



**2020/2014(INL)**

27.5.2020

# **AMENDMENTS**

## **1 - 88**

**Draft opinion**  
**Svenja Hahn**  
(PE648.381v01-00)

Civil liability regime for artificial intelligence  
(2020/2014(INL))



## Amendment 1

Pascal Arimont, Marion Walsmann, Maria da Graça Carvalho, Edina Tóth, Arba Kokalari, Andreas Schwab, Axel Voss, Deirdre Clune, Kris Peeters

### Draft opinion

#### Recital A

##### *Draft opinion*

A. whereas Artificial Intelligence (AI) **plays** an increasing role in our everyday lives and **has** the potential to contribute to the development of innovations in many sectors and offer benefits for consumers through innovative products and services and, for businesses, through optimised performance;

##### *Amendment*

A. whereas ***emerging digital technologies, such as*** Artificial Intelligence (AI), ***the Internet of Things and of Services (IoT/IoS) or robotics, play and will continue to play*** an increasing role in our everyday lives and ***have*** the potential to contribute to the development of innovations in many sectors and offer benefits for consumers through innovative products and services and, for businesses, through optimised performance;

Or. en

## Amendment 2

Maria-Manuel Leitão-Marques, Adriana Maldonado López, Clara Aguilera, Christel Schaldemose, Alex Agius Saliba, Marc Angel

### Draft opinion

#### Recital A

##### *Draft opinion*

A. whereas Artificial Intelligence (AI) plays an increasing role in our everyday lives and has the potential to contribute to the development of innovations in many sectors and offer benefits for consumers through innovative products and services ***and***, for businesses, through optimised performance;

##### *Amendment*

A. whereas Artificial Intelligence (AI) plays an increasing role in our everyday lives and has the potential to contribute to the development of innovations in many sectors and offer benefits for consumers through innovative products and services, for businesses, through optimised performance, ***and for public administration, namely through improved, more inclusive and customised public services***;

Or. en

### Amendment 3

Adriana Maldonado López, Evelyne Gebhardt, Alex Agius Saliba, Clara Aguilera, Maria-Manuel Leitão-Marques, Sylvie Guillaume, Andreas Schieder, Maria Grapini, Marc Angel, Christel Schaldemose, Sándor Rónai

#### Draft opinion

##### Recital A

###### *Draft opinion*

A. whereas Artificial Intelligence (AI) plays an increasing role in our everyday lives and has the potential to contribute to the development of innovations in many sectors and offer benefits for consumers through innovative products and services and, for businesses, through optimised performance;

###### *Amendment*

A. whereas ***the use of*** Artificial Intelligence (AI) plays an increasing role in our everyday lives and has the potential to contribute to the ***deployment and*** development of innovations in many sectors and offer benefits for consumers through innovative products and services and, for businesses, ***in particular micro, small and medium enterprises (SMEs)*** through optimised performance;

Or. en

### Amendment 4

Geert Bourgeois

#### Draft opinion

##### Recital A

###### *Draft opinion*

A. whereas Artificial Intelligence (AI) plays an increasing role in our everyday lives and has the potential to contribute to the development of innovations in many sectors and offer benefits for consumers through innovative products and services and, for businesses, through optimised performance;

###### *Amendment*

A. whereas Artificial Intelligence (AI) plays an increasing role in our everyday lives and has the potential to contribute to the development of innovations in many sectors and offer benefits for consumers through innovative products and services and, for businesses, through optimised performance ***and increased competitiveness***;

Or. en

### Amendment 5

Pascal Arimont, Marion Walsmann, Maria da Graça Carvalho, Edina Tóth, Arba

**Kokalari, Andreas Schwab, Axel Voss, Deirdre Clune, Kris Peeters**

**Draft opinion**  
**Recital A a (new)**

*Draft opinion*

*Amendment*

*Aa. whereas these emerging digital technologies are transforming the characteristics of many products and services, requiring in turn a clear safety and liability framework, ensuring both consumer protection and legal certainty for businesses;*

Or. en

**Amendment 6**

**Adriana Maldonado López, Evelyne Gebhardt, Alex Agius Saliba, Clara Aguilera, Maria-Manuel Leitão-Marques, Sylvie Guillaume, Andreas Schieder, Maria Grapini, Marc Angel, Christel Schaldemose, Sándor Rónai**

**Draft opinion**  
**Recital A a (new)**

*Draft opinion*

*Amendment*

*Aa. whereas for the framework to be appropriate, it must cover all AI-based products and their components, including algorithms, software, and data used or produced by them;*

Or. en

**Amendment 7**

**Adriana Maldonado López, Evelyne Gebhardt, Alex Agius Saliba, Clara Aguilera, Maria-Manuel Leitão-Marques, Sylvie Guillaume, Andreas Schieder, Maria Grapini, Marc Angel, Christel Schaldemose, Sándor Rónai**

**Draft opinion**  
**Recital A b (new)**

*Draft opinion*

*Amendment*

***Ab. whereas a common framework for the development, deployment and use of artificial intelligence, robotics and related technologies within the Union should both protect consumers from their potential risks and promote the trustworthiness of such technologies;***

Or. en

**Amendment 8**

**Pascal Arimont, Marion Walsmann, Maria da Graça Carvalho, Edina Tóth, Arba Kokalari, Andreas Schwab, Axel Voss, Deirdre Clune, Kris Peeters**

**Draft opinion**

**Recital A b (new)**

*Draft opinion*

*Amendment*

***Ab. whereas the Union's existing safety and liability framework might need to be adapted, as highlighted by the Commission's Report on the safety and liability implications for Artificial Intelligence, the Internet of Things and robotics;***

Or. en

**Amendment 9**

**Pascal Arimont, Marion Walsmann, Maria da Graça Carvalho, Edina Tóth, Arba Kokalari, Andreas Schwab, Axel Voss, Deirdre Clune, Kris Peeters**

**Draft opinion**

**Recital A c (new)**

*Draft opinion*

*Amendment*

***Ac. whereas product safety and product liability are two complementary mechanisms pursuing the same policy goal of a functioning single market for***

*goods and services, and this Opinion suggests possible adjustments to the Union liability frameworks in light of the increased importance of emerging digital technologies;*

Or. en

**Amendment 10**  
**Geert Bourgeois**

**Draft opinion**  
**Recital B**

*Draft opinion*

B. whereas the use and development of AI applications in products might also present challenges to the existing legal framework on products *and reduce their effectiveness*, thus potentially undermining consumer trust and welfare due to their specific characteristics;

*Amendment*

B. whereas the use and development of AI applications in products might also present challenges to the existing legal framework on products *which is not necessarily adapted to these new applications*, thus potentially undermining consumer trust and welfare due to their specific characteristics; *believes, however, that this should not lead to reactionary regulation but on the contrary calls for a policy based on reflection and enhancing trust;*

Or. en

**Amendment 11**  
**Pascal Arimont, Maria da Graça Carvalho, Edina Tóth, Arba Kokalari, Andreas Schwab, Axel Voss, Deirdre Clune, Kris Peeters**

**Draft opinion**  
**Recital B**

*Draft opinion*

B. whereas the use and development of *AI applications in products* might *also* present challenges to the existing *legal framework* on products and reduce their effectiveness, thus potentially undermining

*Amendment*

B. whereas the use and development of *artificial intelligence and other emerging digital technologies* might present challenges to the existing *liability frameworks* on products and reduce their

consumer trust and welfare due to their specific characteristics;

effectiveness, thus potentially undermining consumer trust and welfare due to their specific characteristics;

Or. en

## Amendment 12

**Maria Grapini, Adriana Maldonado López, Sylvie Guillaume**

### Draft opinion

#### Recital B

##### *Draft opinion*

B. whereas the use and development of AI applications in products might also present challenges to the existing legal framework on products and reduce their effectiveness, thus potentially undermining consumer trust **and** welfare due to their specific characteristics;

##### *Amendment*

B. whereas the use and development of AI applications in products might also present challenges to the existing legal framework on products and reduce their effectiveness, thus potentially undermining consumer trust, welfare **and protection** due to their specific characteristics;

