Civil law and artificial intelligence

The basic goal of the research is to determine whether civil law is ready to confront a new phenomenon which is artificial intelligence (AI), to examine in which areas changes are necessary or needed and to define a framework for possible amendments to law in this area. The authors of the project are convinced that current civil law is not adapted to AI and requires urgent, very deep changes on many levels. Speaking of AI the authors also mean robots. Research is dictated by the need to adapt civil law to technological and social changes and by the perspective outlined by the Resolution of the European Parliament of 16 February 2017 containing recommendations to the Commission on civil law provisions concerning robotics (2015/2103 (INL)).The research will focus on the most important civil law institutions and constructions common to most of the laws that remain in the Roman civil law tradition, as well as common law. The question is not whether this or any other specific provision in a given legal order meets new challenges, but about examining whether civil law in the early 21st century will be able to 'absorb' this new phenomenon, or whether we are on the threshold of the necessary revolutionary change. Designing new legal solutions requires a choice of values and principles that will be the main guidelines. A number of such key principles and values have been formulated in the above-mentioned Resolution of the European Parliament. In the project authors' opinion, this may constitute a good starting point for examining the nodal civil law constructs in the context of artificial intelligence (robots), to determine whether changes are needed and in which direction they should go. That is why a comprehensive interpretation of the Resolution should be made, and it is necessary to investigate to what extent the values and principles or technical measures invoked by the European Parliament are uncontroversial and enforceable, and in which area reference can be made to the values and competitive principles. Then it is necessary to examine whether the progressive autonomation of AI can (must?) lead to giving some form of subjectivity to artificial intelligence, what significance declarations of will submitted by autonomous systems have. Is it sufficient to attribute the effects of AI to the person who uses it, or is or will such a "classic" approach be insufficient, what meaning has it in the context of such institutions as a messenger, representative, defects of declaration of will, good faith, etc. It is necessary to analyse currently functioning mechanisms of contractual and tortious liability through the prism of developing robotics. This applies to all the spheres of life with special regard to rapidly developing autonomous vehicles, the Internet of things, medical and care robots.

Due to the complexity of the research to be carried out, the methods to be used must be differentiated. In the first place, in relation to basic issues, it is necessary to use argumentative methods, including philosophical, axiological, metaethical and ethical methods. The methods of cognitive linguistics seem to be also particularly attractive in this context. In the further part it is necessary to study civil law from the point of view of the broadly understood legal economy in order to determine whether the existing solutions work and whether they will work on the assumption of an increasing share of artificial intelligence in legal transactions. This requires the use of the dogmatic (an analysis of provisions) method, comparative law and historical method. Perhaps, in order to evaluate the constructed ideas, principles or models, it will also appear necessary to reach out for methods of the economic school of law. On the other hand, sociological methods will not be applied due to the fact that the ideas, principles and models developed will have a basic character and excluding at this stage their practical operation.

The importance of the project is enormous. From a purely technical point of view, it can be considered as a direct undertaking of the task set out in the Resolution of the European Parliament. Regardless of the contents of the Resolution, undertaking research in this area seems to be an imperative issue in a global perspective. The development of artificial intelligence is proceeding at an incredible pace and in fact every day brings new, surprising information on the subject. Meanwhile, legal reflection on this level is small. Recently, there have been a number of studies relating to the law in the context of artificial intelligence, for example studies on the legal subjectivity of robots and artificial intelligence units, but firstly, they are largely very general in nature (theoretical-legal, ethical) and do not refer to strictly understood civil law (some limited publications on criminal law were issued), secondly, they are scattered and definitely insufficient. To date, no coherent or even comprehensive description of the issues that the authors of the project intend to deal with has been created. Few, in the global perspective, monographic studies of the 'law of robots' have been made based on common law and to a small extent they concern civil law issues. The planned research will prepare a base for the further development of civil law and, most likely, new law of robots. They will give new perspectives and new directions for the development and improvement of civil law and other areas of law, and consequently may lead to improvement of legal practice.