

New Coordinates of Human and Child Rights in the Digital Age. EU and International Stakes and Perspectives

By *Andreea Drăghici**

In an interactive and increasingly digitally connected world, a world where Artificial Intelligence has driven scientific vision and research towards a new approach to fundamental human rights, we aim to uncover the EU and international stakes and perspectives in light of new soft and hard law regulations, advocating for the extension of offline human rights to online activities and interactions. The design, development and incorrect use of new technologies, technologies that are unevenly absorbed globally, pose major risks in undermining the protection of human rights and freedoms, "shaking" democratic values that have been hard-won over time. The priority objective remains the efficient integration of digitalisation and the achievement of enhanced protection in shaping the new coordinates of human rights, with this research capturing the complexity and effervescence of regulations on data, algorithms and security. Therefore, it is essential to place human dignity and other personality rights at the center of all these debates as well as in the reconfiguration of legislation in light of technological innovations. Fundamentally, at the center of these new visions of the future and of the legislative instruments that are or will be adopted, we must place, without any right of appeal, the child and all his internationally recognised rights. It is an absolute necessity that beyond new technologies we do not leave behind recognised and won rights, sometimes with great effort.

Keywords: *Digital rights and principles; Declaration on Digital Rights and Principles; Digital Decade Report; EU and international perspective; Human dignity*

Introduction

We are going through the so-called digital (r)evolution or the artificial intelligence revolution. This era asserts its dominance through interdisciplinary and cutting-edge technological advancements such as humanoid robots, cyberspace, cloud computing, blockchain, the Internet of Things, quantum communication, Big Data, ChatGPT, cybersecurity, and the so-called metaverse. These developments are forging a new, virtual world where human-machine interaction is becoming increasingly complex and profound. This "augmented reality" has extended our physical space, which is now complemented by the digital space. Consequently, all social relationships are taking on a clear hybrid nature, where the physical sphere intertwines with the digital.

To ensure a fair and inclusive digital society that upholds democracy (e-democracy or Internet democracy), it remains essential to keep the digital revolution

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human-centered. The European Union adopted the Declaration on Digital Rights and Principles back in 2022, which protects and promotes the EU's values in the digital environment. This Declaration is the European Union's latest contribution to the complex process of constitutionalizing the digital society, becoming a benchmark for regional and international organisations as well. In this regard, we can mention the Council of Europe's international Framework Convention on artificial intelligence (AI), the Organization for Economic Cooperation and Development (OECD) Declaration on a "Trustworthy, Sustainable, and Inclusive Digital Future" launched in 2022, the United Nations' Global Digital Compact, and also General Comment No. 25 on children's rights in the digital environment. These instruments redefine the digital future and revolutionise the framework of fundamental human rights and freedoms.

Of course, the primary objective remains the efficient integration of digitalisation and achieving consolidated protection in shaping the new coordinates of human rights. This research captures the complexity and effervescence of regulations concerning data, algorithms, and security.

The field of human rights has not reached a sufficient degree of "crystallisation" and regulation to move past the threshold of vulnerability. Do we have a complete picture of the potential risks generated by AI in the sphere of human rights? What improvements can we make to facilitate the equal, global absorption of emerging technologies in perfect harmony with the respect for human rights? How will we achieve this objective? It's essential to place human dignity at the center of all these debates, as well as in the reconfiguration of legislation in light of technological innovations.

The Emergence of New Branches of Law. Towards a "Digital Law"?

Starting from the premise that classic legal norms and institutions cannot be automatically applied to the digital sphere, researchers¹ are relying on the gradual emergence of a new branch of law, namely digital law. This new field does not overlap with the idea of the digitalisation of law and will develop its own operating principles and institutions. For example, in the US, as well as in numerous European Union countries, we already find "Internet law" as a field of study. Universities are developing multiple programs for the study and applied research of digital topics, such as "Artificial Intelligence: Ethics and Fundamental Freedoms" at Paris 1 Panthéon-Sorbonne University, "Law and Digital Activities," a program available starting from the 2024-2025 academic year at Jean Moulin Lyon 3 University, France, The "Digital Law and AI: Fundamentals of Digital Law and Emerging Technologies" study program at Atlantic University Casablanca².