Or. en

## Amendment 13

**Adriana Maldonado López, Evelyne Gebhardt, Alex Agius Saliba, Clara Aguilera, Maria-Manuel Leitão-Marques, Sylvie Guillaume, Andreas Schieder, Marc Angel, Christel Schaldemose, Sándor Rónai**

### Draft opinion

#### Recital B

##### *Draft opinion*

B. whereas the use and development of AI applications in products might also present challenges to the existing legal framework on products and reduce **their effectiveness**, thus potentially undermining consumer trust and welfare **due to their specific characteristics**;

##### *Amendment*

B. whereas the use, **deployment** and development of AI applications in products might also present challenges to the existing legal framework on products and reduce **the protection of consumers**, thus potentially undermining consumer trust and welfare;

Or. en

**Amendment 14**  
**Jordi Cañas**

**Draft opinion**  
**Recital B a (new)**

*Draft opinion*

*Amendment*

**Ba.** *whereas the vulnerability to cybersecurity threats, software updates, limited predictability and self-learning operations of AI may hamper compensations for claims in cases where this seems justified;*

Or. en

**Amendment 15**  
**Pascal Arimont, Marion Walsmann, Maria da Graça Carvalho, Edina Tóth, Arba Kokalari, Andreas Schwab, Axel Voss, Deirdre Clune, Kris Peeters**

**Draft opinion**  
**Recital C**

*Draft opinion*

*Amendment*

C. *whereas robust liability mechanisms remedying damage contribute to better protection of consumers, creation of trust in **new** technologies **integrated in products and acceptance for innovation** while ensuring legal certainty for **business**;*

C. *whereas robust liability mechanisms remedying damage contribute to better protection of **citizens and** consumers **from harm**, creation of trust in **emerging digital** technologies while ensuring legal certainty for **businesses and enabling them to innovate**;*

Or. en

**Amendment 16**  
**Adriana Maldonado López, Evelyne Gebhardt, Alex Agius Saliba, Clara Aguilera, Maria-Manuel Leitão-Marques, Sylvie Guillaume, Andreas Schieder, Maria Grapini, Marc Angel, Christel Schaldemose, Sándor Rónai**

**Draft opinion**  
**Recital C**

*Draft opinion*

C. whereas robust liability mechanisms remedying damage contribute to better protection of consumers, creation of trust in new technologies integrated in products and acceptance for innovation while ensuring legal certainty for business;

*Amendment*

C. whereas robust liability mechanisms remedying damage contribute to better protection of consumers, creation of trust in new technologies integrated in products and acceptance for innovation while ensuring legal certainty for business, ***in particular micro, small and medium enterprises;***

Or. en

**Amendment 17**  
**Geert Bourgeois**

**Draft opinion**  
**Recital C**

*Draft opinion*

C. whereas robust liability mechanisms remedying damage contribute to better protection of consumers, creation of trust in new technologies integrated in products and acceptance for innovation while ensuring legal certainty for business;

*Amendment*

C. whereas robust liability mechanisms remedying damage contribute to better protection of consumers, creation of trust in new technologies integrated in products and acceptance for innovation while ensuring legal certainty for business; ***underlines that in order to build acceptance, the theoretical benefits of artificial intelligence should also contribute effectively to wellbeing and development;***

Or. en

**Amendment 18**  
**Adriana Maldonado López, Evelyne Gebhardt, Alex Agius Saliba, Clara Aguilera, Maria-Manuel Leitão-Marques, Sylvie Guillaume, Andreas Schieder, Maria Grapini, Marc Angel, Christel Schaldemose**

**Draft opinion**  
**Recital C a (new)**

*Draft opinion*

*Amendment*

***Ca. whereas the Report from the Commission to the European Parliament, the Council and the European Economic and Social Committee on the safety and liability implications of Artificial Intelligence, the Internet of Things and robotics (COM (2020) 64) and the White Paper On Artificial Intelligence - A European approach to excellence and trust (COM(2020)65) should be considered as the basis of the future European legislation;***

Or. en

**Amendment 19**

**Marcel Kolaja**

on behalf of the Greens/EFA Group

**Alexandra Geese**

**Draft opinion**

**Recital C a (new)**

*Draft opinion*

*Amendment*

***Ca. whereas the complexity of AI applications can make it nearly impossible to prove fault or damage in certain cases, presents new challenges as regards the burden of proof;***

Or. en

**Amendment 20**

**Adriana Maldonado López, Evelyne Gebhardt, Alex Agius Saliba, Clara Aguilera, Maria-Manuel Leitão-Marques, Sylvie Guillaume, Andreas Schieder, Maria Grapini, Marc Angel, Christel Schaldemose, Sándor Rónai**

**Draft opinion**

**Recital C b (new)**

*Draft opinion*

*Amendment*

***Cb. whereas the Product Liability Directive is the existing regulatory framework on the responsibility for the final product;***

Or. en

#### **Amendment 21**

**Pascal Arimont, Marion Walsmann, Maria da Graça Carvalho, Edina Tóth, Arba Kokalari, Andreas Schwab, Axel Voss, Kris Peeters**

**Draft opinion  
Paragraph 1**

*Draft opinion*

*Amendment*

***1. Welcomes the Commission's aim, which is to make the Union legal framework fit the new technological developments, ensuring a high level of protection for consumers from harm caused by new technologies while maintaining the balance with the needs of technological innovation;***

***deleted***

Or. en

#### **Amendment 22**

**Adriana Maldonado López, Evelyne Gebhardt, Alex Agius Saliba, Clara Aguilera, Maria-Manuel Leitão-Marques, Sylvie Guillaume, Andreas Schieder, Marc Angel, Christel Schaldemose, Sándor Rónai**

**Draft opinion  
Paragraph 1**

*Draft opinion*

*Amendment*

**1. Welcomes the Commission's aim, which is to make the Union legal framework fit the new technological developments, ensuring a high level of protection for consumers from harm caused**

**1. Welcomes the Commission's aim, which is to make the Union legal framework fit the new technological *uses, deployments and* developments, ensuring a high level of protection for consumers**

by new technologies while maintaining the balance with the needs of technological innovation;

from harm caused by new technologies ***based on artificial intelligence, robotics and related technologies*** while maintaining the balance with the needs of technological innovation;

Or. en

**Amendment 23**  
**Geert Bourgeois**

**Draft opinion**  
**Paragraph 1**

*Draft opinion*

1. Welcomes the Commission's aim, which is to make the Union legal framework fit the new technological developments, ensuring a high level of protection for consumers from harm caused by new technologies while maintaining the balance with the ***needs of*** technological innovation;

*Amendment*

1. Welcomes the Commission's aim, which is to make the Union legal framework fit the new technological developments, ensuring a high level of protection for consumers from ***possible*** harm caused by new technologies while maintaining the balance with the ***objective of digitisation of industrial and consumer products and supporting*** technological innovation;

Or. en

**Amendment 24**  
**Maria Grapini, Adriana Maldonado López**

**Draft opinion**  
**Paragraph 1**

*Draft opinion*

1. Welcomes the Commission's aim, which is to make the Union legal framework fit the new technological developments, ensuring a high level of protection for consumers from harm caused by new technologies while maintaining the balance with the needs of technological

*Amendment*

1. Welcomes the Commission's aim, which is to make the Union legal framework fit the new technological developments, ensuring a high level of protection for consumers from ***possible*** harm caused by new technologies while maintaining the balance with the needs of

innovation;

technological innovation;

Or. en

## **Amendment 25**

**Marion Walsmann, Pascal Arimont**

### **Draft opinion**

#### **Paragraph 1 a (new)**

*Draft opinion*

*Amendment*

**1a. Emphasises that the Product Liability Directive was adopted in 1985 and was revised in 1999 and since then products evolved a lot, therefore the Product Liability Directive is not fit for purpose anymore and needs to be updated;**

Or. en

## **Amendment 26**

**Pascal Arimont, Marion Walsmann, Maria da Graça Carvalho, Edina Tóth, Andreas Schwab, Axel Voss, Deirdre Clune, Kris Peeters, Andrey Kovatchev**

