

## LEGAL STATUS OF AN «E-PERSON»: FROM A BINARY OPPOSITION TO A MODULAR APPROACH

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### Summary

The rapid advancement of artificial intelligence (AI) challenges traditional legal frameworks, particularly concerning liability. The European Parliament's 2017 proposal to create a legal status of an "electronic person" for sophisticated autonomous systems ignited a critical debate on whether machines can or should be granted legal personality. This article scrutinizes this controversial concept. **Purpose.** The study aims to critically analyze the "e-personhood" proposal, highlight its fundamental flaws, and introduce a more viable alternative framework for conceptualizing the legal status of AI. **Methods.** The research methodology includes a comparative legal analysis of key EU documents, such as the European Parliament's Resolution and reports from the EESC and AI HLEG, alongside a review of influential scholarly publications in the field of law and AI ethics. **Results.** The analysis concludes that granting legal personality to AI is a flawed approach that creates a dangerous "responsibility gap" and is ethically questionable. The study finds that existing legal instruments, such as strict product liability and insurance schemes, can be adapted to address damages caused by AI more effectively. **Conclusion.** The binary "person-or-thing" approach is insufficient for regulating AI. This article puts forward a novel hypothesis of a "modular approach" to AI's legal status. Instead of full personhood, this framework suggests endowing AI systems with specific, limited "modules" of legal capacity tailored to their function and autonomy. This pragmatic model ensures compensation for victims while firmly anchoring ultimate legal responsibility with human developers, manufacturers, and operators.

**Key words:** artificial intelligence, electronic person, legal personality, liability for damages, European Parliament resolution, autonomous systems, modular approach, legal status of AI.

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### 1. Introduction

The rapid development of artificial intelligence (AI) technologies and their integration into all spheres of public life from industry and medicine to transport and finance have become a defining feature of the 21st century. The emergence of increasingly autonomous systems, capable of making decisions without direct human intervention, inevitably gives rise to complex legal questions for which traditional jurisprudence does not always have ready answers. The central problem being actively debated at the international level today is the determination of the legal status of such systems.

Who is responsible when a self-driving car gets into an accident, when a medical diagnostic AI makes an error, or when a financial algorithm causes a market crash?

This issue became particularly acute after the European Parliament adopted a resolution on February 16, 2017, with recommendations to the Commission on Civil Law Rules

on Robotics (2015/2103(INL)). Paragraph 59(f) of this document contains a proposal that caused a significant resonance: "creating a specific legal status for robots in the long run, so that at least the most sophisticated autonomous robots could be established as having the status of electronic persons responsible for making good any damage they may cause" (*European Parliament, 2017*). This idea, although presented as a long-term perspective, became a catalyst for a global discussion about the future of AI legal regulation.

The purpose of this article is to conduct a critical analysis of the "electronic person" concept, identify its main weaknesses, and develop an alternative scientific hypothesis that would allow solving the problem of AI's legal status more flexibly and pragmatically, without resorting to a radical change in the fundamental principles of law. The research objectives are: to analyze the European Parliament's argumentation in favor of "e-personhood"; to summarize the critical remarks from European institutions and the academic community; to investigate alternative models of liability allocation; and to propose our own concept of regulation.

The problem of AI legal personality has been the subject of active research in recent years. Among the key works criticizing the idea of an "electronic person", it is worth noting the publications of Joanna Bryson, who argues that granting legal personality to robots is a misguided path that only creates a tool for their human creators and owners to evade responsibility (*Bryson, Diamantis & Grant, 2017*). Significant contributions to the discussion have been made by Chesterman, who explores the rule of law in the digital age (*Chesterman, 2021*), and Mireille Hildebrandt, who analyzes the concept from the perspective of legal certainty and predictability. At the same time, there are supporters of granting AI certain forms of legal personality, such as Gabriel Hallevy, who considers models of criminal liability for "artificial intelligence entities" (*Hallevy, 2010*). Also important is an interdisciplinary view of the problem, an example of which is the book "Artificial Intelligence Renders Verdicts: A Developer's Take vs. a Lawyer's Stand" by Oleksii Shamov, a lecturer at the Higher School of Advocacy of Ukraine, which analyzes the deep philosophical and practical aspects of using AI in jurisprudence, particularly in the process of rendering court verdicts, which indirectly relates to the issue of the status and liability of such systems (*Shamov, 2025*). This article builds on these studies, attempting to systematize the existing criticism and propose a constructive step forward.

## 2. Analysis of Recent Research and Publications

The European Parliament's initiative to create the status of an "electronic person" was driven by the desire to solve the potential problem of a "responsibility gap". The authors of the resolution assumed that the actions of complex autonomous systems would be impossible to trace back to the specific decisions of their developers, manufacturers, or owners, which would complicate or make it impossible for victims to receive compensation. The creation of a new legal category, as intended, would allow liability to be imposed directly on the "electronic person", which could have its own assets (for example, through special funds) to cover damages.

