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ELŻBIETA FERET\*

## ARTIFICIAL INTELLIGENCE AND THE FINANCIAL SECURITY OF THE STATE ON THE EXAMPLE OF POLAND

### Abstract

The changing reality of the surrounding world has made us realise the value and potential resulting from the use of modern technologies. As it turned out during the pandemic, the use of technical devices enabling the implementation of public tasks without the direct cooperation of people has become indispensable to ensure the functioning of every country.

These modern technologies identified with artificial intelligence technology (hereinafter referred to as AI – *artificial intelligence*) have been, to an increasing extent, also used in the area related to the financial aspects of the functioning of Poland. Recognising the need to use them, it is necessary to pay attention to ensuring the guarantee of the state's financial security, which determines its independence of functioning.

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\* Professor for Financial Law, Department of Financial Law, Faculty of Law and Administration, University of Rzeszow, Poland, specializing in financial law and local government finance. Author of 3 books and more than 100 reviewed articles in prestigious journals. Member of Information and Organization Centre for the Research on the Public Finances and Tax Law in the Countries of Central and Eastern Europe and Centro di ricerca di diritto privato europeo/Research Centre in European Private Law.  
Contact email: [eferet@ur.edu.pl](mailto:eferet@ur.edu.pl), ORCID: 0000-0001-9283-0316.

Considering the above, the aim of the study will be to determine the manifestations of this technological interference in the financial sphere of its operation in relation to its inherent financial authority. At the same time, to carry out the considerations, it will be necessary, based on legal acts, doctrine and court decisions, to demonstrate the benefits and threats resulting from the use of AI in relation to budget and tax security of the state on the example of Poland.

**Key words:** artificial intelligence, financial security of the state, budget security, tax security

**JEL Classification:** K34

## 1. Introduction

The common phenomenon of life globalisation makes it necessary to use 21<sup>st</sup> century technological skills. This need was confirmed during the Covid 19 pandemic, when people and countries were able to function only thanks to the use of modern technologies.

Modern technological thought was used in all very diverse areas of life, from saving life, to the activities of entrepreneurs, or to activities securing the functioning of the state. Thus, the use of modern technologies has become an indispensable element conditioning the implementation, although to a limited extent, of public tasks [Feret 2022: 230-241], without the need for direct cooperation of people.

These modern technologies identified with artificial intelligence technology (*artificial intelligence*, also referred to as AI) have been, to an increasing extent, also used in the area related to the financial aspects of the functioning of each country. Recognising the legal foundations and the need to use them, but also noticing the threats associated with its application, it is worth considering the possibilities of using AI also in this aspect, which is so important because it determines the operation of every country. For this purpose, on the example of Poland, the possibilities of its use will be determined, considering the financial security of the state.

## 2. Artificial intelligence versus man and citizen

To demonstrate the importance of AI from the viewpoint of ensuring the guarantee of the state's financial security, it is worth introducing a few general observations based on the doctrine before discussing legal regulations.

The literature on the subject, until 21 May 2024 (on this day the Council of the European Union adopted *the AI Act*, which will be discussed in a later part of the considerations), created the foundations for understanding and defining AI, whose origins in fact date back to the 19<sup>th</sup> century [Tweney, *Boolean Logic Logically Foolows [in:] this Day In Tech* (on-line)]. Initially, based on historical sources indicated by the doctrine, it should be assumed that this technology was intended to develop certain mathematical techniques to improve human calculations. Over time, these mathematical calculations combined with research on neural networks led to the creation of artificial intelligence [Ziółkowska 2023: 91] as a way to create and improve systems for acquiring, processing and analysing data, with the possibility of interacting with humans and the environment.

When referring to the use of AI today, it is necessary to point out its ubiquity in various areas of human, civic and state functioning. At the same time, considering the widespread use of AI, it is possible to define its diverse subjective scope – entities entitled to use its achievements, which is of key importance from the point of view of establishing the guarantees mentioned in the article title in relation to the state's financial security.

Thus, when trying to determine the possibility of using AI technology by humans, it is worth pointing out the obvious possibilities of application through virtually unlimited access to computer programs or installing applications in mobile phones allowing the acquisition of information and data in various areas of human life. What is worth emphasising that these information opportunities concern not only Poland but also go beyond the country's borders, concerning basic issues related to human life and health, to everyday life issues. It has become commonplace to use the so-called mobile applications running on portable devices, such as mobile phones, smartphones, palmtops or tablets, with the best example of the use of mobile applications, the so-called mobile banking.