Moreover, in the field of artificial intelligence, there have already been attempts to coalesce regulations. In this regard, French research professors from the University of Paris or Sorbonne have "tested" the drafting of a "law of artificial intelligence," a standalone legal field. Thus, in the volume "Droit de l'intelligence artificielle"³, areas

¹Marcusohn (2023).

²See Voicu (2024).

³Bensamoun & Loiseau (2022).

such as ethics, personal rights, liability and insurance law, autonomous vehicles, justice, criminal law, intellectual property, personal data, labor law, health law, military law, administrative decision-making, and cybersecurity, blockchain, civil drones, and even international law were covered.

The resonances of AI on research are revolutionary⁴, prompting researchers to develop new methods or combine existing ones in innovative ways. This aims to "overturn" the paradigms of legal science and align fully with the revolutionary trend of digital transformation, which is abundant in quantum computing software and applications. This is how new research methods are emerging, with researchers increasingly discussing the concept of *jurimetrics*⁵. This term originates from *jus*, *juris* (law) and *metrum* (measure), and it involves analyzing legal phenomena in relation to mathematics and statistical data. Essentially, it competes with AI, which is capable of storing vast amounts of data and instantly generating statistics based on algorithms.

Undoubtedly, the digitalisation of public relations will reshape the entire "ecosystem" of legal branches and open "new windows" for analysis. This is precisely why we are seeing increasingly richer and more complex legal systems, with technology already triggering the process of "re-establishment and revitalisation" of legislation. It subtly and surely penetrates every branch of law; each being redefined by the omnipresent technical component in our lives. Furthermore, we are already discussing the stakes involved in shaping new rights, such as Internet law, online network law, cybersecurity law, information law, or even digital law, all of which are "merging" into the need for inter- and transdisciplinary analysis.

In this legal "domain" — one open to reflection and the most innovative practical applications, where challenges are proportional to the stakes created and asserted — the question remains: Is society ready to cope with the effervescence and evolution of emerging technology? This necessitates a "mosaic" approach to reshaping the "legal architecture" concerning human rights and freedoms.

⁴Google recently launched a new AI software, Gemini Ultra, designed to surpass the capabilities of human experts in massive multi-task language understanding (MMLU). Gemini can utilise information from 57 domains, including disciplines like medicine, law, physics, mathematics, and ethics. This allows it to test knowledge of the world, analyse, and solve a range of problems, "penetrating" nuances and reasoning in complex subjects. See Răzvan Mihalaşcu, Google lansează Gemini, un nou model de inteligență artificială pentru chatbotul Bard. Cum vrea să capitalizeze funcțiile avansate, December 6, 2023 - <https://www.euronews.ro/articole/google-lanseaza-gemini-un-nou-model-de-inteligenta-artificiala-pentru-chatbotul-b>.

⁵Predescu in Duțu (2024).

Evolution of Digital Transformation in the European Union: The Cardinal Points of the "Digital Compass"

Recognizing shortcomings in guaranteeing human rights in the online world, two member states adopted their own digital rights initiatives in mid-2021. Spain developed a Charter of Digital Rights to serve as a roadmap for public authority action and a guide for future legislative projects. Similarly, Portugal adopted the Portuguese Charter of Human Rights in the Digital Age.

Moreover, the European Union is a pioneer in shaping the legislative foundations of digitalisation. On March 9, 2021, the Commission presented its vision for Europe's digital transformation as a mission to be achieved by 2030 in the communication titled: *Digital Compass 2030: the European way for the Digital Decade*⁶. Subsequently, in January 2022, the Commission developed the Declaration on Digital Rights and Principles. An agreement on this declaration was reached between the Commission, the EU Parliament, and the Council in November 2022, following a "Special Eurobarometer" survey and an open public consultation. This process revealed that 8 out of 10 EU citizens found it useful for the EU to define and promote a common European vision for digital rights and principles. The Declaration adds to the previous package of digital initiatives by member states, such as *the Tallinn Declaration on e-Government*⁷, *the Berlin Declaration on Digital Society and Value-based Digital Government*⁸ and *the Lisbon Declaration on Digital Democracy with a Purpose*⁹.

