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European Observatory
for Non-Discrimination
and Fundamental Rights



CONSULTATION ON THE
WHITE PAPER ON ARTIFICIAL
INTELLIGENCE

GENESIS OF A RIGHT TO PSYCHOLOGICAL INTEGRITY AND CONTINUITY

IN THE NAME OF RESPECT
FOR HUMAN DIGNITY,
AS A EUROPEAN FUNDAMENTAL RIGHT.

CONTRIBUTION

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CONSULTATION ON THE WHITE PAPER ON ARTIFICIAL INTELLIGENCE

CALL FOR A EUROPEAN CHARTER OF ETHICS OF ARTIFICIAL INTELLIGENCE AND FOR AN ADDITIONAL FUNDAMENTAL RIGHT:

RIGHT TO PSYCHOLOGICAL INTEGRITY AND CONTINUITY

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RECOMMENDATION 1: IMPLEMENT A "PRE-DESIGN" ETHICAL CHARTER

Artificial Intelligence has entered a new era, which gives rise to as many hopes as fears.

For example, the prospects for automatic learning, improved healthcare, travel in "autonomous vehicles", or increased security are all promises envisaged with Artificial Intelligence.

In order to try to think about the framework of cooperation between human beings and Artificial Intelligence (hereafter "AI") systems, the European Commission has set itself the ambitious and realistic objective of promoting the use of AI (notably through investment) while setting a regulatory framework to mitigate the related risks.

It has thus established guidelines for trustworthy AI developed on the basis of the consultation of the High-Level Expert Group on AI.

COM (2019) 168 specifies:

"The guidelines assume that, to achieve 'trustworthy AI', three elements are necessary:

1) it should respect the law;

2) it should respect ethical principles;

and 3) it should be robust and safety. "

This "guidelines" approach is a preliminary approach that we still feel is insufficient, even if the seven requirements that result from it are relevant, given the complexity of the issues and the risk of serious abuses of Fundamental Rights.

The complexity of Artificial Intelligence and the risks it represents requires the development of a well-defined ethical framework.

This is why it seems more appropriate to us to draft a true "Ethical Charter of Artificial Intelligence".

This Ethical Charter will aim to determine an ethical framework to be respected from the design of research programs.

It will bring together basic "non-negotiable" principles.

The principles laid down in the Artificial Intelligence Ethical Charter are as follows:

Principle 1: "Artificial Intelligence should not harm human beings or their dignity. "

Principle 2: "Artificial Intelligence must be at the service of each individual. Under no circumstances can it supplant it. "

Principle 3: "Artificial Intelligence must respect the Fundamental Rights of every person. "

Principle 4: "Artificial Intelligence shall respect privacy and personal data. "

Principle 5: "Artificial Intelligence must be loyal and respect the notion of individual and common well-being".

Principle 6: "Artificial Intelligence shall promote inclusion and Non-discrimination".

Principle 7: "Artificial Intelligence must remain under the control of the human being".

From a global point of view, the Ethical Charter of Artificial Intelligence will be able to state the seven requirements retained by the group of Experts of the European Commission, namely:

Human Factor and Human Control

Technical robustness and safety

Privacy and data governance

Transparency

Diversity, non-discrimination and equity

Societal and environmental well-being

Accountability

The Ethical Charter must guarantee the systematic implementation of human means of appeal for all decisions taken by Artificial Intelligence with crucial consequences for individuals: judicial decision, granting of credit, obtaining social benefits ...

The principles set forth in the Artificial Intelligence Ethical Charter will constitute an inescapable, non-negotiable basis common to all future technological innovations.

RECOMMENDATION 2: DEVELOP TRAINING AND EDUCATION AND PUT IN PLACE CONTROLS.

The Artificial Intelligence Ethical Charter and the Regulation are legal levers and are not the only levers to guarantee an ethics of European Artificial Intelligence.

Leverage for training and education is also essential.

All the links in the algorithmic chain must be trained and educated in ethics: designers, professionals, researchers and citizens.

This training can be done through education, starting at a younger age, for example from the age of 16, at the Lycée.

A control lever is also essential.

At the national level, there is a need to establish independent and impartial audit platforms, especially for "high-risk" applications.

The question of the appointment of the Chairmen of these independent audit platforms will have to be thought through and debated before avoiding the risks of conflicts of interest and even corruption.

- Associations and NGOs have an important role to play.

Associations and NGOs must be integrated into the process of developing these levers, in a participatory manner, because they always have essential information: information from the field, and therefore the keys to determining which systems work and which do not.

RECOMMENDATION 3: ADD THE RIGHT TO INTEGRITY AND PSYCHOLOGICAL CONTINUITY TO THE CHARTER OF FUNDAMENTAL RIGHTS OF THE EUROPEAN UNION.

Artificial Intelligence will lead to profound changes, not only in the way we live, behave, and react to complex situations.

There is a risk that humans may delegate activities that are "risky" to machines.

However, the human being is defined in particular by 3 components which seem essential to us:

by the way he perceives the world (through his senses, his intelligence, his conscience, his analysis, his discernment etc.) ,

by the way he acts in the world (work, occupations, passions, hobbies etc...)

by the way in which he can give himself in the world (solidarity, fraternity, gratuity, networks of help, etc.).

The immediate consequences of this transfer of "responsibility" to machines will be the loss of a part of humanity proper to the human being.

This lost part of humanity can contribute to individual and collective stress phenomena, in the face of complex situations and even risks of social riots, due to the loss of meaning and personal freedom.

The use of Artificial Intelligence will also lead to favouring "standards" of thought, "standards of action", at the risk of going beyond the framework of algorithms.

Indeed, to function these technologies use repetition, recognition, statistics, standardization.

Creativity, originality, difference of views and difference of opinions, intuitive approach, search for meaning, self-fulfilment, self-actualization, aspiration to happiness are not part of the framework of these technologies.

Artificial Intelligence can lead to questioning the uniqueness of each human person in his physical, intellectual and psychological characteristics. This concept is different from that of non-discrimination.

Anticipating the risks of "dehumanisation" of the human being linked to the use of Artificial Intelligence, we are in favour of reinforcing the protection of our Humanity.

To this end, it seems to us necessary to add to Article 3 of the Charter of Fundamental Rights of the European Union the right to "psychological integrity".

Article 3 of the European Charter of Fundamental Rights already guarantees the right to "physical integrity" as well as the right to "mental" integrity.

If the state of psychological integrity recognizes our right to be free of trauma to the psyche (e.g. Post Traumatic Syndrome Disorder - PTSD), the right to psychological integrity refers more subtly to a state of recognition of the uniqueness of each person in his or her way of thinking and interacting with his or her environment.

This legal concept of "right to psychological integrity and continuity" seems to us fundamental and even an underlying foundation for ensuring individual and collective societal well-being mentioned by the European Commission's Expert Group.

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