### **Draft opinion**

#### **Paragraph 2**

*Draft opinion*

*Amendment*

2. **Stresses** the need to **assess to what extent the** existing liability framework, and in particular the Council Directive 85/374/EEC<sup>1</sup> (the Product Liability Directive), **needs to be updated in order to guarantee** effective consumer protection **and legal clarity** for businesses, while avoiding high costs and risks especially for small and medium enterprises and start-ups;

2. **Points out** the need to **adapt the Union's** existing liability framework, and in particular the Council Directive 85/374/EEC<sup>1</sup> (the Product Liability Directive - **PLD**), **to the digital world; calls on the Commission to revise the PLD, by addressing the challenges posed by emerging digital technologies such as artificial intelligence, the Internet of things (IoT) or robotics, thereby ensuring** effective **citizen and** consumer protection **from harm as well as legal certainty** for businesses, while avoiding high costs and risks especially for small and medium

enterprises and start-ups;

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<sup>1</sup> Council Directive 85/374/EEC of 25 July 1985 on the approximation of the laws, regulations and administrative provisions of the Member States concerning liability for defective products (OJ L 210, 7.8.1985, p. 29).

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<sup>1</sup> Council Directive 85/374/EEC of 25 July 1985 on the approximation of the laws, regulations and administrative provisions of the Member States concerning liability for defective products (OJ L 210, 7.8.1985, p. 29).

Or. en

## **Amendment 27** **Stelios Kouloglou**

### **Draft opinion** **Paragraph 2**

#### *Draft opinion*

2. Stresses the need to assess to what extent the existing liability framework, and in particular the Council Directive 85/374/EEC<sup>1</sup> (the Product Liability Directive), needs to be updated in order to guarantee effective consumer protection and legal clarity for businesses, *while avoiding high costs and risks especially for small and medium enterprises and start-ups*;

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<sup>1</sup> Council Directive 85/374/EEC of 25 July 1985 on the approximation of the laws, regulations and administrative provisions of the Member States concerning liability for defective products (OJ L 210, 7.8.1985, p. 29).

#### *Amendment*

2. Stresses the need to assess to what extent the existing liability framework, and in particular the Council Directive 85/374/EEC<sup>1</sup> (the Product Liability Directive), needs to be updated in order to guarantee effective consumer protection and legal clarity for *consumers and* businesses;

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<sup>1</sup> Council Directive 85/374/EEC of 25 July 1985 on the approximation of the laws, regulations and administrative provisions of the Member States concerning liability for defective products (OJ L 210, 7.8.1985, p. 29).

Or. en

## **Amendment 28** **Adriana Maldonado López, Evelyne Gebhardt, Alex Agius Saliba, Clara Aguilera, Maria-Manuel Leitão-Marques, Sylvie Guillaume, Andreas Schieder, Maria Grapini, Marc Angel, Christel Schaldemose**

**Draft opinion**  
**Paragraph 2**

*Draft opinion*

2. ***Stresses*** the need to ***assess to what extent*** the existing liability framework, and in particular the Council Directive 85/374/EEC<sup>1</sup> (the Product Liability Directive), ***needs to be updated*** in order to guarantee effective consumer protection and legal clarity for businesses, while avoiding high costs and risks especially for small and medium enterprises and start-ups;

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<sup>1</sup> Council Directive 85/374/EEC of 25 July 1985 on the approximation of the laws, regulations and administrative provisions of the Member States concerning liability for defective products (OJ L 210, 7.8.1985, p. 29).

*Amendment*

2. ***Calls on the Commission to update*** the existing liability framework, and in particular the Council Directive 85/374/EEC<sup>1</sup> (the Product Liability Directive), in order to guarantee ***highly*** effective consumer protection and legal clarity for businesses, while avoiding high costs and risks especially for small and medium enterprises and start-ups;

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<sup>1</sup> Council Directive 85/374/EEC of 25 July 1985 on the approximation of the laws, regulations and administrative provisions of the Member States concerning liability for defective products (OJ L 210, 7.8.1985, p. 29).

Or. en

**Amendment 29**

**Adriana Maldonado López, Evelyne Gebhardt, Alex Agius Saliba, Clara Aguilera, Maria-Manuel Leitão-Marques, Sylvie Guillaume, Andreas Schieder, Maria Grapini, Marc Angel, Christel Schaldemose**

**Draft opinion**  
**Paragraph 2 a (new)**

*Draft opinion*

*Amendment*

***2a. Recognises the challenge of determining liability where consumer harm results from autonomous decision-making processes; calls on the Commission to review that directive and consider adapting concepts as ‘product’ ‘damage’ and ‘defect’, in a way that is coherent with product safety and liability legislation, as well as adapting the rules governing the burden of proof while***

*stressing that the burden of proof shall by no means lie on the consumer;*

Or. en

**Amendment 30**

**Marcel Kolaja**

on behalf of the Greens/EFA Group

**Alexandra Geese**

**Draft opinion**

**Paragraph 2 a (new)**

*Draft opinion*

*Amendment*

**2a. Highlights that any update of the Product liability framework should go hand in hand with the update of Directive 2001/95/EC (the Product Safety Directive) in order to ensure that AI systems integrate safety and security by design principles;**

Or. en

**Amendment 31**

**Adriana Maldonado López, Evelyne Gebhardt, Alex Agius Saliba, Clara Aguilera, Maria-Manuel Leitão-Marques, Sylvie Guillaume, Andreas Schieder, Maria Grapini, Marc Angel, Christel Schaldemose**

**Draft opinion**

**Paragraph 2 b (new)**

*Draft opinion*

*Amendment*

**2b. Further stresses the need to reassess the timeframe during which the producer is held liable for defects caused by the product, as AI driven products can become unsafe during their lifecycle due to a software update or the lack thereof; simultaneously, and in cases where the supplier cannot be held liable, it might be justified to hold the producer liable for non-supply of a software update, which**

*can fix the safety hazard;*

Or. en

**Amendment 32**

**Marcel Kolaja**

on behalf of the Greens/EFA Group

**Svenja Hahn**

**Draft opinion**

**Paragraph 2 b (new)**

*Draft opinion*

*Amendment*

**2b. Highlights incentivisation of increased ex-ante investment in security by developers of AI systems as a suggested approach in order to improve security; highlights that public source code disclosure would incentivise secure software development while making it economically and legally more attractive;**

Or. en

**Amendment 33**

**Adriana Maldonado López, Evelyne Gebhardt, Alex Agius Saliba, Clara Aguilera, Maria-Manuel Leitão-Marques, Sylvie Guillaume, Andreas Schieder, Maria Grapini, Marc Angel, Christel Schaldemose, Sándor Rónai**

**Draft opinion**

**Paragraph 2 c (new)**

*Draft opinion*

*Amendment*

**2c. Points out that the revision of the Product Liability Directive should be aligned with and built on the EU General Data Protection Regulation (GDPR);**

Or. en

**Amendment 34**  
**Stelios Kouloglou**

**Draft opinion**  
**Paragraph 3**

*Draft opinion*

3. Emphasises that any revision of the existing liability framework should aim to further harmonise liability rules in order to avoid fragmentation of the single market; ***stresses, however, the importance of ensuring that Union regulation remains limited to clearly identified problems for which feasible solutions exist and leaves room for further technological developments;***

*Amendment*

3. Emphasises that any revision of the existing liability framework should aim to further harmonise liability rules in order to avoid fragmentation of the single market;

Or. en

**Amendment 35**  
**Pascal Arimont, Maria da Graça Carvalho, Edina Tóth, Arba Kokalari, Andreas Schwab, Axel Voss, Deirdre Clune, Kris Peeters, Andrey Kovatchev**

**Draft opinion**  
**Paragraph 3**

*Draft opinion*

3. Emphasises that any revision of the existing liability framework should aim to further harmonise liability rules in order to avoid fragmentation of the single market; stresses, however, the importance of ensuring that Union regulation remains limited to clearly identified problems for which feasible solutions exist and leaves room for further technological developments;

