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The 2020 European Parliament Resolution on a
Civil Liability Regime for Artificial Intelligence

European Added Value Assessment

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What and How to Regulate Liability? Soft, hard or let it be?

instruments

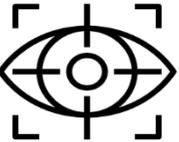


Industry self-regulation

Soft law
e.g. guidelines, policy declarations, roadmaps, code of conduct, ethical rules

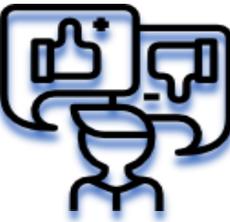
Legislation

perspectives



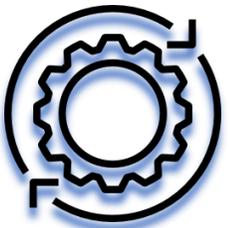

Industry Perspective

- status quo
- industry-self regulation
- Own code of conduct guidelines



EU citizens views

- Legislation



Ongoing EU actions and initiatives

- status quo (with some adjustments)
- Soft law? → emerging consensus that regulation is necessary



Three key messages from the citizens: regulation on the EU level

Positive attitudes/ ready to embrace changes

However

Technology must be managed carefully

Key areas where action is necessary

Data protection, values, liability

Autonomous vehicles, medical robots, care robots

**Robotics and AI
Should be regulated through public legislation
(very low support for self-regulation)**

And this regulation should be on the EU and/or insertional level

EU Actions – EU institutions put different emphasis in the robotics and AI debate → however emerging trend across all EU institutions that EU joint legislative action is necessary



European Parliament

- 2015: working group on legal questions related to the development of AI and robotics
- 2017: Resolution on Civil Law Rules on Robotics; outlines the EP's main framework and vision on the topic of robotics and AI
- 2017: Public consultation on the Future of Robotics and Artificial Intelligence
- 2018 – Autonomous driving (TRAN) + Comprehensive Industrial Policy on Robotics and AI (ITRE)
- 2020 – Report on a civil liability regime for AI
- 2020 – Report on Framework of ethical aspects of artificial intelligence



European Commission

- Horizon 2020 funding + R&D Funding + Networks
- 2018: EC Communication on AI
- 2018 – 2019: 2 working groups
 1. High-Level Expert Group on Artificial Intelligence
 2. Expert group on Liability and New Technologies
- AI Alliance
- 2019 Report from the Expert Group on Liability and New Technologies
- 2020 Report on the safety and liability implications of AI, IoT and robotics



European Council

Feb.2019 Council Conclusions

“calls for reviewing, where appropriate, the existing relevant legislation ... with a view to ensuring that it is fit for purpose to the new opportunities and challenges raised by AI including on issues such as safety, privacy and liability and decisions and actions taken without human Interaction”

21 October 2020 Council Conclusion on Fundamental Rights

Three key messages from the EU Institutions: action is forthcoming – ethics and liability are now on the forefront of EU policy debate

Increasing realization and commitment that action is necessary

However

Divergencies as what type of action is needed and when

Key areas where action is considered

Ethics, Data protection, data sharing, values, liability

**+ impact on labour market
+ autonomous weapons**

October 2020 adoption of INL resolutions in the EP

Q1 2021 policy actions to be expected from the EC

20 October 2020 EP Resolution on a framework of ethical aspects of AI, robotics and related technologies

European Parliament
2019-2024



Plenary sitting

A9-0178/2020

5.10.2020

REPORT

with recommendations to the Commission on a civil liability regime for artificial intelligence

(2020/2014(INL))

Committee on Legal Affairs

Rapporteur: Axel Voss

(Initiative – Rule 47 of the Rules of Procedure)

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PE650.556v02-00

EN

United in diversity

EN

Key issues covered:

- Definition of AI (very broad) + extraterritorial application
- Charter of FR and other FR apply to all AI technologies
- Specific **obligations for high-risk technologies** (Art.14) = use + sector + severity of the possible injury (amendable list)
 - Human oversight, human control; safety, transparency and accountability
 - Non-bias and non-discrimination
 - Social responsibility and gender equality
 - Environmental sustainability
 - Respect for privacy and protection of personal data
 - Right to redress
 - Risk assessment (ex-ante/ national authorities + EU coordination) + compliance assessment (ex-post)
 - European certificate of ethical compliance (voluntary for not high-risk AI)
- Institutional oversight
 - MS + EU
 - Supervisory authorities (designated by MS)
 - Coordinating body at the EU level (consistency of risk assessment, coordination of compliance and governance, centre of expertise)

20 October 2020 EP Resolution on Civil liability regime for artificial intelligence

European Parliament

2019-2024



TEXTS ADOPTED
Provisional edition

P9_TA-PROV(2020)0276

Civil liability regime for artificial intelligence

European Parliament resolution of 20 October 2020 with recommendations to the Commission on a civil liability regime for artificial intelligence (2020/2014(INL))

The European Parliament,

- having regard to Article 225 of the Treaty on the Functioning of the European Union,
- having regard to Articles 114 and 169 of the Treaty on the Functioning of the European Union,
- having regard to Council Directive 85/374/EEC of 25 July 1985 on the approximation of the laws, regulations and administrative provisions of the Member States concerning liability for defective products¹ ('Product Liability Directive'),
- having regard to Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market ('Unfair Commercial Practices Directive')² and Directive 2011/83/EC of the European Parliament and of the Council of 25 October 2011 on consumer rights³, as well as other consumer protection rules,
- having regard to Regulation (EU) 2017/745 of the European Parliament and the Council of 5 April 2017 on medical devices⁴,
- having regard to Council Regulation (EU) 2018/1488 of 28 September 2018 establishing the European High Performance Computing Joint Undertaking⁵,
- having regard to Directive (EU) 2019/770 of the European Parliament and of the Council of 20 May 2019 on certain aspects concerning contracts for the supply of digital content and digital services⁶,

¹ OJ L 210, 7.8.1985, p. 29.

² OJ L 149, 11.6.2005, p. 22.

³ OJ L 304 22.11.2011, p. 64.

⁴ OJ L 117 5.5.2017, p. 1.

⁵ OJ L 252, 8.10.2018, p. 1.

⁶ OJ L 136, 22.5.2019, p. 1.

Key issues covered:

- Definition of AI systems
- Scope of application 'operators of AI-systems' + extraterritorial application
- **Strict liability for high-risk AI-systems (Art.4)**
 - An operator is strictly liable
 - Amount of compensation (EUR 2ml in the even of death; EUR 1ml for immaterial harm)
 - Extent of compensation (determination)
 - Limitation period (30 years from the date on which the harm occurred)
 - Immaterial harm/ economic loss: 10 years (property damage)/ 30 years (harm)
- **Other AI-systems – fault based liability (Art. 8)**
- **Appointment of liability**
 - Contributory negligence
 - Join and several liability
 - Recourse for compensation

EU added value

Conclusions

EU needs to take action in the area of Robotics and AI not to lose in the global Competitiveness race vis-à-vis other regions and protect its values and standards

This challenge is too big to tackle individually by MS, therefore coordinated action on the EU level has a significant economic potential. This potential will be lost if no action is taken on the EU level.

Cost of non Europe may be measured as a combination of economic (loss in productivity gain, consumer demand) but also (importantly!) in non-economic terms

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Thank you!



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