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by

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Compulsory Robot Liability Insurance: The Way Forward?

The European Parliament adopted a resolution earlier this year on 16 February 2017 which included recommendations to the Commission on Civil Law Rules on Robotics ((2015/2103(INL), hereinafter referred to as “the Resolution”). The Resolution was a slightly amended version of the report prepared by the Committee of Legal Affairs Rapporteur Mady Delvaux which had been made public on 31 May 2016 (hereinafter referred to as “the Report”). Both the Resolution and the Report recommended the Commission to consider a system whereby all potential liabilities resulting from the acts of autonomous robotics (with the capacity to be trained and make decisions independently) could be insured under a compulsory robot liability insurance scheme akin to motor vehicle insurance. This would be supplemented by a fund answerable for third party claims in order to ensure that firstly reparation can be made for damage in cases where no insurance cover exists, as well as in circumstances where it does. The recommendations further point out that insured manufacturers, owners, programmers and users of robots will benefit from limited liability should they jointly take out compulsory insurance or contribute to the compensation fund, and that the robot’s link with its compensation fund will be made visible through a register for all those who would interact with the robot.

This paper has the objective to assess the workability of the suggestion of the European Parliament to establish a compulsory insurance scheme by focusing on the

advantages and drawbacks of the compulsory insurance notion as a tool which, on the one hand, protects the potential injurer and the victim and minimises the risk of insolvency of the injurer which could otherwise throw the costs of accidents on society, yet on the other hand, also increases moral hazard. The paper will in this respect interrogate whether the analogy drawn between compulsory motor vehicle insurance and robot liability insurance is plausible or whether a system based on the duty to seek financial security (as in environmental liability schemes) as opposed to imposing compulsory liability insurance would be a more adequate alternative.

Moreover, as per the Report and the Resolution, it is not yet identified whether the compulsory insurance will operate merely with respect to the fully autonomous robotics which are registered in the robot registry, and who shall bear the liability of losses caused by the acts of unregistered (yet fully autonomous) robots which this paper aims to tackle. Lastly, the proposed compulsory insurance scheme would tend to increase the risk of moral hazard on the part of the insured manufacturers, owners, programmers and users of autonomous robots and this paper intends to cover what devices can be employed by the insurance industry so as to control the behaviour of insureds in case the compulsory insurance scheme is adopted in the European Union.