Parliamentary Assembly: Resolutions and recommendations concerning COVID-19 and Artificial Intelligence

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The Standing Committee of the Parliamentary Assembly of the Council of Europe (PACE), which acts on the Assembly's behalf between plenary sessions, met successively on 12 and 13 October 2020, then on 22 and 23 October 2020, by videoconference.

An important topic discussed at these meetings concerned the measures restricting human rights taken in response to the COVID-19 pandemic. While states of emergency may allow for a more rapid and effective response to a major health crisis, they can also be hazardous from the perspective of human rights, democracy and the rule of law, posing risks to, among others, freedom of expression and media freedom, and data protection. PACE called for "a prompt, thorough and independent review of the national response to the COVID-19 pandemic", including its effectiveness and respect for human rights and the rule of law, so that in the event of another pandemic, the authorities can respond quickly, in accordance with Council of Europe standards. It also recommended that the Committee of Ministers "examine State practice in relation to derogations from the Convention" and adopt a recommendation to member states on derogations. PACE also invited it to instruct the appropriate inter-governmental bodies to review their national experience of responding to COVID-19 in order to share experience and good practice.

On 22 October, several debates were held on the challenges of artificial intelligence (AI), in particular: the need for democratic governance of AI; the role of AI in policing and criminal justice systems; discrimination caused by AI; threats to fundamental freedoms; medical, legal and ethical challenges in the field of health care; the consequences for labour markets; and the legal aspects of "autonomous vehicles". As a result of these discussions, the Standing Committee stressed the need for a global regulatory framework for AI, based on the protection of human rights, democracy and the rule of law, and proposed that the Committee of Ministers support the elaboration of a "legally binding instrument" governing AI, possibly in the form of a convention. The legally binding instrument advocated by PACE should ensure that AI-based technologies comply with Council of Europe standards and ethical principles, such as transparency, fairness, security and privacy. According to the parliamentarians, this instrument should also limit the possibilities of AI being misused to damage democracy, and ensure

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that AI promotes government accountability, the fight against corruption, and more direct democracy. Furthermore, considering the fact that many uses of AI can have a direct impact on equality of access to fundamental rights, including the right to private life and access to justice, employment, health and public services, the Standing Committee called on member states to draw up clear national legislation, standards and procedures to ensure that AI-based systems "comply with the rights to equality and non-discrimination wherever the enjoyment of these rights may be affected by the use of such systems." In order to ensure that the use of AI-based technologies by public authorities is subject to adequate parliamentary oversight and public scrutiny, national parliaments should make the issue of the use of such technologies part of regular parliamentary debates, and ensure that an adequate structure for such debates exists. Governments should "notify the parliament before such technology is deployed". Moreover, the Standing Committee advocated a regulatory framework that promotes complementarity between AI applications and human work, with human oversight in decision-making; state participation in and control of algorithmic development; and the introduction of "AI literacy" through digital education programmes for young people and life-long learning paths for all. It recommended that the Committee of Ministers launch the process for delivering a comprehensive European legal instrument on AI which would also cover the need for the enhanced protection of work-related social rights.

Standing Committee of the Parliamentary Assembly of the Council of Europe (12, 13, 22 and 23 October 2020)

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