However, this proposal almost immediately faced a barrage of criticism from other EU institutions and leading academics. The European Economic and Social Committee (EESC) stated in its opinion that, at the current stage of technological development, attributing legal personality to AI is inappropriate and premature. The Committee stressed that responsibility must always remain with a human and proposed focusing on improving existing liability regimes, such as product liability and insurance (*European Economic and Social Committee, 2017*).

Even more categorical was the position of the High-Level Expert Group on Artificial Intelligence (AI HLEG), established by the European Commission. In its "Ethics Guidelines

for Trustworthy AI", the group explicitly rejected the idea of "e-personhood", arguing that such a step is legally and ethically unfounded. The experts emphasized that this could lead to "moral hazard", where companies would use "electronic persons" to avoid liability, as well as to the devaluation of the concept of human dignity (*High-Level Expert Group on AI, 2019*).

The academic community largely supported this critical position. One of the most influential arguments against "e-personhood" is the thesis put forward by Bryson and colleagues that legal personality is a tool created by humans for humans (and for legal entities as human constructs) to regulate social relations.

Granting this status to artifacts, which robots and AI are, makes no sense, as they cannot be true subjects of law, having no consciousness, intentions, or interests in the human sense (*Bryson, Diamantis, & Grant, 2017*).

Researchers also point out that existing legal institutions are flexible enough to cope with the challenges of AI. For example, the rules on liability for damage caused by a source of increased danger of the concept of strict product liability can be adapted to cases involving autonomous systems (*Bertolini & Episcopo, 2021*). Other authors propose developing mandatory insurance mechanisms or creating compensation funds analogous to those that exist for compensating damages from traffic accidents or environmental disasters, which would secure the interests of victims without the need to create a new legal fiction (*Soyer & Tettenborn, 2023*).

Criticism from the standpoint of legal philosophy is also important. Granting machines the status of a "person" can erode the uniqueness of human personality, which is based on dignity, free will, and moral responsibility. As Nadia Banteka notes, instead of a binary "yes or no" choice regarding AI legal personality, it is worth considering the application of a "sliding scale" of legal attributes granted to a system depending on its characteristics (*Banteka, 2024*).

This idea seems much more productive than the European Parliament's proposal. Thus, the vast majority of modern research based on scientometric databases (Scopus, Web of Science) tends to conclude that the concept of an "electronic person is counterproductive and calls for the search for more pragmatic and justified solutions.

### 3. Materials and Methods

This research was based on a comprehensive analysis of normative-legal and doctrinal sources. The materials for analysis included: the European Parliament Resolution of 16 February 2017; official opinions and reports of EU advisory bodies, in particular the European Economic and Social Committee and the High-Level Expert Group on Artificial Intelligence; the European Commission's White Paper on Artificial Intelligence and draft EU acts on AI regulation. In addition, a wide range of scientific publications by leading foreign scholars (M. Hildebrandt, J. Bryson, R. Calo, S. Chesterman, N. Banteka, G. Hallevy, and others) dedicated to the legal and ethical aspects of AI, indexed in international scientometric databases Scopus and Web of Science, was processed.

The methodological basis of the study is built on a combination of general scientific and special legal methods. The dialectical method allowed for the examination of the problem of AI's legal status in its development, contradictions, and interconnection with technological, social, and ethical factors. Using the formal-logical method (analysis, synthesis, induction, deduction), the content of legal concepts was analyzed, logical flaws in the argumentation of supporters of "e-personhood" were identified, and our own hypothesis was formulated. The comparative-legal method was used to compare the European Parliament's proposal with

alternative approaches proposed in legal doctrine, as well as to analyze existing legal institutions (legal entity, source of increased danger) for their applicability to relations involving AI.

System analysis made it possible to consider the legal regulation of AI as a complex system, the elements of which (liability, legal personality, insurance) must be coordinated. The choice of these methods is determined by the need to conduct a deep, comprehensive, and objective study of a complex interdisciplinary problem and to develop a well-founded scientific proposal.

#### 4. Results and Discussion

The analysis allows us to state that the European Parliament's proposal to grant complex autonomous systems the legal status of an "electronic person" is conceptually flawed and practically dangerous.

Despite the rational kernel – an attempt to solve the problem of compensating for damages in cases where traditional liability models fail the proposed solution creates far more problems than it solves.

The main arguments against "e-personhood" can be grouped as follows:

1. *The Philosophical-Ethical Argument*: Legal personhood is not just a technical fiction, but a concept deeply rooted in the notions of human dignity, autonomy of will, and moral responsibility. Even the fiction of a legal person (corporation) serves as a tool for organizing human activities, not for replacing them. Extending this status to machines, which lack consciousness, feelings, interests, and the capacity for moral judgment, devalues the very concept of personality and erases the fundamental line between a person and a thing (Bryson, Diamantis & Grant, 2017; Solaiman, 2017).