*Amendment*

3. Emphasises that any revision of the existing liability framework should aim to further harmonise liability rules in order to avoid fragmentation of the single market; ***asks the Commission to assess whether a Regulation on general product liability could contribute to this aim;*** stresses, however, the importance of ensuring that Union regulation remains limited to clearly identified problems for which feasible solutions exist and leaves room for further technological developments;

Or. en

**Amendment 36**  
**Antonius Manders**

**Draft opinion**  
**Paragraph 3**

*Draft opinion*

3. Emphasises that any revision of the existing liability framework should aim to further harmonise liability rules in order to avoid fragmentation of the single market; stresses, however, the importance of ensuring that Union regulation remains limited to clearly identified problems for which feasible solutions exist and leaves room for further technological developments;

*Amendment*

3. Emphasises that any revision of the existing liability framework should aim to further harmonise liability rules in order to avoid fragmentation of the single market; ***asks the Commission to assess whether a Regulation on general product liability could contribute to this aim***; stresses, however, the importance of ensuring that Union regulation remains limited to clearly identified problems for which feasible solutions exist and leaves room for further technological developments;

Or. en

**Amendment 37**  
**Marcel Kolaja**  
on behalf of the Greens/EFA Group  
**Svenja Hahn, Alexandra Geese**

**Draft opinion**  
**Paragraph 3**

*Draft opinion*

3. Emphasises that any revision of the existing liability framework should aim to further harmonise liability rules in order to avoid fragmentation of the single market; stresses, however, the importance of ensuring that Union regulation remains limited to clearly identified problems for which feasible solutions exist and leaves room for further technological developments;

*Amendment*

3. Emphasises that any revision of the existing liability framework should aim to further harmonise liability rules in order to avoid fragmentation of the single market; stresses, however, the importance of ensuring that Union regulation remains limited to clearly identified problems for which feasible solutions exist and leaves room for further technological developments, ***including free and open source software***;

Or. en

### Amendment 38

Maria Grapini, Adriana Maldonado López, Sylvie Guillaume, Marc Angel

#### Draft opinion

##### Paragraph 3

###### *Draft opinion*

3. Emphasises that any revision of the existing liability framework should aim to further harmonise liability rules in order to avoid fragmentation of the single market; stresses, however, the importance of ensuring that Union regulation remains limited to clearly identified problems for which feasible solutions exist and leaves room for further technological developments;

###### *Amendment*

3. Emphasises that any revision of the existing liability framework should aim to further harmonise liability, **and consumer protection** rules in order to avoid fragmentation of the single market; stresses, however, the importance of ensuring that Union regulation remains limited to clearly identified problems for which feasible solutions exist and leaves room for further technological developments;

Or. en

### Amendment 39

Adriana Maldonado López, Evelyne Gebhardt, Alex Agius Saliba, Clara Aguilera, Maria-Manuel Leitão-Marques, Sylvie Guillaume, Andreas Schieder, Marc Angel, Christel Schaldemose, Sándor Rónai

#### Draft opinion

##### Paragraph 3

###### *Draft opinion*

3. Emphasises that any revision of the existing liability framework should aim to further harmonise liability rules in order to avoid fragmentation of the single market; ***stresses, however, the importance of ensuring that Union regulation remains limited to clearly identified problems for which feasible solutions exist and leaves room for further technological developments;***

###### *Amendment*

3. Emphasises that any revision of the existing liability framework should aim to further harmonise liability rules in order to ***ensure a level playing field and to avoid inequalities in consumer protection as each Member state has its own legislation and it could create unnecessary*** fragmentation of the single market;

Or. en

**Amendment 40**  
**Geert Bourgeois**

**Draft opinion**  
**Paragraph 4**

*Draft opinion*

4. Calls on the Commission to assess whether definitions and concepts in the product liability framework need to be updated due to the specific characteristics of AI applications *such as complexity, autonomy and opacity*;

*Amendment*

4. Calls on the Commission to assess whether definitions and concepts in the product liability framework need to be updated due to the specific characteristics of AI applications, *in particular to account for changes in the applications that may occur autonomously after the product has been placed on the market*;

Or. en

**Amendment 41**  
**Pascal Arimont, Marion Walsmann, Maria da Graça Carvalho, Edina Tóth, Andreas Schwab, Axel Voss, Deirdre Clune, Kris Peeters, Andrey Kovatchev**

**Draft opinion**  
**Paragraph 4**

*Draft opinion*

4. Calls on the Commission to *assess whether definitions and concepts in* the product liability framework *need to be updated due to* the specific *characteristics of AI applications* such as complexity, autonomy *and* opacity;

*Amendment*

4. Calls on the Commission to *revise* the product liability framework *by taking into account* the specific *challenges of digitalisation for liability law* such as complexity, *connectivity, openness, autonomy, opacity (un)predictability, data-drivenness and vulnerability*;

Or. en

**Amendment 42**  
**Antonius Manders**

**Draft opinion**  
**Paragraph 4**

*Draft opinion*

4. Calls on the Commission to **assess whether definitions and concepts in** the product liability framework **need to be updated due to** the specific **characteristics of AI applications** such as complexity, autonomy **and** opacity;

*Amendment*

4. Calls on the Commission to **revise** the product liability framework **by taking into account** the specific **challenges of digitalisation for liability law** such as complexity, **connectivity, openness,** autonomy, opacity **(un)predictability, data-drivenness and vulnerability;**

Or. en

**Amendment 43**

**Adriana Maldonado López, Evelyne Gebhardt, Alex Agius Saliba, Clara Aguilera, Maria-Manuel Leitão-Marques, Sylvie Guillaume, Andreas Schieder, Maria Grapini, Marc Angel, Christel Schaldemose, Sándor Rónai**

**Draft opinion  
Paragraph 4**

*Draft opinion*

4. Calls on the Commission to **assess whether definitions and concepts in** the product liability framework **need to be updated due to** the specific characteristics of AI applications such as complexity, autonomy **and** opacity;

*Amendment*

4. Calls on the Commission to **update** the product liability framework **in order to consider** the specific characteristics of AI applications such as complexity, autonomy, opacity **and unpredictability;**

Or. en

**Amendment 44**

**Adriana Maldonado López, Evelyne Gebhardt, Alex Agius Saliba, Clara Aguilera, Maria-Manuel Leitão-Marques, Sylvie Guillaume, Andreas Schieder, Marc Angel, Christel Schaldemose, Sándor Rónai**

**Draft opinion  
Paragraph 5**

*Draft opinion*

5. Urges the Commission **to scrutinise whether it is necessary** to include software in the definition of ‘products’ under the

*Amendment*

5. Urges the Commission to include software in the definition of ‘products’ under the Product Liability Directive **in**

Product Liability Directive and to update concepts such as ‘producer’, ‘damage’ and ‘defect’, and *if so, to what extent; asks* the Commission to *also examine whether* the product liability framework *needs to be revised* in order to protect injured parties efficiently as regards products that are purchased as a bundle with related services;

*line with the spirit of the current Consumer acquis, namely the definition of “good with digital elements” under Article 2(3) of Directive (EU) 2019/770 (the Digital Content Directive) and “goods” under Article 2(5)(b) of Directive (EU) 2019/771 (the Sale of goods Directive) and to update concepts such as ‘producer’, ‘damage’ and ‘defect’, and urges* the Commission to *revise* the product liability framework in order to protect injured parties efficiently as regards products that are purchased as a bundle with related services *particularly as the Product Liability Directive only covers personal injury, and damage to consumer property, while non-material damage, damage to data or other digital assets remain currently uncovered;*

Or. en

## Amendment 45 Geert Bourgeois

### Draft opinion Paragraph 5

#### *Draft opinion*

5. Urges the Commission to scrutinise whether it is necessary to include software in the definition of ‘products’ under the Product Liability Directive and to update concepts such as ‘producer’, ‘damage’ and ‘defect’, and if so, to what extent; asks the Commission to also examine whether the product liability framework needs to be revised in order to protect injured parties efficiently as regards products that are purchased as a bundle with related services;

