

ECLAN GRADUATE CONFERENCE 2023

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Title of presentation:

Car accident caused by an artificial intelligence system: The challenges in finding criminal liability...

A) OBJECT

The rapid technological developments of recent years have brought about rapid changes in the life of modern man. Now artificial intelligence systems have developed to such an extent that they can replace many human activities. As is logical, the law in general, but also the criminal law in cases of infringement of legal goods, cannot remain uninvolved, but must lay the foundations for dealing with the important challenges that arise.

To analyze the critical issues that arise, and with the aim of formulating some basic conclusions, those that are used to drive vehicles are selected from the set of artificial intelligence systems. In recent years, more and more cars have been enhanced with such systems, which not only assist the driver in navigating the vehicle, but often take over the navigation themselves. So, the following question arises: How is criminal liability assessed if an auto accident is caused by an automatic navigation system? This question has already been called upon to answer three critical jurisprudential examples, namely "Tesla", "Uber" and the German "Aschaffenburg" case.

B) ARTIFICIAL INTELLIGENCE SYSTEMS: DO THEY CONSTITUTE ELECTRONIC PERSONS?

The first issue that arises is whether artificial intelligence systems can be held criminally liable. In the European area, the laws of individual countries seem to be built on human criminal responsibility, with some exceptions that recognize criminal responsibility for legal entities as well. In this context, the reasonable question arises, whether an electronic personality could be recognized in an artificial intelligence system (electronic person) and of course what would be the doctrinal consequences of such an acceptance.

C) THE CAUSAL RELATIONSHIP AT THE CENTER OF THE INVESTIGATION OF CRIMINAL RESPONSIBILITY

Regardless of the answer, which will be given above, and the ethical approaches, which necessarily arise, the second critical issue, which must be researched, is the assessment of the responsibility of people, related to the formation and operation of the artificial intelligence system. Equipping a car with an artificial intelligence system is not a simplistic matter, but rather involves a series of actions, namely, its research, preparation, programming, construction and use. The involvement of multiple persons in the causal path to the infringement of legal goods creates high demands on the proper control of criminal responsibility, so that the necessary investigation is not led every time to the cumulative causality of all the persons involved in it. At the same time, it is crucial to formulate a position on the following issue: in cases of infringement of a legal good by the operation of a technical intelligence system, is the criminal liability of the perpetrator assessed only by crimes of negligence due to the limitation or even the disappearance of human action and choice? Is there a case to claim application of crimes of malice?

D) THE IMPORTANCE OF THE DEGREE OF AUTONOMY OF THE SYSTEMS IN THE CRIMINAL RESPONSIBILITY OF THE PERPETRATORS

Moreover, the fact that the continuous evolution of algorithms has created artificial intelligence systems that can have their own "perception" and therefore an autonomous reaction to risk should not be ignored. Here, the most interesting question arises: Can the autonomy of choice of artificial intelligence systems and therefore the infringement of the legal goods of persons due to the poor assessment of circumstances mitigate or even eliminate the responsibilities of the above persons? And on an even thornier strand, to what extent are artificial intelligence systems capable of solving dilemmas, and how is the responsibility of their programmers affected? It is certain that the degree of autonomy of artificial intelligence systems must be a capital condition in clarifying the criminal responsibility of the persons involved.

E) PERMISSIBLE DANGEROUS ACTION AS A KEY REASON FOR REMOVING TORTS IN THE FIELD OF ARTIFICIAL INTELLIGENCE

In continuation of the above considerations, it is interesting to see how the permitted dangerous action will work in removing the unjust nature of the act. An attempt will be made to record the specific reason for the removal of the wrongdoer, as well as to outline the necessary limits of its application. The traditional discussion of this critical reason for lifting, which is formed in the majority of European laws, needs to be enriched, following the particular requirements of the critical field of artificial intelligence.

F) NEW MODEL OF CRIMINAL RESPONSIBILITY OR RE-ADAPTION OF THE ALREADY EXISTING LEGAL FRAMEWORK?

It is clear from the above concerns, that criminal law is at a critical juncture, which in the effort to find solutions will be faced with the questioning of traditional criminal doctrines. Necessarily, both science and jurisprudence will be called upon to decide in which direction criminal law should move: in the formation of a new model of rendering criminal responsibility, which will overturn the fixed components or in the legislative strengthening of criminal provisions by readjustment of the existing ones or the criminalization of new common risk crimes?

G) METHODOLOGY AND OBJECTIVES

Critical methods for answering the issues posed by the presentation are both the theoretical analysis of emerging options, and their connection with modern jurisprudential examples, which occupied and still occupy the courts. At the same time, reference must be made to the initiatives that the EU has taken to align criminal law with the challenges posed by artificial intelligence, while at the same time a relevant critical assessment of these must be cited. Finally, it is necessary to formulate proposals, which will try to give a direction to the legislator, but also to the implementer of the law.

BRIEF CV

Georgios Bastounas is a PhD candidate in the field of "Criminal and Forensic Sciences" of the Law School of the Aristotle University of Thessaloniki in the subject of "Crimes against transportation" and a lawyer. He is a graduate of the undergraduate and postgraduate study program of the above school with an "Excellent" grade. He has been teaching for 3 years in a private higher education institution course related to the subject of Criminal Law (Substantive and Procedural), while at the same time he has published multiple studies and commentaries on judicial decisions with content of current legal issues in several legal journals (Criminal Justice, Criminology, Advocate, etc.). He recently participated as a speaker in a three-hour seminar entitled "Trafficking of pornographic material. From obscene publications to revenge porn", which was conducted by the legal publications of the "Law Library", while at the same time he has participated as a speaker in a number of other conferences and seminars on current issues of legal science. In the spring semester of the academic year 2021-2022, he was selected by the Aristotle University of Thessaloniki through the granting of a remunerative scholarship to carry out supplementary teaching in the courses of General Criminal Law and Criminal Procedure. He is currently conducting research as an honorary visitor at the University of Liverpool, funded by the Greek State Scholarship Foundation and the British Council.

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