

**CDDH comments on the Parliamentary Assembly Recommendation 2102(2017)
“Technological convergence, artificial intelligence and human rights”**

CDDH: 87th meeting – 6/9 June 2017 CDDH(2017)R87

1. The Steering Committee for Human Rights (CDDH) takes note with interest of the Recommendation 2102(2017) of the Parliamentary Assembly - “Technological convergence, artificial intelligence and human rights”, considering that this text addresses an area with important and growing challenges in the field of human rights, particularly as regards bioethics.

2. In this context, it endorses the comments sent by the Committee on Bioethics (DH-BIO)¹ and notes that a conference will take place in October 2017, on the occasion of the 20th anniversary of the Convention on Human Rights and Biomedicine. The CDDH has no doubt that this event will provide an opportunity to debate of the difficulties faced by the legislator, underlined by the Parliamentary Assembly, in view of providing a satisfactory response, in terms of human rights, to the progress of science and technologies.

3. The CDDH takes also note of the invitations addressed by the Parliamentary Assembly to the Committee of Ministers to, on the one hand, modernise the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data and, on the other hand, to define the framework for the use of care robots and assistive technologies in the Council of Europe Disability Strategy 2017-2023, of which one of the objectives is to ensure equality, dignity and equal opportunities for people with disabilities. Should the Committee of Ministers give favourable consideration to these invitations, the CDDH is willing to contribute to these works from the perspective of human rights that is its own.

4. Finally, the CDDH notes the proposals of the Assembly aimed at drawing up guidelines in a wide variety of areas, including private and family life, profiling, location tracking or the assistance provided to elderly people and people with disabilities. With regard to the latter, it recalls that it will need to address in 2018 the Recommendation CM(2014)2 on the promotion of human rights of older persons adopted by the Committee of Ministers on 19 February 2014. In this context, the CDDH could take into consideration the concerns expressed by the Assembly.

¹ DH-BIO(2017)13 restricted – Draft comments prepared by the Secretariat in the light of the remarks received from delegations and taking into account current works of the DH-BIO.

Recommendation 2102(2017)

Technological convergence, artificial intelligence and human rights

Parliamentary Assembly

1. The convergence between nanotechnology, biotechnology, information technology and cognitive sciences and the speed at which the applications of new technologies are put on the market have consequences not only for human rights and the way they can be exercised, but also for the fundamental concept of what characterises a human being.
2. The pervasiveness of new technologies and their applications is blurring the boundaries between human and machine, between online and offline activities, between the physical and the virtual world, between the natural and the artificial, and between reality and virtuality. Humankind is increasing its abilities by boosting them with the help of machines, robots and software. Today it is possible to create functional brain–computer interfaces. A shift has been made from the “treated” human being to the “repaired” human being, and what is now looming on the horizon is the “augmented” human being.
3. The Parliamentary Assembly notes with concern that it is increasingly difficult for lawmakers to adapt to the speed at which science and technologies evolve and to draw up the required regulations and standards; it strongly believes that safeguarding human dignity in the 21st century implies developing new forms of governance, new forms of open, informed and adversarial public debate, new legislative mechanisms and above all the establishment of international co-operation making it possible to address these new challenges most effectively.
4. The Assembly recalls the principle enshrined in Article 2 of the Convention for the Protection of Human Rights and Dignity of the Human Being with regard to the Application of Biology and Medicine: Convention on Human Rights and Biomedicine (ETS No. 164, “Oviedo Convention”) which affirms the primacy of the human being by stating that “[t]he interests and welfare of the human being shall prevail over the sole interest of society or science”.
5. In this regard, the Assembly welcomes the initiative of the Council of Europe Committee on Bioethics to organise, in October 2017 on the occasion of the 20th anniversary of the Council of Europe Convention on Human Rights and Biomedicine, an international conference to discuss the prospect of the emergence of these new technologies and their consequences for human rights, with a view to drawing up a strategic action plan during the next biennium 2018-19.
6. In addition, the Assembly considers that it is necessary to implement genuine world internet governance that is not dependent on private interest groups or just a handful of States.
7. The Assembly calls on the Committee of Ministers to:
 - 7.1. finalise without further delay the modernisation of the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (ETS No. 108) in order to have new provisions making it possible to put rapidly in place more appropriate protection;
 - 7.2. define the framework for the use of care robots and assistive technologies in the Council of Europe Disability Strategy 2017-2023 in the framework of its objective to achieve equality, dignity and equal opportunities for people with disabilities.

8. In the light of the above, the Assembly urges the Committee of Ministers to instruct the relevant bodies of the Council of Europe to consider how intelligent artefacts and/or connected devices and, more generally, technological convergence and its social and ethical consequences related to the field of genetics and genomics, neurosciences and big data, challenge the different dimensions of human rights.

9. Moreover, the Assembly proposes that guidelines be drawn up on the following issues:

9.1. strengthening transparency, regulation by public authorities and operators' accountability concerning:

9.1.1. the fact that responsibility and accountability of an act lie with the human being, no matter what the circumstances may be. References to independent decision making by artificial intelligence systems cannot exempt the creators, owners and managers of these systems from accountability for human rights violations committed with the use of these systems, even in cases where an act causing damage was not directly ordered by a responsible human commander or operator;

9.1.2. automatic processing operations aimed at collecting, handling and using personal data;

9.1.3. informing the public about the value of the data they generate, consent to the use of those data and the length of time they are to be stored;

9.1.4. informing people about the processing of personal data originating from them and about the mathematical and statistical methods making profiling possible;

9.1.5. the design and use of persuasion software and of information and communication technology (ICT) or artificial intelligence algorithms, that must fully respect the dignity and human rights of all users, especially the most vulnerable, such as elderly people and people with disabilities;

9.2. a common framework of standards to be complied with when a court uses artificial intelligence;

9.3. the need for any machine, any robot or any artificial intelligence artefact to remain under human control; insofar as the machine in question is intelligent solely through its software, any power it is given must be able to be withdrawn from it;

9.4. the recognition of new rights in terms of respect for private and family life, the ability to refuse to be subjected to profiling, to have one's location tracked, to be manipulated or influenced by a "coach" and the right to have the opportunity, in the context of care and assistance provided to elderly people and people with disabilities, to choose to have contact with a human being rather than a robot.

10. The Assembly reiterates its call made in [Resolution 2051 \(2015\)](#) "Drones and targeted killings: the need to uphold human rights and international law" to all member States and observer States, as well as States whose parliaments have observer status with the Assembly, to refrain from any automated (robotic) procedures for selecting individuals for targeted killings or any sort of injury based on communication patterns or other data collected through mass surveillance techniques. This should be true not only for drones but also for other combat equipment with artificial intelligence systems, as well as other equipment and/or software which

might potentially inflict damage on people, property, personal data or information databases, or interfere with privacy, freedom of expression, or the right to equality and non-discrimination.

11. The Assembly calls for close co-operation with the institutions of the European Union and the United Nations Educational, Scientific and Cultural Organization (UNESCO) to ensure a consistent legal framework and effective supervisory mechanisms at international level.