizike primene veštačke inteligencije, posebno u domenu zaštite dece, što je i jedan od glavnih napora kreatora različitih politika. Imajući gorenavedeno u vidu, rad teži da prikaže i analizira trenutno stanje različitih zakonskih regulativa i/ili usvojenih smernica koje se tiču zaštite dece u domenu primene i odgovorne upotrebe sistema veštačke inteligencije na teritorijama Republike Srbije i Republike Albanije. Odnosno, prikazaće se koji su glavni izazovi kada pričamo o zaštiti dece u ovom domenu na teritorijama obeju država, kao i proces tranzicije ka efikasnijim strategijama zaštite.

Na kraju rada, ostavljen je prostor za diskusiju o potencijalnim rešenjima koja mogu da dovedu do proaktivnijih politika i odgovornije upotrebe sistema veštačke inteligencije u kontekstu zaštite prava deteta.

Ključne reči: *Prava deteta, veštačka inteligencija, zaštita, Republika Srbija i Republika Albanija.*

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