2. *The Legal-Practical Argument*: The creation of a new subject of law will lead to an unjustified complication of the legal system. Instead, existing legal institutions, if modernized, are capable of meeting the challenges of AI. Strict liability of the manufacturer, liability of the owner of a source of increased danger, the institute of agency, as well as the development of mandatory insurance schemes, are much more pragmatic and proven tools for ensuring the rights of victims (Bertolini & Episcopo, 2021).

3. *The "Responsibility Gap" Argument*: Paradoxically, the introduction of an "electronic person" may not solve, but deepen the problem of the "responsibility gap". Unscrupulous manufacturers and operators of AI will get a convenient tool for shifting responsibility to an "electronic person", which, in the absence of assets in its special fund, will be unable to compensate for damages. Thus, instead of a clear chain of responsibility "developer-manufacturer-owner-user", there will be a risk of its rupture at the most vulnerable link.

Given the above, it becomes clear that the binary "person or thing" approach is a dead end. Artificial intelligence is no longer just a thing in the classical sense (like a hammer or a manually operated car), but it has not yet become, and perhaps never will become, a person. It is a unique phenomenon that requires a unique legal solution.

#### 5. The Hypothesis of a Modular Approach to AI Legal Personality

Instead of trying to fit AI into the Procrustean bed of existing categories, it is proposed to develop and implement the concept of modular (or partial, functional) legal personality for AI.

The essence of this hypothesis is to abandon the idea of endowing AI with a holistic status of a person and instead to recognize for certain types of autonomous systems only specific, legally defined elements of legal personality ("legal modules") that are necessary for their functioning in civil circulation and for solving the problem of liability.

Legal personality traditionally consists of legal capacity (the ability to have rights and obligations) and dispositive capacity (the ability to acquire rights and create obligations through one's actions). The modular approach assumes that the scope of these elements for AI can be different:

- *Legal Capacity Module*: An AI system can be recognized as capable of having certain, exclusively proprietary rights (e.g., the right to own digital assets in a special account) and obligations (the obligation to compensate for damages within the limits of these assets). This does not mean recognizing any personal non-property rights (to dignity, name, etc.).

- *Dispositive Capacity Module*: An AI may be recognized as capable of concluding certain types of transactions in an automatic mode (e.g., a trading bot on a stock exchange), but only within the limits clearly defined by its owner/operator. That is, its dispositive capacity will always be derived from human will and limited by a specific function.

- *Delictual Capacity Module*: AI can be recognized as a "person responsible for causing harm" within a strict liability regime. This means that to recover damages, the victim will not need to prove the fault of the developer or owner; it will be sufficient to prove a causal link between the system's action and the damage. In this case, the owner of the AI (or a specially created insurance fund) will bear subsidiary or joint and several liability.

Advantages of the Modular Approach:

1. *Flexibility*: It allows for a differentiated approach to different types of AI. A simple chatbot does not need any legal personality modules, while a complex autonomous investment fund can receive a module of legal capacity and limited dispositive capacity.

2. *Pragmatism*: It does not require the destruction of fundamental legal concepts. It only creates a special legal regime for a new technological object, which is a common practice in law (e.g., special regimes for securities, uncertificated assets, etc.).

3. *Preservation of Human Responsibility*: It clearly establishes that any "legal module" of an AI is derived from human will, and the ultimate responsibility (especially in the case of insufficient AI assets) always lies with people developers, owners, operators.

This concept, unlike the idea of an "electronic person", does not create the false illusion of the emergence of a new subject of law equal to a human, but offers a purely instrumental approach to solving specific legal problems arising in connection with the proliferation of autonomous systems.

## 6. Conclusions

The conducted research has shown that the idea of granting artificial intelligence the full legal status of an "electronic person", as proposed by the European Parliament, is premature, theoretically unfounded, and potentially dangerous for the stability of the legal system. It creates the risk of diluting human responsibility and contradicts fundamental philosophical and legal ideas about the nature of personality. A critical analysis of the positions of leading European institutions and legal doctrine indicates a consensus on the need to find alternative, more pragmatic solutions.

Instead of trying to apply a binary "person/thing" logic to AI, a new, more flexible approach must be developed. As such an approach, this article proposes the scientific hypothesis of a modular legal personality for AI. This concept provides for the possibility of endowing autonomous systems not with a holistic status, but only with separate, functionally determined "modules" of legal and dispositive capacity, necessary for their participation in specific legal relations. This approach allows for solving practical tasks (e.g., automatic conclusion of

agreements or compensation for damages) without creating a dangerous legal fiction and while retaining ultimate responsibility with humans.

Prospects for further research in this area lie in the detailing of the proposed concept. It is necessary to develop:

- clear criteria for classifying AI systems by their level of autonomy and risk to determine which "legal modules" and to what extent can be granted to them;
- specific mechanisms for the relationship between the liability of the AI (within its assets) and the subsidiary/joint and several liability of its owner/operator;
- proposals for amending civil legislation, in particular, the Civil Code of Ukraine, to implement the model of modular legal personality, which is particularly relevant in the context of harmonizing Ukrainian legislation with European standards and the future EU Artificial Intelligence Act.

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