When the Declaration was being drafted, the following areas were highlighted as priority actions at the EU level: protecting users from cyberattacks (30%), protection against disinformation and illegal content (26%), and support for digital skills training programs (17%). In other words, deficiencies in these areas can be linked to the incomplete guarantee of certain human rights, particularly the right to privacy, as well as attacks on a person's honor or reputation, freedom of expression, or the right to education.

Of course, the Declaration and the rights it encompasses are rooted in treaties and the Charter of Fundamental Rights. It also complements the European Pillar of Social Rights, building upon existing digital policies such as personal data protection, e-privacy, workers' rights, and the jurisprudence of the Court of Justice. Moreover, according to the President of the Commission, Ursula von der Leyen:

The signing of the European Declaration on Digital Rights and Principles reflects our common goal of a digital transformation that puts people first. The rights outlined in our Declaration are guaranteed for everyone in the EU, online, just as they exist

⁶Busola Digitală 2030: calea europeană pentru Deceniul Digital, (2030 Digital Compass: the European Way for the Digital Decade), March 9, 2021.

⁷Digital Rights and Principles: Presidents of the Commission, the European Parliament and the Council sign European Declaration (December 15, 2022).

⁸The Berlin Declaration builds on the Tallinn principles, which placed the user at the center of policies, and emphasises the pioneering role of public administrations, as they are the ones who can lead the digital transformation of society. Romania signed the Berlin Declaration for digital society, <https://www.euractiv.ro/economic/romania-a-semnat-declaratia-de-la-berlin-pentru-societate-digitala-22177>.

⁹See Preamble of the European Declaration on Digital Rights and Principles for the Digital Decade.

*offline. And the digital principles enshrined in the Declaration will guide us in our work on all new initiatives.*¹⁰

Stricto sensu, The Declaration on Digital Rights and Principles aims to outline European values across six essential areas: promoting a human-centered digital transformation; supporting solidarity and inclusion through connectivity; fostering digital education, training, and skills; ensuring fair working conditions and access to digital public services; reaffirming the importance of freedom of choice and a fair digital environment while encouraging participation in the digital public space; and finally, increasing safety, security, and empowerment in the digital environment, especially for young people, alongside the promotion of sustainability.

This conglomeration of European rights and principles thus encompasses accessible, high-speed digital connectivity everywhere and for everyone, digital qualification, access to online public services, a safe digital environment for children, the ability to disconnect after working hours¹¹, transparent information regarding the environmental impact of digital products, and, most importantly, control over how personal data is used and with whom it's shared.

It's important to note that while the Declaration has declarative nature, its political importance shouldn't be underestimated. It was signed at the highest level of the European Union, and its implementation represents a shared commitment and responsibility of its member states. Furthermore, the Digital Decade Policy Programme stipulates that member states and the Commission must consider the digital rights and principles outlined in the Declaration as the EU enters its first cooperation cycle to achieve the desired level of digitalisation by 2030. The Commission has also committed to reporting periodically to the Parliament and the Council on the progress made in promoting and implementing the Declaration.

An important stage in the progress of digital sphere legislation is also marked by the Framework Convention on Artificial Intelligence, Human Rights, Democracy, and the Rule of Law. Its draft was finalised on March 14, 2024, by the Committee on Artificial Intelligence (CAI) of the Council of Europe. This Convention paves the way for establishing a general legal framework¹² by outlining the foundations of international artificial intelligence law¹³, aligning with the vision of a global approach to AI issues.

Naturally, the efforts towards digitalisation and regulation are reflected in the "avalanche" of instruments and legislative acts drafted and approved in recent years at the Union level in specific sectors of digital transformation, a transformation around which EU legislation is being reconfigured. Here, we refer primarily to

¹⁰Digital Rights and Principles: Presidents of the Commission, the European Parliament and the Council sign European Declaration, 15 dec. 2022.

