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Legal Aspects of (General) AI

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The Electronic Person as Legal Consequence of the Development of General AI in the Future

The current discussion regarding AI refers foremost to „weak“ AI-scenarios, such as matter matching or OCR technology. However, provided that the development of AI continues with the current speed, the creation of a general AI, i.e. the replication of a human brain and its functions in the future might be a possible scenario. In this legal study, the respective technological development of a general AI is presumed, the author does not make any statements about technological details. In addition, no statements are made regarding the question of timelines or ethical standards.

However, experience shows that every technological innovation will be constructed if technologically possible –the construction of combat robots and intelligence suicide combat drones may be a clear hint.

The distinction between „weak“ and „general“ AI is crucial for the question of liability for damages regarding acts of „intelligent“ machines. As „weak“ AI has no choice of decision, the construction or software engineers are liable for any damages such „weak“ AI machines might cause according to torts law provisions, such as Sect. 823 German Civil Code or product liability laws.

The liability of general AI for damages is different, as general AI machines are able to make autonomous decisions, creating a responsibility for damages for AI Machines on their own. As a consequence, a general AI machine might be liable itself, a situation which is currently not covered by any legal provision.

In Civil Law, only legal entities have rights and liabilities. In German Civil Law such legal persons are human beings („natural persons“) and legal entities like corporations, cooperatives or legal associations („legal persons“). Regarding the perspective of the development of AI machines in the future, the European Parliament (EP) defined in the course of a resolution in 201, the model of an „electronic person“ with specified rights and obligations, being a requirement for „most sophisticated autonomous robots“.

The EP’s resolution of creating an „electronic person“ was widely criticised by researchers and business. Although the EP clarified its resolution in 2020 and stated that current AI systems do not require a specific legal personality, this limitation does not refer to future technical innovation of AI.

Therefore, the question remains which preconditions are required for any „general“ AI so that an „electronic person“ is needed. Such AI Machine has to exceed a certain „threshold“ of cognitive and emotional skills. The focus of current research work lies in the definition of such specific skills. As soon as the AI robot’s skills exceed this so called „Fischer/Reeck threshold“, the legal gap regarding the question of liability for damages becomes imminent. Regarding these scenarios, the construct of the „electronic person“ should apply and fill this legal gap. Provided that the legal construct of an „electronic person“ might be generally accepted for „general“ AI machines beyond the Fischer/Reeck threshold, subsequent legal issues might emerge like property law, succession law of criminal law questions.

<h1>Bio</h1>

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