Parliamentary Assembly
Assemblée parlementaire
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COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

Doc. 15463
02 March 2022

The brain-computer interface: new rights or new threats to fundamental freedoms?

Reply to Recommendation[1]: Recommendation 2184 (2020)
Committee of Ministers

1. The Committee of Ministers has carefully considered Parliamentary Assembly Recommendation 2184 (2020) "The brain-computer interface: new rights or new threats to fundamental freedoms?", which it has forwarded to the Committee on Bioethics (DH-BIO), the Ad hoc Committee on Artificial Intelligence (CAHAI) and the European Committee of Social Rights (ECSR) for information and possible comments.

2. The Committee fully agrees on the importance of the issues highlighted by the Assembly in its Resolution 2344 (2020) in relation to the developments in neurotechnologies and the concerns these raise on a wide range of issues including integrity, dignity, privacy, autonomy, justice and discrimination.

3. As concerns paragraph 2.1 of the recommendation, the Committee informs the Assembly that the DH-BIO published a report on "Common human rights challenges raised by different application of neurotechnologies in the biomedical field" in October 2021. This was followed, on 9 November 2021, by a round table co-organised by the Council of Europe and the OECD on "Neurotechnologies and Human Rights Framework: Do We Need New Rights?" The conclusions of this event will be further examined and developed in 2022 by the newly established Steering Committee for Human Rights in the Fields of Biomedicine and Health (CDBIO), in co-operation with the Consultative Committee of the Convention for the Protection of Individuals with regard to automatic processing of Personal Data (T-PD), UNESCO and the OECD, with a view to identifying possible avenues for action.

4. Regarding paragraph 2.2 of the Assembly's recommendation, it is recalled that, at its 131st Ministerial Session in Hamburg on 21 May 2021, the Committee of Ministers took note of the feasibility study adopted by the CAHAI on a legal framework for the development, design and application of artificial intelligence, based on Council of Europe standards on human rights, democracy and the rule of law. The Committee of Ministers decided to give priority to this work and invited its Deputies, while examining the full range of possible options, to focus particularly on a possible legal framework which can be composed of a binding legal instrument of a transversal character, including notably general common principles, as well as additional binding or non-binding instruments to address challenges relating to the application of artificial intelligence in specific sectors, with a view to having negotiations on the transversal instrument started by the 132nd Ministerial Session in May 2022. The work on the above-mentioned appropriate legal instrument will now be taken forward by the new Committee on Artificial Intelligence (CAI).

5. The Committee of Ministers will bear in mind the Assembly's recommendation to take into account the potentially unique and unprecedented impact on human rights of the use of artificial intelligence in connection with brain-computer interface systems in future work in this field.

1. Adopted at the 1426th meeting of the Ministers' Deputies (23 February 2022).