¹¹Gologan (2024).

¹²According to Marijei Pejčinović, Secretary General of the Council of Europe: „ *The Framework Convention on Artificial Intelligence is a global treaty, the first of its kind, that will ensure artificial intelligence respects human rights. It is a response to the need for an international legal standard supported by states from different continents who share the same values to harness the benefits of artificial intelligence while reducing the risks. With this new treaty, we aim to ensure a responsible use of artificial intelligence that respects human rights, the rule of law, and democracy*”.

¹³Duđu (2024).

Regulation (EU) 2016/679 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (GDPR)¹⁴.

Furthermore, let us not forget the Digital Services Act (DSA) and the Digital Markets Act (DMA), which highlight the right to freedom of choice and provide innovative legislative rules to address the societal and economic impact of online services in the EU, ensuring the protection of fundamental rights and encouraging opportunities for businesses. The two essential objectives of these hard-law legal instruments are, on the one hand, to create a safer digital space where the fundamental rights of all users of digital services are protected, and on the other hand, to establish fair competitive conditions to stimulate innovation, growth, and competitiveness in the European internal market and beyond. At the same time, the DSA creates new comprehensive obligations for providers of online and intermediary services to reduce harm and counter risks, ensuring robust protection for online users' rights.

Cooperation and Monitoring in the Digital Decade

The Digital Decade vision establishes an annual cooperation cycle aimed at achieving common objectives. This mechanism involves both the Commission and member states and entails: a monitoring system based on the Digital Economy and Society Index (DESI), which allows for measuring progress towards each of the 2030 targets; an annual report where the Commission assesses progress and formulates recommendations for actions to be taken; a biannual adjustment of national strategic roadmaps for the digital decade, in which member states describe measures adopted or planned to reach the 2030 objectives; and a mechanism to support the implementation of multinational projects (European Digital Infrastructure Consortium)¹⁵.

The first annual report on the progress of the Digital Decade was adopted in September 2023,¹⁶ complementing the State of the Digital Decade report. It outlines the progress towards the Digital Decade objectives, the degree of implementation of digital rights, and the targets to be pursued for the successful management of the digital transition.

Thus, *the Digital Decade Report 2023 on the implementation of the Digital Decade objectives and the Digital Rights and Principles*¹⁷, noted that it's too early to draw firm conclusions about the progress in promoting and implementing the European Declaration on Digital Rights and Principles, signed in December 2022. Furthermore, the Eurobarometer survey conducted in early 2023 shows that only half (50%) of Europeans believe that digital rights are well protected in Europe, while four out of ten Europeans (41%) are unaware that rights applying offline should also be respected online. Awareness is very low in Bulgaria (34%), Romania

¹⁴<https://eur-lex.europa.eu/legal-content/RO/TXT/PDF/?uri=CELEX:32016R0679>.

¹⁵Europe's Digital Decade: digital targets for 2030.

¹⁶COMMISSION STAFF WORKING DOCUMENT (SWD) - Report - *Implementation of the Digital Decade objectives and the Digital Rights and Principles - Digital Decade report 2023*, Brussels, 27.9.2023, SWD (2023) 570 final - <https://digital-strategy.ec.europa.eu/en/library/implementation-digital-decade-objectives-and-digital-rights-and-principles-digital-decade-report>.

¹⁷Report on the state of the Digital Decade 2023-<https://digital-strategy.ec.europa.eu/en/library/2023-report-state-digital-decade>.

(39%), and Italy (40%). It was also found that there are notable differences between member states, as well as a variety of initiatives and a lack of specific and uniform mechanisms, which can lead to fragmentation in ensuring human rights online. In this regard, 86% of the European population considers cooperation between member states extremely important to ensure that digital technologies respect fundamental rights and European values.