From the viewpoint of a Polish citizen, it became common during the pandemic to use very wide IT capabilities, including: sending and receiving information under the mObywatel program; use of electronic signatures; the use of the eIDAS system [*Electronic IDentification, Authentication and trust Services*], which should be derived from the regulations resulting from Regulation (EU) No 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transactions

in the internal market]; electronic delivery; accessibility of websites and applications; finally, the use of the ePUAP platform, which is a nationwide ICT platform enabling communication of citizens and entrepreneurs with public entities.

It is worth pointing out that the rights of Polish citizens in this area should be derived from the provisions of the Constitution of the Republic of Poland, which although establishing the right to the protection of personal data deny the obligation to disclose information, because no one may be obliged, otherwise than pursuant to the Act, to disclose information relating to his/her person, which is a citizen's right to protect personal data, while giving each citizen the right to access to official documents and data files concerning him/her, which is limited only by the Act [The Constitution of the Republic of Poland: Art. 51(1) and Art. 51(3)].

### 3. EU and Polish legal foundations of AI

As noted above, the legal foundations for the operation of AI in the European Union (hereinafter the EU) were adopted only in May 2024 [Regulation (EU) 2024/1689 of the European Parliament and of the Council of 13 June 2024 laying down harmonised 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 (Artificial Intelligence Act) (Text with EEA relevance)]. The Council of the European Union adopted *the AI Act*, called the Artificial Intelligence Act, as a law laying down harmonised rules on artificial intelligence [Press release of the Council of the European Union of 21 May 2024, *Artificial intelligence: The Council has given the final approval to set up the bloc's flagship, risk-based regulations*]. As it follows from the Release on the adoption of this Regulation, the adopted law is based mainly on risk assessment, i.e. the greater the risk harm to society, the stricter the regulations.

At the same time, as it follows directly from the provisions of the Regulation, it is intended to support the creation and dissemination of safe and credible artificial intelligence systems in the EU single market by both private and public entities. It aims to respect the fundamental rights of EU citizens and encourage investment and innovation in artificial intelligence in Europe. [This Act only applies to areas covered by EU law and excludes systems used

only for military, defence and scientific purposes] as a tool for people with the ultimate goal of enhancing human well-being while ensuring a consistent and high level of protection of public interests in the areas of health, security and fundamental rights [above Regulation: points 6 and 7].

As it can be seen from the above-mentioned regulations, artificial intelligence has been recognized as a necessary element of human life, and as a result, each EU member state, including Poland, has been obliged to adopt such legal regulations that, on the one hand, must ensure universal access to AI. Examples that are already in operation include: the IBM Watson question answering system and cognitive computing; as IBM Watson for Oncology, which helps support cancer treatments; Da Vinci, for medical and surgical purposes; Ross, specialising in legal research; Milo, which provides education for autistic children; 11 Simon, which plays music; 12 Motoman which can be a chef and a cook [Chand, Kostić, Reis 2020: 714].

#### **4. Poland's financial security and AI**

In the context of the above-mentioned importance of AI from the viewpoint of humans and citizens, it is very important to determine the importance of the state's financial security. Referring my considerations to this issue, it is worth emphasising the fact that despite the importance of this type of security, it has not been legally defined, and the existing legal provisions in this area are widely scattered and non-uniform. The need to prevent violations of the "essential financial interests of the Polish state" is provided for in the Fiscal Penal Code [Fiscal Penal Code: Art. 3(3)]. While the "financial interest of the State Treasury" is indicated by the provisions arising from the Act on the General Counsel to the Republic of Poland, which indicates that the General Counsel to the Republic of Poland [Prokuratoria Generalna Rzeczypospolitej Polskiej], hereinafter referred to as the "General Counsel", guards the rights and interests of the Republic of Poland, including the rights and interests of the Treasury the State, and state property not belonging to the State Treasury" [Act on the General Counsel: Art. 1(1)].

The sources of the application of these concepts should be sought directly in the provisions of the Constitution of the RP, which indicate, in particular, the constitutionally named public interest; private interest; important economic interest of the state; state interest; the interest of the State Treasury and the public interest in radio and television broadcasting [The Constitution

of the RP: Art. 17(1), Art. 22, Art. 63, Art. 213(1) and Art. 45(2), Art. 61(3), Art.104(2), Art.146(4)(4), Art.213(1)].