#### *Amendment*

5. Urges the Commission to scrutinise whether it is necessary to include software in the definition of ‘products’ under the Product Liability Directive and to update concepts such as ‘producer’, ‘damage’ and ‘defect’, and if so, to what extent; *recommends that the basic distinction between a producer and its product, in this case, an artificial intelligence application, should remain and AI should not be granted its own autonomous personality;* asks the Commission to also examine whether the product liability framework needs to be revised in order to protect injured parties efficiently as regards products that are purchased as a bundle

with related services;

Or. en

**Amendment 46**  
**Stelios Kouloglou**

**Draft opinion**  
**Paragraph 5**

*Draft opinion*

5. Urges the Commission to scrutinise whether it is necessary to include software in the definition of ‘products’ under the Product Liability Directive and to update concepts such as ‘producer’, ‘damage’ and ‘defect’, and if so, to what extent; asks the Commission to also examine whether the product liability framework needs to be revised in order to protect injured parties efficiently as regards products that are purchased as a bundle with related services;

*Amendment*

5. Urges the Commission to scrutinise whether it is necessary to include software in the definition of ‘products’ under the Product Liability Directive and to update concepts such as ‘producer’, ‘damage’ and ‘defect’, and if so, to what extent; asks the Commission to also examine whether the product liability framework needs to be revised in order to protect injured parties efficiently as regards products that are purchased as a bundle with related services; ***calls on the Commission to also include the liability of platforms operating as online market places in their proposal for an updated Product Liability Directive;***

Or. en

**Amendment 47**  
**Marcel Kolaja**  
on behalf of the Greens/EFA Group

**Draft opinion**  
**Paragraph 5**

*Draft opinion*

5. Urges the Commission to scrutinise ***whether it is necessary to include software in the definition of ‘products’*** under the Product Liability Directive and to update concepts such as ‘producer’, ‘damage’ and

*Amendment*

5. Urges the Commission to scrutinise the Product Liability Directive and to update concepts such as ‘producer’, ‘damage’ and ‘defect’; asks the Commission to also examine whether the

‘defect’, *and if so, to what extent*; asks the Commission to also examine whether the product liability framework needs to be revised in order to protect injured parties efficiently as regards products that are purchased as a bundle with related services;

product liability framework needs to be revised in order to protect injured parties efficiently as regards products that are purchased as a bundle with related services *and to consider privacy-by-design and security-by-design rule as reasonable expectation of the consumers for their digital products*;

Or. en

#### **Amendment 48**

**Pascal Arimont, Maria da Graça Carvalho, Arba Kokalari, Andreas Schwab, Axel Voss, Deirdre Clune, Kris Peeters, Andrey Kovatchev**

#### **Draft opinion**

##### **Paragraph 5**

###### *Draft opinion*

5. Urges the Commission to *scrutinise whether it is necessary to include software in* the definition of ‘products’ under the Product Liability Directive and to *update* concepts *such* as ‘producer’, ‘damage’ and ‘defect’, *and if so, to what extent*; asks the Commission to also examine whether the product liability framework needs to be revised in order to protect injured parties efficiently as regards products that are purchased as a bundle with related services;

###### *Amendment*

5. Urges the Commission to *clarify* the definition of ‘products’ under the Product Liability Directive, *by determining whether digital content and digital services fall under its scope* and to *consider adapting such* concepts as ‘producer’, ‘damage’ and ‘defect’; asks the Commission to also examine whether the product liability framework needs to be revised in order to protect injured parties efficiently as regards products that are purchased as a bundle with related services;

Or. en

#### **Amendment 49**

**Maria Grapini, Adriana Maldonado López**

#### **Draft opinion**

##### **Paragraph 5**

###### *Draft opinion*

5. Urges the Commission to scrutinise

###### *Amendment*

5. Urges the Commission to scrutinise

whether it is necessary to include software in the definition of ‘products’ under the Product Liability Directive and to update concepts such as ‘producer’, ‘damage’ and ‘defect’, and if so, to what extent; asks the Commission to also examine whether the product liability framework needs to be revised in order to protect injured parties efficiently as regards products that are purchased as a bundle with related services;

whether it is necessary to include software in the definition of ‘products’ under the Product Liability Directive and to update concepts such as ‘producer’, ‘damage’ and ‘defect’, and if so, to what extent; asks the Commission to also examine whether the product liability framework needs to be revised in order to protect, **and indemnify** injured parties efficiently as regards products that are purchased as a bundle with related services;

Or. en

**Amendment 50**  
**Antonius Manders**

**Draft opinion**  
**Paragraph 5**

*Draft opinion*

5. Urges the Commission to **scrutinise whether it is necessary to include software in** the definition of ‘products’ under the Product Liability Directive and to **update** concepts **such** as ‘producer’, ‘damage’ and ‘defect’, **and if so, to what extent**; asks the Commission to also examine whether the product liability framework needs to be revised in order to protect injured parties efficiently as regards products that are purchased as a bundle with related services;

*Amendment*

5. Urges the Commission to **clarify** the definition of ‘products’ under the Product Liability Directive, **by determining whether digital content and digital services fall under its scope** and to **consider adapting such** concepts as ‘producer’, ‘damage’ and ‘defect’; asks the Commission to also examine whether the product liability framework needs to be revised in order to protect injured parties efficiently as regards products that are purchased as a bundle with related services;

Or. en

**Amendment 51**  
**Marion Walsmann**

**Draft opinion**  
**Paragraph 5**

*Draft opinion*

5. Urges the Commission to scrutinise whether it is necessary to include software in the definition of ‘products’ under the Product Liability Directive and to update concepts such as ‘producer’, ‘damage’ and ‘defect’, **and if so, to what extent; asks the Commission** to also examine whether the product liability framework needs to be revised in order to protect injured parties efficiently as regards products that are purchased as a bundle with related services;

*Amendment*

5. Urges the Commission to scrutinise whether it is necessary to include software in the definition of ‘products’ under the Product Liability Directive and **asks the Commission** to update concepts such as ‘producer’, ‘damage’ and ‘defect’ **and** to also examine whether the product liability framework needs to be revised in order to protect injured parties efficiently as regards products that are purchased as a bundle with related services;

Or. en

**Amendment 52**  
**Marion Walsmann**

**Draft opinion**  
**Paragraph 5 a (new)**

*Draft opinion*

**5a. Stresses that the Product Liability Directive considers the moment when products are put into circulation as the decisive moment for the producers liability and that for AI systems the producer retains to some degree control after the product has been put into circulation, therefore asks the Commission to update this concept in its revision of Product Liability Directive;**

Or. en

**Amendment 53**  
**Jean-Lin Lacapelle, Virginie Joron**

**Draft opinion**  
**Paragraph 5 a (new)**

*Draft opinion*

*Amendment*

**5a. Stresses that AI systems and the devices that use them are products and must remain subject to the rules on products and not be treated as an exception;**

Or. fr

**Amendment 54**

**Adriana Maldonado López, Evelyne Gebhardt, Alex Agius Saliba, Clara Aguilera, Maria-Manuel Leitão-Marques, Sylvie Guillaume, Andreas Schieder, Maria Grapini, Marc Angel, Christel Schaldemose, Sándor Rónai**

**Draft opinion**

**Paragraph 5 a (new)**

*Draft opinion*

*Amendment*

**5a. Calls on the Commission to clarify that the scope of the new legislation or the update of the Product Liability Directive should apply to all tangible and non-tangible goods, including digital services;**

Or. en

**Amendment 55**

**Pascal Arimont, Marion Walsmann, Maria da Graça Carvalho, Arba Kokalari, Axel Voss, Deirdre Clune, Kris Peeters**

**Draft opinion**

**Paragraph 5 a (new)**

*Draft opinion*

*Amendment*

**5a. Asks the Commission to consider the liability of online marketplaces by qualifying them as 'supplier' under the Product Liability Directive;**

Or. en

**Amendment 56**

**Pascal Arimont, Maria da Graça Carvalho, Edina Tóth, Arba Kokalari, Andreas Schwab, Axel Voss, Deirdre Clune, Kris Peeters, Andrey Kovatchev**