According to the 2023 Eurobarometer survey, nearly one-third (32%) of Europeans find digital public services difficult to access, while 54% consider them easy, particularly in Luxembourg, Malta, Ireland, and Finland (over 70%). The Declaration states that the EU and its member states are committed to ensuring EU citizens have the ability to use an accessible, voluntary, secure, and trustworthy digital identity that allows access to a wide range of online services.

International Stakes and Perspectives in Digital Transformation

Digitalisation also holds an essential place at the UN level, with the High-level Panel on Digital Cooperation being established in 2018 at the initiative of the UN Secretary-General. In this regard, in June 2019, it published the report "The Age of Digital Interdependence," which includes a series of recommendations for improving digital cooperation¹⁸.

Keeping within the framework of digital reform, the United Nations General Assembly unanimously adopted, on March 21, 2024, *the first global Resolution on Artificial Intelligence*¹⁹, focused on protecting human rights, personal data, and monitoring artificial intelligence to detect inherent risks.²⁰ Moreover, as stated on 14 February 2024, by Volker Türk, the United Nations High Commissioner for Human Rights –

*the human rights framework provides the foundation we urgently need to innovate and harness the potential of AI...It can also help prevent and mitigate a multitude of risks and prevent generative AI from becoming a vector for widespread human rights violations, abuses, discrimination, and exclusion. If ethical considerations are important in this debate, we need human rights and their universal and binding framework to take an additional step towards concrete solutions and to avoid, in the worst case, criminal liability for human rights violations. OHCHR is working directly with some of the top companies producing generative AI, and our goal is to help them respect human rights as they develop their tools*²¹.

¹⁸For development, see Marcusohn (2023).

¹⁹ONU adoptă prima rezoluție globală privind inteligența artificială (UN Adopts First Global Resolution on Artificial Intelligence), March 22, 2024.

²⁰Thomas-Greenfield, L. United States Ambassador to the UN, stated: "Today, all 193 members of the UN General Assembly spoke with one voice, and together, chose to govern AI instead of letting it govern us" - <https://www.juridice.ro/730520/onu-adopta-prima-rezolutie-globala-privind-inteligena-artificiala.html>.

²¹<https://www.ohchr.org/fr/statements-and-speeches/2024/02/human-rights-must-be-core-generative-ai-technologies-says-turk>.

Additionally, at the United Nations Educational, Scientific and Cultural Organisation (UNESCO), a specialised UN agency, the outlined stakes are the preservation of freedom of expression and access to information on digital platforms²². Tawfik Jelassi, Assistant Director-General for Communication and Information at the United Nations Educational, Scientific and Cultural Organisation (UNESCO), highlighted that the main aspects of media, information, and digital literacy education stem from understanding the different functions of media platforms and digital technologies to correctly assess the credibility and quality of information sources. Furthermore, Irene Khan, Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, stated that

*if, in the world of platforms, individuals are mere users, in the real world, they are rights holders, and digital literacy empowers rights holders, strengthens their resilience to information manipulation, and, when combined with adequate internet access, allows people to assert their right to freedom of expression*²³.

Such stakes and benchmarks were also developed by the Deputy High Commissioner for Human Rights, Nada Al-Nashif, in the context of opening the discussion panel held by the Human Rights Council on "*The Importance of Acquiring Knowledge in the Fields of Digital Technology, Media, and Information.*" On this occasion, the right to freedom of opinion and the right to expression were promoted.²⁴

Consequently, digital literacy will need to become a mandatory element of all school curricula and adult learning programs. Digital, media, and information education is a collective responsibility that involves states in particular, but also digital service providers and society in general, as also indicated by the *UN Guiding Principles on Business and Human Rights*.

Additionally, from an international perspective, we also consider the "*Recommendation on the Ethics of Artificial Intelligence*"²⁵, adopted in November 2021 by the 193 UNESCO member states. This became the first global agreement on AI ethics, a foundational "set" of common, universal standards stemming from the phenomenon of globalisation. The core of the Recommendation lies in the idea that AI must be human-centered and serve the interest of humanity.