#### 4.1. The meaning of the financial security

The financial security of the state mentioned in the title, identified with the financial interest of the state [Woźniak 2017: 151-173], should be considered, according to the judicial decisions, as tantamount to the need to protect the financial interest of the state [WTK, K 2/94; WTK, K 2/92; WTK, K 45/01], which is also indicated in the doctrine [Potrzeszcz 2006: 18]. This financial interest of the state is broadly treated as the safe operation of public authorities functioning to ensure public security [Zawisza 2015: 72-73]. Public security is therefore the basis and common denominator for the finance-oriented, qualified financial security of the state, mentioned in the title. The qualification of this type of security comes down to striving to ensure an ideal state of no financial threat [*Encyklopedia Prawa* 1999: 53].

The legal foundation for Poland's financial security should be the legal regulations arising from the Basic Law, which is considered by the doctrine to be "the starting point of the entire legal order in the country" [Bartosiewicz 2006: 7], therefore also in the field of financial matters. The need to take care of the financial security of the state results indirectly from those individual constitutional provisions that concern, for example, the ratification by the Republic of Poland of an international agreement and its termination, which would be associated with a significant financial burden on the state [The Constitution of the RP: Art. 89(1)]; financial consequences of a legislative initiative [The Constitution of the RP: Art. 118(3)]; entry into force of the judgments of the Constitutional Tribunal, which become applicable on the day of their publication, excluding those involving financial outlays not provided for in the Budget Act [The Constitution of the RP: Art. 190(3)].

In reference to the above, constitutionally mentioned Budget Act, it is justified to conclude that the regulations arising from Chapter X of the Constitution of the RP concerning public finances create a direct foundation for the possibility of deriving the significance of the financial security of the state [The Constitution of the RP: Art. 216-225]. Since public finances are understood as processes related to the collection and allocation of public funds based on the annually adopted Budget Act [Public Finance Act: Art. 3 and Art. 109.3], it can be assumed that financial security is ensured if the Budget Act

is adopted for a given calendar (budget) year. As it constitutes the foundation of financial management for a given financial year, it should guarantee the possibility of collecting and spending financial resources from 1 January to 31 December of a given year.

This approach to the importance of the Budget Act is also supported by its legal nature, of an ordinary Act, but adopted in a special legislative procedure [Dębowska-Romanowska 2008: 213-225], which confirms its unique and important character. In this context, referring to the Budget Act as a guarantee of the state's financial security for the budget year, it is impossible to ignore the fact that it is a consequence of the arrangements made in the Multiannual State Financial Plan adopted for one year and the next three years [Public Finance Act: Art. 103].

This perfect, ideal image of the Budget Act, considered as a guarantor of collecting and spending financial resources in a given budget year, is distorted by the regulations also resulting from the Public Finance Act, which are closely related to the Budget Act. In this respect, it is worth noticing the forecasting nature of the revenues and expenses determined in the Budget Act, as well as the indication of the projected level of the budget deficit related to them. These values, expressed in amounts, are estimated, unpredictable, and not certain.

Seeing the function of the state budget as an uncertain financial plan, but constituting the foundation for the annual financial management, it is worth considering the possibility of using AI as a tool that would allow for a more precise determination of the expected amounts. In this area, as well as in other areas where it is already used, such as in the automotive industry, medicine, banking, it seems most possible to use algorithms based on machine learning and data processing.

#### 4.2. AI and budget security

When considering the possibility of using AI for cyclical, annual planning of the state budget, it is essential to prepare an appropriate database containing actual information on the amounts of financial resources from previous years. Of course, due to the nature of the Budget Act, which *de facto* and *de jure* also contains information on the budgets of local government

units and the budget of EU funds, it would be necessary to consult many databases.

In this case, it is necessary to use the data contained in the Big Data system, which involves searching, downloading, collecting and processing available data [Riahi 2018: 524]. Today, the use of data collected as part of Big Data is obvious and considered legal. The information, except for intellectual property rights [Act on Copyright and Related Rights] and the right to protect business secrets [Act on Combating Unfair Competition], is not anyone's property. Hence, the use of Big Data in matters related primarily to statistical research is common and is becoming less and less objectionable or controversial [GUS: 2023].

Against the background of statistical experience, it seems that the possibility of using such data, necessary when creating the state budget, is indispensable and completely justified. Apart from the budget procedure specified by law, it can be concluded that a properly prepared Big Data system and tools within the AI system could allow for more efficient and accurate preparation of next year's state budget.

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However, while emphasising the positive aspects of the use of artificial intelligence, we cannot ignore the issues related to the need for properly prepared legal acts, dealing with moral and ethical issues, and responsibility for acts committed by AI. It seems that these issues will pose a much more difficult challenge, especially if we consider ensuring the state's financial security.