**Draft opinion**

**Paragraph 5 b (new)**

*Draft opinion*

*Amendment*

**5b. Calls on the Commission to consider, in close coordination with corresponding possible adjustments to the Union safety framework, whether the notion of 'time when the product was put into circulation' currently used by the Product Liability Directive, is fit for purpose for emerging digital technologies, taking into account that they may be changed or altered under the producer's control after they have been placed on the market;**

Or. en

**Amendment 57**

**Pascal Arimont, Maria da Graça Carvalho, Arba Kokalari, Andreas Schwab, Axel Voss, Kris Peeters, Andrey Kovatchev**

**Draft opinion**

**Paragraph 5 c (new)**

*Draft opinion*

*Amendment*

**5c. Asks the Commission to consider holding a producer of specific emerging digital technologies liable for unforeseeable defects, in cases where it was predictable that unforeseen developments might occur;**

Or. en

## Amendment 58

Adriana Maldonado López, Evelyne Gebhardt, Alex Agius Saliba, Clara Aguilera, Maria-Manuel Leitão-Marques, Sylvie Guillaume, Andreas Schieder, Maria Grapini, Marc Angel, Christel Schaldemose

### Draft opinion

#### Paragraph 6

##### *Draft opinion*

6. *Stresses the importance of ensuring a fair liability system that makes it possible* for consumers to prove *that a* defect in a product caused damage, even if third party software is involved or the cause of a defect is hard to trace, *for example when products are part of a complex interconnected Internet of Things environment;*

##### *Amendment*

6. *Highlights that due to the complexity, connectivity and opacity of the products based on AI and new technologies it could be difficult* for consumers to prove *what* defect in a product caused damage, *as it cannot be assumed that consumers have all necessary information or specific technical knowledge; therefore as part of the revision of the Product Liability Directive it should be sufficient for the consumer to demonstrate that there has been damage* even if third party software is involved or the cause of a defect is hard to trace;

Or. en

## Amendment 59

Pascal Arimont, Maria da Graça Carvalho, Edina Tóth, Arba Kokalari, Andreas Schwab, Axel Voss, Deirdre Clune, Kris Peeters, Andrey Kovatchev

### Draft opinion

#### Paragraph 6

##### *Draft opinion*

6. Stresses the importance of ensuring a fair liability *system that makes* it possible for *consumers* to prove that a defect in a product caused damage, even if third party software is involved or the cause of a defect is hard to trace, for example when products are part of a complex interconnected Internet of Things environment;

##### *Amendment*

6. Stresses the importance of ensuring a fair *and efficient allocation of loss in order to attribute* liability *in the most appropriate way; underlines the relevance of making* it possible for *victims* to prove that a defect in a product caused damage, even if third party software is involved or the cause of a defect is hard to trace, for example when products are part of a complex interconnected Internet of Things

environment;

Or. en

## **Amendment 60**

**Marcel Kolaja**

on behalf of the Greens/EFA Group

### **Draft opinion**

#### **Paragraph 6**

##### *Draft opinion*

6. Stresses the importance of ensuring a fair liability system that makes it possible for consumers to prove that a defect in a product caused damage, even if third party software is involved or the cause of a defect is **hard** to trace, for example when products are part of a complex interconnected Internet of Things environment;

##### *Amendment*

6. Stresses the importance of ensuring a fair liability system **in the chain of commercial transaction** that makes it possible for consumers to prove that a defect in a product caused damage, even if third party software is involved or the cause of a defect is **difficult** to trace, for example when products are part of a complex interconnected Internet of Things environment;

Or. en

## **Amendment 61**

**Jordi Cañas**

### **Draft opinion**

#### **Paragraph 7**

##### *Draft opinion*

7. Calls on the Commission to evaluate whether and to what extent the burden of proof should be reversed in order to empower harmed consumers while preventing abuse and providing legal clarity for businesses;

##### *Amendment*

7. Calls on the Commission to evaluate whether and to what extent the burden of proof should be reversed in order to empower harmed consumers while preventing abuse and providing legal clarity for businesses, **as well as to ensure fairness and to mitigate the informational asymmetries impairing the situation of injured parties**;

Or. en

**Amendment 62**  
**Geert Bourgeois**

**Draft opinion**  
**Paragraph 7**

*Draft opinion*

7. Calls on the Commission to evaluate whether and to what extent the burden of proof should be reversed in order to empower harmed consumers while preventing abuse and providing legal clarity for businesses;

*Amendment*

7. Calls on the Commission to evaluate whether and to what extent the burden of proof should be reversed in order to empower harmed consumers while preventing abuse and providing legal clarity for businesses; ***stresses that any such finding, where demonstrated necessary, should be limited in scope;***

Or. en

**Amendment 63**  
**Adriana Maldonado López, Evelyne Gebhardt, Alex Agius Saliba, Clara Aguilera, Maria-Manuel Leitão-Marques, Sylvie Guillaume, Andreas Schieder, Marc Angel, Christel Schaldemose**

**Draft opinion**  
**Paragraph 7**

*Draft opinion*

7. Calls on the Commission to ***evaluate whether and to what extent*** the burden of proof ***should be reversed*** in order to empower harmed consumers while preventing abuse and providing legal clarity for businesses;

*Amendment*

7. Calls on the Commission to ***reverse*** the burden of proof ***to prevent it from being placed on the consumer*** in order to empower harmed consumers while preventing abuse and providing legal clarity for businesses, ***in particular micro, small and medium enterprises;***

Or. en

**Amendment 64**  
**Pascal Arimont, Marion Walsmann, Maria da Graça Carvalho, Edina Tóth, Arba Kokalari, Andreas Schwab, Axel Voss, Deirdre Clune, Kris Peeters**

**Draft opinion**  
**Paragraph 7**

*Draft opinion*

7. Calls on the Commission to ***evaluate whether and to what extent*** the burden of proof ***should be reversed*** in order to empower harmed consumers while preventing abuse and providing legal ***clarity*** for businesses;

*Amendment*

7. Calls on the Commission to ***consider adapting the rules governing*** the burden of proof ***for harms caused by emerging digital technologies***, in order to empower harmed consumers while preventing abuse and providing legal ***certainty*** for businesses;

Or. en

**Amendment 65**  
**Maria Grapini, Adriana Maldonado López, Sylvie Guillaume**

**Draft opinion**  
**Paragraph 7**

*Draft opinion*

7. Calls on the Commission to evaluate whether and to what extent the burden of proof should be reversed in order to empower harmed consumers while preventing abuse and providing legal clarity for businesses;

*Amendment*

7. Calls on the Commission to evaluate whether and to what extent the burden of proof should be reversed in order to empower harmed consumers ***to defend their rights*** while preventing abuse and providing legal clarity for businesses;

Or. en

**Amendment 66**  
**Antonius Manders**

**Draft opinion**  
**Paragraph 7**

*Draft opinion*

7. Calls on the Commission to ***evaluate whether and to what extent*** the burden of proof ***should be reversed*** in order to empower harmed consumers while preventing abuse and providing legal

*Amendment*

7. Calls on the Commission to ***consider adapting the rules governing*** the burden of proof ***for harms caused by emerging digital technologies***, in order to empower harmed consumers while

*clarity* for businesses;

preventing abuse and providing legal  
*certainty* for businesses;

Or. en

**Amendment 67**  
**Stelios Kouloglou**

**Draft opinion**  
**Paragraph 7**

*Draft opinion*

7. Calls on the Commission to *evaluate whether and to what extent* the burden of proof *should be reversed* in order to empower harmed consumers while preventing abuse and providing legal clarity for businesses;

*Amendment*

7. Calls on the Commission to *reverse* the burden of proof in order to empower harmed consumers, *who are today faced with an unnecessary burden to get justice*, while preventing abuse and providing legal clarity for businesses;

