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Controversies on Legal Status of Robots in Europe and Responsibility Ascription Problems

In some contexts, machines will become more and more „autonomous“ in the years to come. These machines will facilitate everyday life, extend the time span of living at home for the elderly, and might even replace social contacts and fulfil emotional needs. It is possible that, for some tasks, the decision of a machine might even be quicker, more rational, more informed than a human decision. This development raises questions about responsibility:

If machines become autonomous and are able to learn or can be trained, the responsibility ascription for damages will differ from traditional product liability, because it seems unjustifiable to make the programmer / producer liable for the learning experience of the machine and the training by the user. Possible legal solutions for this problem are:

- One of the human parties is regarded as generally liable, e.g. the user.
- Only the human party is liable who, provably, made a mistake.
- All human parties “behind” the robot can be transformed to a new legal entity.
- One could even, e.g. for social useful robots, transfer part of the damages onto society itself.

Still, it has to be discussed if the category “product” actually fits in the case of robots and if every decision by a robot leading to damages can be qualified as mistake. Furthermore, it has to be noted that responsibility in the context of robotics includes not just damages, but also other potential risks and unwanted side effects onto society as such (“dehumanisation”). Another aspect concerning responsibility is, though, that in the case of autonomous machines, the diffusion of responsibility is not just a side-effect, but fully intended. The overtaking of decision-making is actually the reason for building these machines.

These developments have already led to debates about the legal status of machines. Regarding the current legal situation, one differentiates between Software-Agents (which are already concluding contracts) and embodied robots. Possible legal categories are: tool, messenger, agent. One also discusses to treat statements by Software-Agents as so called “blank-statements”. But the debate does not end there, sometimes it is also claimed to create a new legal status for machines (electronic personhood), similar to the one of corporations.

But discussing responsibility and potential legal status in the context of robotics means more than asking the question “Who is liable if something goes wrong” and to introduce new legal

persons categories. It means to discuss publicly the consequences of intentionally handing over decision making onto machines. It means to legally react on changing fundamental concepts (e.g. autonomy, personhood) and consciously create the space for these changes.