

Secretariat of the Committee on the Internal Market and Consumer Protection  
The Secretariat

*16.07.2020*  
*Version 3*

**MS/es**

**Final Compromise AMs**

on the Draft Opinion

**on Artificial intelligence in criminal law and its use by the police and judicial authorities  
in criminal matters**

**(2020/2016(INI))**

Rapporteur for opinion: Marcel Kolaja

# **FINAL COMPROMISE AMENDMENTS ON ARTIFICIAL INTELLIGENCE IN CRIMINAL LAW AND ITS USE BY THE POLICE AND JUDICIAL AUTHORITIES IN CRIMINAL MATTERS**

*16 July 2020*

## **CA 1**

AM 17 (EPP), AM 18 (S&D), AM 20 (EPP), AM 21 (Greens/EFA), AM 22 (S&D), AM 23 (Renew), AM 26 (ECR), AM 28 (S&D)

### *Paragraph 1*

*Considers that AI used by police and judicial authorities has to be **generally categorised as high-risk and treated with the utmost care and highest standards of data protection**, given the role of these authorities **in defending the public interest and in view of the nature of their responsibilities**; considers that **there is an urgent need for a common European regulatory framework for AI in the internal market**; believes that the EU should take the lead in laying down **regulation at Union level, including on public procurement, based on clear rules and fundamental rights and ethics**, in the development and use of AI to ensure the same high level of consumer protection **and uniform industry standards across the EU, with a view to enabling a better functioning of the internal market, while encouraging innovation and fostering legal certainty for businesses, especially SMEs**; calls on the Commission to scrutinize the application of existing legislation and its enforcement, prior to initiating any possible new legislative proposals;*

## CA 2

AM 30 (ECR), AM 31 (S&D), AM 32 (S&D), AM 34 (Renew), AM 35 (EPP), AM 68 (Renew)

### *Paragraph 2*

*Stresses that AI should help to ease the administrative burden on public authorities **and increase the efficiency of their decision-making** and that AI systems should **always** rely on human oversight, collaboration and coordination; in this regard, highlights that humans should always bear the ultimate responsibility for any decision-making in criminal matters; stresses the importance of accurate data sets, when these are used to assist related e-government processes and administrative decision-making across the Union;*

## CA 3

AM 38 (ECR), AM 39 (EPP), AM 40 (Greens), AM 42 (Renew), AM 45 (S&D)

### *Paragraph 3 and 3 a (new)*

*Emphasizes the importance of enabling innovation, transparency, traceability and verification; stresses that open-source AI could contribute to this while also strengthening cooperation and fostering a culture of exchanging ideas and experiences relating to the use and creation of algorithms;*

*Considers that AI used by police and law enforcement in criminal matters, should be released as open source software **where possible** under the public procurement procedure in compliance with the applicable legislation, including Directive (EU) 2019/790 of the European Parliament and of the Council of 17 April 2019 on copyright and related rights in the Digital Single Market, with software documentation and algorithms accessible, allowing competent authorities to review how the AI system arrived at a certain conclusion; emphasizes that a fundamental rights audit should be part of a prior conformity assessment; believes that – while ensuring the respect of EU law and values and the applicable data protection rules, and without jeopardising investigations or criminal prosecutions, **explainable and unbiased algorithms that meet the obligation of sufficient transparency, as well as the use, of open data for training in compliance with the applicable legislation, including Directive (EU) 2019/1024 on open data and the re-use of public sector information without prejudice to Regulation (EU) 2016/679, are essential to ensure that businesses and citizens including consumers can trust in, and benefit from, better, accessible, non-discriminatory and reliable public services at a fair cost;***

## CA 4

AM 46 (EPP), AM 48 (S&D), AM 49 (Renew), AM 51 (Renew), AM 65 (Renew), AM 66 (S&D), AM 67 (Renew)

### *Paragraph 4*

*Emphasises that AI-based data collection and the monitoring of individuals should be limited to criminal suspects and court-approved surveillance in accordance with applicable national laws, taking into account the respect for private life and the presumption of innocence including that of other users and consumers which may be inadvertently affected by such systems and practices; emphasises that where decision-making is assisted by statistical calculations, adequate professional training and qualifications should ensure that decision-makers are trained about the potential for bias as data sets may be based on discriminatory and prejudiced data; highlights in this regard the importance of the quality of algorithms and original data and recalls that the use of AI must be based on the principle of non-discrimination in data entry and analyses; calls for procurement procedures for such applications to contain safeguards for possible biases; calls for exchanges of information and best practices regarding the application of AI techniques and tools by judicial and police authorities in Member States to avoid a fragmented approach in the Single Market, and ensure the protection of consumers and citizens across the Union;*

## CA 5

AM 53 (Greens/EFA), AM 54 (S&D), AM 55 (S&D)

### *Paragraph 5*

*Insists that Member States, in accordance with applicable criminal laws, should ensure that citizens and consumers are informed when they are subject to the use of AI and that simple, effective, and easily accessible complaint and redress procedures, including judicial redress should be made available to citizens, in order to allow them to effectively defend their rights;*

## CA 6

AM 57 (Renew), AM 58 (Greens), AM 61 (S&D), AM 62 (Renew), AM 63 (ECR)

### *Paragraph 6*

*Recalls the high risk of certain types of AI, including facial recognition technologies in public spaces, automated behaviour detection and profiling to divide people into risk categories at borders, **biometric detection and recognition for mass surveillance, mass-scale citizen scoring, and predictive policing**, and calls on the Commission to **regulate the procurement and use thereof in order to eliminate the risk of abuse**; in this regard welcomes the Commission's ongoing work to assess the use of biometric technologies and to consider regulatory options, including a risk-based approach and their ban in specific circumstances, and introduce necessary safeguards where their use is justified;*

## CA 7

AMs 1 (Greens/EFA), AM 4 (ECR), AM 6 (EPP), AM 9 (S&D)

### *Recital A*

*whereas, in view of both the positive societal potential as well as the inherent risks of **artificial intelligence (AI)**, the functioning of the digital single market should be improved by reinforcing legal certainty for providers of **AI systems**, and reinforcing **consumer trust and security** by strengthening safeguards to ensure the rule of law and **respect for fundamental rights, in particular to right to privacy and protection of personal data, right to equality and non-discrimination and the right to good administration and a fair trial and a high level of consumer protection**; whereas a common European approach to AI and the regulation of its use in criminal matters by police and law enforcement is necessary in order to avoid fragmentation in the Single Market;*