Or. en

**Amendment 68**  
**Marcel Kolaja**  
on behalf of the Greens/EFA Group  
**Alexandra Geese**

**Draft opinion**  
**Paragraph 7**

*Draft opinion*

7. Calls on the Commission to *evaluate whether and to what extent* the burden of proof *should be reversed* in order to empower *harmed* consumers while preventing abuse and providing legal clarity for businesses;

*Amendment*

7. Calls on the Commission to *propose a reversal of* the burden of proof *in specific cases and based on clear criteria*, in order to empower consumers while preventing abuse and providing legal clarity for businesses;

Or. en

**Amendment 69**  
**Pascal Arimont, Maria da Graça Carvalho, Axel Voss, Kris Peeters, Andrey Kovatchev**

**Draft opinion**  
**Paragraph 7 a (new)**

*Draft opinion*

*Amendment*

**7a.** *Asks the Commission to assess the introduction of a duty on producers of emerging digital technologies to equip their products with means of recording information about the operation of the technology, in accordance with applicable data protection provisions and the rules concerning the protection of trade secrets, taking into account, amongst others, the likelihood that a risk of the technology materialises, whether such a duty is appropriate and proportionate and the technical feasibility and costs of it; failing to comply with this duty or refusing to give the victim reasonable access to this information would trigger a rebuttable liability presumption of the producer;*

Or. en

**Amendment 70**  
**Marcel Kolaja**  
on behalf of the Greens/EFA Group

**Draft opinion**  
**Paragraph 7 a (new)**

*Draft opinion*

*Amendment*

**7a.** *Highlights that the development-risk principle in line with point (e) of Article 7 of Council Directive 85/374/EEC proved to be important and reasonable;*

Or. en

**Amendment 71**  
**Marcel Kolaja**  
on behalf of the Greens/EFA Group

**Draft opinion**  
**Paragraph 7 b (new)**

*Draft opinion*

*Amendment*

**7b. Underlines that explainability, interpretability and traceability of AI systems are key to ensure that liability mechanisms offer an adequate, efficient and fair allocation of responsibilities; therefore asks the Commission to issue binding rules for companies to publish transparency reports including the existence, functionality, process, main criteria, the logic behind, the data sets used and possible outcome of algorithmic systems and efforts to identify, prevent and mitigate damage caused by AI systems in a timely, accurate, easily-readable, and accessible manner;**

Or. en

**Amendment 72**  
**Marcel Kolaja**  
on behalf of the Greens/EFA Group  
**Alexandra Geese**

**Draft opinion**  
**Paragraph 7 c (new)**

*Draft opinion*

*Amendment*

**7c. Calls on the Commission to issue binding rules for companies and public bodies to document the development of AI systems; notes in this regard that it is essential for the risk assessment documentation, the software documentation, the algorithms and data sets used to be fully accessible to market surveillance authorities, while respecting Union law; additional prerogatives should be given to market surveillance authorities in this respect;**

**Amendment 73**  
**Jean-Lin Lacapelle**

**Draft opinion**  
**Paragraph 8**

*Draft opinion*

8. Highlights the need for a risk based approach to AI within the existing liability framework, which takes into account different levels of risk for consumers in specific sectors and uses of AI; underlines that such an approach, that might encompass two or more levels of risk, should be based on clear criteria and provide for legal clarity;

*Amendment*

8. Highlights the need for a risk based approach to AI within the existing liability framework, which takes into account different levels of risk for consumers in specific sectors and uses of AI; underlines that such an approach, that might encompass two or more levels of risk, should be based on clear criteria and provide for legal clarity; ***proposes that these differences in approach be translated into different obligations as regards the manufacture of products, resulting in different liability regimes with clear mechanisms and scope; recommends that these obligations be reflected in safeguards in the configuration of AI systems, particularly as regards their interactions with third-party systems, especially on-line, or with connected objects; calls on the Commission to consider in particular laying down different obligations and liability regimes depending on whether the consumer or user of the AI product is a private individual or a professional, as follows:***

***– As regards professional civil liability, including the provision by an undertaking of subcontracted staff or employees:***

***○ A simple presumption of liability should apply to the provider of the AI product, whether it is the manufacturer, seller or licensor, the determining factor being, in the case of a product transmission chain, the moment when the capacity or configuration linked to the event giving***

*rise to the liability is defined;*

*○ The provider in question should be able to exonerate itself from such liability by demonstrating a fault attributable to the professional user, subject to the correct functioning of the technological safeguards in respect of which its liability has been invoked, and provided that the professional user was familiar with the conditions of use of the AI system and that those conditions are readily understandable, for which matters both the obligation and the burden of proof should rest with the provider;*

*– As regards personal civil liability, without prejudice to the liability of professional principals for their employees:*

*○ Providers, manufacturers or resellers should be required to employ safeguards and configurations commensurate with the highest level of risk when placing AI products intended for private individuals on the market, in particular as regards communication with other systems (such as social networks or the internet) or as regards connected objects (such as security or alarm systems), in accordance with the standards laid down;*

*○ Any civil damage attributable to an AI product should automatically trigger the liability of the provider, which may exonerate itself by demonstrating compliance with the standards applicable to its product;*

*○ Given the unforeseeable nature of the effects and damage which may be caused by AI products, consideration could be given to limiting the amount of damages which may be claimed against a person sued for no-fault civil liability in connection with an AI product, without prejudice to the rules applicable to insurance for the excess;*

Or. fr

## Amendment 74

Maria-Manuel Leitão-Marques, Adriana Maldonado López, Clara Aguilera, Christel Schaldemose, Alex Agius Saliba, Marc Angel

### Draft opinion

#### Paragraph 8

##### *Draft opinion*

8. Highlights the need for a risk based approach to AI within the existing liability framework, which takes into account different levels of risk for consumers in specific sectors and uses of AI; underlines that such an approach, that might encompass two or more levels of risk, should be based on clear criteria and provide for legal clarity;

##### *Amendment*

8. Highlights the need for a risk based approach to AI within the existing liability framework, which takes into account different levels of risk for consumers in specific sectors and uses of AI; underlines that such an approach, that might encompass two or more levels of risk, should be based on clear criteria and provide for legal clarity; ***further considers that those involved in the different stages of the development, deployment and use of AI-based systems should be held into account in proportion of their liability; suggests the use of distributed ledger technologies, such as blockchain, to improve product traceability, in order to better identify those involved in the different stages;***

Or. en

## Amendment 75

Marcel Kolaja

on behalf of the Greens/EFA Group

Alexandra Geese

### Draft opinion

#### Paragraph 8

##### *Draft opinion*

8. Highlights the need for a risk based approach to AI within the existing liability framework, which takes into account different levels of risk for consumers in specific sectors and uses of AI; underlines

##### *Amendment*

8. Highlights the need for a risk based approach to AI within the existing liability framework, which takes into account different levels of risk for consumers ***and society at large*** in specific sectors and uses

that such an approach, that might encompass *two or more* levels of risk, should be based on clear criteria and provide for legal *clarity*;

of AI; *algorithmic systems that may cause physical or material damage, breach fundamental rights and freedoms, impact an individual's access to critical resources, or impact their participation in society shall not be deemed to be in the lowest risk category*; underlines that such an approach, that might encompass *several* levels of risk, should be based on clear criteria and provide for legal *certainty and be subject to regular re-evaluation*;

Or. en

#### **Amendment 76**

**Adriana Maldonado López, Evelyne Gebhardt, Alex Agius Saliba, Clara Aguilera, Maria-Manuel Leitão-Marques, Sylvie Guillaume, Andreas Schieder, Maria Grapini, Marc Angel, Christel Schaldemose**

#### **Draft opinion Paragraph 8**

##### *Draft opinion*

8. Highlights *the need for* a risk based approach to AI *within the existing liability framework, which takes into account different levels of risk for consumers in specific sectors and uses of AI*; *underlines that such an approach, that might encompass two or more levels of risk, should be based on clear criteria and provide for legal clarity*;

##### *Amendment*

8. Highlights *that in the liability stage* a risk based approach to AI *is not appropriate, as the damage has occurred and the product has proven to be a risk product*;