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This thesis is permissible, although controversial, because AI is increasingly used in tax regulations, which constitute the basis for next year's budget. More and more often, the doctrine refers to, for example, an artificial intelligence system that could shape tax policy, primarily in terms of simulating its effects [Zekos 2022: 412], both from the viewpoint of the budget and the taxpayer.

#### 4.3. AI and tax security

As evidenced by doctrine and practice, the authorities of individual tax administrations increasingly use algorithms and automated systems for taxpayer profiling and risk assessment purposes. In Poland, the tax on goods and services (hereinafter referred to as VAT) [Act on Tax on Goods and Services] is the largest source of revenue for the state budget. Unfortunately, according to the reports of the European Economic Committee [[https://european-union.europa.eu/institutions-law-budget/institutions-and-bodies/search-all-eu-institutions-and-bodies/european-economic-and-social-committee-eesc\\_pl](https://european-union.europa.eu/institutions-law-budget/institutions-and-bodies/search-all-eu-institutions-and-bodies/european-economic-and-social-committee-eesc_pl)], Poland was losing large revenues due to fraud related to this tax; between 2006 and 2011, the gap in VAT<sup>8</sup> in Poland increased rapidly, from 0.4 to 1.5% of GDP. In 2012, its value reached PLN 43.1 billion (approx. EUR 9.5 billion) [Custers, Fosch-Villaronga 2022: 228-231].

In order to counteract this phenomenon, since 2017, the National Tax Administration (Krajowa Administracja Skarbowa – KAS) has been taking steps to counteract the exploitation of the activities of banks, and cooperative savings and credit unions for tax frauds by means of the STIR system (The Clearing House Teleinformatic System) – a data analysis tool for detecting fraud [Act Amending Certain Acts in order to Prevent the Use of the Financial Sector for Fiscal Fraud: Art. 24 (3) in connection with the Tax Ordinance Act: Art. 119zr § 5]. The system works based on electronic information exchange between financial institutions and the National Tax Administration. Banks as well as cooperative savings and credit unions send electronically detailed data about bank accounts, e.g. about their opening or closing, their balance, transactions, but also about, for example, details of the account representative to the National Clearing House Joint-Stock Co. [Krajowa Izba Rozliczeniowa S.A.]. The implementation of the system allows the services subordinate to the head of the National Tax Administration to react immediately to an attempt to use the financial system to commit a crime [Zalcewicz 2023: 23-35].

## 5. Conclusion

The presented considerations constitute the basis for formulating certain *de lege lata* remarks and *de lege ferenda* postulates. There can be no doubt that the current and approaching times are associated with the automation of human, civic and state life. The technological development that has begun and is progressing extremely quickly, with the simultaneous exposure of the human individual weaknesses, confirms the need to search for and use of new technological improvements.

This technological progress, initially perceived as the possibility of using equipment that facilitates human life and work, has now been moved to a higher level related to programming the operation of machines in line with human expectations as a central element of the digital transformation of society [Pieriegud 2016: 12-38]. Currently, AI is increasingly taking the initiative in its actions, which on the one hand facilitates access to public benefits; on the other hand, however, it is not free from possible errors.

Looking through this prism, AI is a very important and beneficial tool for the functioning of every country (its public authorities) and every citizen. However, the situation of AI is different when it is recognized as the ability of machines to demonstrate human skills, such as reasoning, learning, planning and creativity [Mueller, Massaron 2021: 5]. In such a case, when its assumption is to enable technical systems to perceive their environment, deal with them, analyse and solve the diagnosed problems, acting towards achieving a predetermined goal in an autonomous manner [Boden 2020: et al.], then, a real threat arises due to the lack of influence on the operation of AI. This situation may concern, among others, "smart city", modern robots, autonomous vehicles.

The effect of AI is also visible in the aspect of the financial operation of Poland, which has already implemented and uses the STIR system, which is intended to ensure the sealing of VAT revenues, thus striving for the security of obtaining the expected revenues by the state budget.

These expected revenues should be sufficient to guarantee sufficient financial resources necessary for the implementation of public tasks each year. Estimating the required funds for their implementation, along with assessing the risk in accessing them, is possible thanks to access to Big Data information, which can be a tool for the cyclically planned annual budget.

However, while emphasising the positive aspects of the use of artificial intelligence, we cannot ignore the issues related to the need for properly prepared legal acts, dealing with moral and ethical issues, and responsibility for acts committed by AI. It seems that these issues will pose a much more difficult challenge, especially if we consider ensuring the state's financial security.

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