The Organisation for Economic Co-operation and Development (OECD) also announced the update of its AI principles during its May 2024 meeting at the OECD

²²UNESCO, *Les Principes pour la gouvernance des plateformes numériques*. <https://www.unesco.org/fr/internet-trust/guidelines>.

²³Le Conseil des droits de l'homme débat de l'importance de l'acquisition de connaissances dans les domaines du numérique, des médias et de l'information, 03 juillet 2023 - <https://www.ohchr.org/fr/news/2023/07/human-rights-council-hears-digital-media-and-information-literacy-programmes-should-be>.

²⁴Le Conseil des droits de l'homme débat de l'importance de l'acquisition de connaissances dans les domaines du numérique, des médias et de l'information, 03 juillet 2023 - <https://www.ohchr.org/fr/news/2023/07/human-rights-council-hears-digital-media-and-information-literacy-programmes-should-be>.

²⁵UNESCO, *Recommendation on the Ethics of Artificial Intelligence*, adopted on 23.11.2021, available at <https://www.cnr-unesco.ro/uploads/media/f1077recomandari-unesco-ai-site.pdf>; <https://www.cnr-unesco.ro/ro/activitate/recomandarea-unesco-privind-etica-inteligenței-artificiale>.

headquarters in Paris. This update addresses the challenges associated with AI regarding privacy, intellectual property rights, security, and information integrity. The revised principles prioritise respect for human rights in light of recent technological advancements, such as the emergence of generative AI, and are intended to serve as a model for global interoperability in AI policy. The key revision changes are security issues, combating disinformation and protecting information integrity in the context of generative AI, responsible business conduct throughout the AI system's lifecycle, environmental sustainability—a concern that has significantly increased in importance over the last five years²⁶.

Conclusions

The development of digital rights appears to be a fascinating "journey" that reflects our world's rapid transformation in the digital age. The evolving regulatory landscape relies on continuous adaptation, imbued with awareness and an understanding of digital changes and digital sovereignty. This sovereignty refers to our ability to act independently in the digital world. Digital sovereignty remains a fundamental objective for the EU, with the same vision found at an international level, especially given the EU's proven capacity to influence global dynamics. In any case, it is estimated²⁷ that the completion of the Digital Decade could bring an additional €2.8 trillion in GDP for the EU by 2030.

Romania, along with all other EU member states, has also declared its high-level commitment to the digital transformation of the state through the "*National Action Plan for the Digital Decade for Romania 2030*"²⁸. This strategic document outlines the essential coordinates of the Romanian digital ecosystem, aligning national trajectories with European values and targets. The four main lines of action are digital public services, digital skills, digital infrastructure, and the digital transformation of businesses, all of which underscore Romania's firm commitment to creating an inclusive, innovative, and competitive digital society.

It becomes extremely important for any country to embrace the "digital decade" to ensure the success of this transformation. Consequently, the EU Declaration on Digital Rights and Principles acts as a "beacon" on the path toward promoting rights and advancing measures that transpose fundamental rights into the digital sphere. These principles must also be adapted to legal regulations concerning children's rights, given the particularities and specific nature of children in relation to adults²⁹. We're talking about traditional rights that can activate the development of new rights found only in the virtual world. The Declaration offers novel elements for analyzing and reflecting on the interpretation of the existing corollary of rights and freedoms, which are made vulnerable by the progression of technology and artificial intelligence.

²⁶Marie-Claude Benoit, L'OCDE annonce une mise à jour de ses Principes sur l'IA, 06 mai 2024 - <https://www.actuia.com/actualite/locde-annonce-une-mise-a-jour-de-ses-principes-sur-lia/>.

²⁷Unlocking Europe's digital potential, 2022 - <https://awsdigitaldecade.publicfirst.co.uk/>.

²⁸Romanian Digitalisation Authority - National Action Plan for the Digital Decade for Romania - https://www.mcid.gov.ro/wp-content/uploads/2024/05/Plan-national-de-actiune-roadm-ap-pentru-publicare_corectat.pdf.

²⁹See in this regard Drăghici (2013) at 23.

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