Or. en

#### **Amendment 77**

**Pascal Arimont, Maria da Graça Carvalho, Edina Tóth, Arba Kokalari, Andreas Schwab, Axel Voss, Deirdre Clune, Kris Peeters**

#### **Draft opinion Paragraph 8**

*Draft opinion*

8. Highlights the need for a risk based approach to AI within the existing liability framework, which takes into account different levels of risk for consumers in specific sectors and uses of AI; underlines that such an approach, that might encompass two or more levels of risk, should be based on clear criteria and provide for legal *clarity*;

*Amendment*

8. Highlights the need for a risk based approach to AI within the existing liability framework, which takes into account different levels of risk for consumers in specific sectors and uses of AI; underlines that such an approach, that might encompass two or more levels of risk, should be based on clear criteria and provide for legal *certainty*;

Or. en

**Amendment 78**

**Adriana Maldonado López, Evelyne Gebhardt, Alex Agius Saliba, Clara Aguilera, Maria-Manuel Leitão-Marques, Sylvie Guillaume, Andreas Schieder, Maria Grapini, Marc Angel, Christel Schaldemose, Sándor Rónai**

**Draft opinion**

**Paragraph 8 a (new)**

*Draft opinion*

***8a. Calls on the Commission to remove notion such “time at which a product is put on the market” which is no longer relevant given the dynamic features of digital goods; points out that currently the producer continues to have control over the product for a long time after having put it onto the market; urges to review the timelines for bringing a claim under the Product Liability Directive;***

*Amendment*

Or. en

**Amendment 79**

**Adriana Maldonado López, Evelyne Gebhardt, Alex Agius Saliba, Clara Aguilera, Maria-Manuel Leitão-Marques, Sylvie Guillaume, Andreas Schieder, Maria Grapini, Marc Angel, Christel Schaldemose**

**Draft opinion**  
**Paragraph 8 b (new)**

*Draft opinion*

*Amendment*

**8b.** *Stresses that the producer shall bear the liability for products from the EU, and for the products from outside EU, that are sold through online marketplace and when the producer cannot be identified, the online marketplace shall be liable as a supplier due to the fact that online marketplaces are no longer a passive intermediary;*

Or. en

**Amendment 80**

**Adriana Maldonado López, Evelyne Gebhardt, Alex Agius Saliba, Clara Aguilera, Maria-Manuel Leitão-Marques, Sylvie Guillaume, Andreas Schieder, Maria Grapini, Marc Angel, Christel Schaldemose**

**Draft opinion**  
**Paragraph 9**

*Draft opinion*

*Amendment*

9. *Asks the Commission to carefully assess the advantages and disadvantages of introducing a strict liability model for products containing AI applications and consider it only in specific high risk areas; underlines the need to strictly respect the proportionality principle if this approach is retained.*

9. *Calls on the Commission to address the liability model of products containing AI applications in a two-step process; firstly providing a fault based liability of the deployer against which the affected person should have the right to bring the claim for damages; in the event where no fault of the deployer can be established, the producer or the backend operator should be held strictly liable; considers that the two-step process is essential in order to ensure that victims are effectively compensated for damages caused by AI driven systems;*

Or. en

## Amendment 81

Pascal Arimont, Marion Walsmann, Maria da Graça Carvalho, Edina Tóth, Arba Kokalari, Axel Voss, Kris Peeters, Andrey Kovatchev

### Draft opinion

#### Paragraph 9

##### *Draft opinion*

9. Asks the Commission to carefully assess the ***advantages and disadvantages of introducing a strict liability model for products containing AI applications and consider it only in specific high risk areas; underlines the need to strictly respect the proportionality principle if this approach is retained.***

##### *Amendment*

9. Asks the Commission to carefully assess the ***introduction of a separate yet complementary strict liability regime for AI systems presenting a high risk to cause harm or damage to one or more persons in a manner that is random and impossible to predict in advance, taking into account its likely impact on the protection of citizens and consumers from harm, the capacity of businesses - particularly SMEs - to innovate, the coherence of the Union's safety and liability framework and on the principles of subsidiarity and proportionality.***

Or. en

## Amendment 82

Marcel Kolaja

on behalf of the Greens/EFA Group

### Draft opinion

#### Paragraph 9

##### *Draft opinion*

9. Asks the Commission to ***carefully assess the advantages and disadvantages of introducing a strict liability model for products containing AI applications and consider it only in specific high risk areas; underlines the need to strictly respect the proportionality principle if this approach is retained.***

##### *Amendment*

9. Asks the Commission to ***introduce a strict liability model for products containing AI applications and consider it only in specific higher risk areas; underlines the need to strictly respect the proportionality principle and have a clear list of criteria agreed by the co-legislators.***

Or. en

**Amendment 83**  
**Jean-Lin Lacapelle, Virginie Joron**

**Draft opinion**  
**Paragraph 9 a (new)**

*Draft opinion*

*Amendment*

**9a. Urges that AI systems intended for private individuals should have a limited lifetime, which would not rule out the reinstallation of the same system with identical configurations when the lifetime of the system installed at the time of sale expires; suggests that, during this lifetime, the manufacturer should have an obligation to guarantee conformity, which would be enforceable by means of regular technical inspections, the performance of which would trigger a standard extension of the applicable guarantee;**

Or. fr

**Amendment 84**  
**Adriana Maldonado López, Evelyne Gebhardt, Alex Agius Saliba, Clara Aguilera, Maria-Manuel Leitão-Marques, Sylvie Guillaume, Andreas Schieder, Maria Grapini, Marc Angel, Christel Schaldemose, Sándor Rónai**

**Draft opinion**  
**Paragraph 9 a (new)**

*Draft opinion*

*Amendment*

**9a. Notes that the new legislation about product liability should also address the challenges algorithms present in terms of ensuring non-discrimination, transparency and explainability, as well as liability; points out the need to monitor algorithms and to assess associated risks, to use high quality and unbiased datasets, as well as to help individuals acquire access to high quality products;**

Or. en

**Amendment 85**  
**Jordi Cañas**

**Draft opinion**  
**Paragraph 9 a (new)**

*Draft opinion*

*Amendment*

**9a. Stresses that the Commission should consider tailored liability rules in sectors where significant risks are likely to arise, which may potentially undermine fundamental rights and result in high costs in both human and social terms, such as where AI applications are deployed for educational purposes;**

Or. en

**Amendment 86**  
**Jordi Cañas**

**Draft opinion**  
**Paragraph 9 b (new)**

*Draft opinion*

*Amendment*

**9b. Calls on the Commission to study the suitability of compulsory liability insurance for AI applications, which could provide protection to third parties exposed to an increased risk of harm and better access to compensation for victims; notes, however, that insurance offers for certain risks might be difficult to calculate due to missing experience in the particular case of AI; considers therefore that any legal provisions in this regard should be introduced with careful analysis and be balanced enough not to impede the deployment of AI technology in the Single Market and to effectively foster innovation.**

Or. en

**Amendment 87**  
**Jean-Lin Lacapelle, Virginie Joron**

**Draft opinion**  
**Paragraph 9 b (new)**

*Draft opinion*

*Amendment*

**9b. Strongly recommends that the Member States recruit to their judicial services full-time experts to assist those services in establishing the technical materiality of the circumstances of the case in order to determine the applicable liability, so as to enable the judicial authorities to resolve disputes swiftly, in accordance with the proper administration of justice, and without being dependent on external expertise which, given the specialised nature of AI, may only be available from industry professionals.**

Or. fr

**Amendment 88**  
**Adriana Maldonado López, Evelyne Gebhardt, Alex Agius Saliba, Clara Aguilera, Maria-Manuel Leitão-Marques, Sylvie Guillaume, Andreas Schieder, Maria Grapini, Marc Angel, Christel Schaldemose, Sándor Rónai**

**Draft opinion**  
**Paragraph 9 b (new)**

*Draft opinion*

*Amendment*

**9b. Calls on the Commission to propose concrete measures (such a registry of products liability cases) to enhance transparency and to monitor defective product circulating in the EU; it is essential to ensure high consumer protection and a high degree of information about the products that could be purchased.**

