Three-dimensional printing, a challenge in the fields of intellectual property rights and civil liability

2017/2007(INI) - 26/06/2018 - Committee report tabled for plenary, single reading

The Committee on Legal Affairs adopted the own-initiative report by Joëlle BERGERON (EFDD, FR) on three-dimensional printing, a challenge in the fields of intellectual property rights and civil liability.

Members noted that 3D printing is viewed as one of the most prominent technologies, with regard to which Europe can play a leading role. The EU has made 3D printing one of its **priority areas of technology**. The Commission referred to it, in its recent reflection paper on harnessing globalisation), as one of the main factors in bringing about industrial transformation.

The committee recalled that most of today's high-tech industries use this technology, and **expectations are high** in many areas, e.g. the medical (ranging from regenerative medicine to the manufacture of prosthetics), aeronautics, household electrical appliance, building, architecture, mechanical engineering, and leisure and design sectors.

It pointed out that 3D-printing technology might raise **some specific legal and ethical concerns** regarding all areas of intellectual property law, such as copyright, patents, designs, three-dimensional trademarks and even geographical indications, and civil liability. Members stressed that, to anticipate problems relating to civil liability or intellectual property infringement that 3D printing might cause in the future, the EU might have to **adopt new legislation and tailor existing laws** to the specific case of 3D technology. In any case, the legislative response should **avoid duplicating existing rules** and should take into account projects that are already under way, in particular the legislation on copyright currently applicable to 2D printing.

Intellectual property: the report noted that legal experts are of the view that 3D printing has not fundamentally altered intellectual property rights, but **files created may be considered a work**. If that is the case, the work must be protected as such. In the short and medium term, and with a view to tackling counterfeiting, the main challenge will be to involve **professional copyright intermediaries** more closely.

Civil liability: the report pointed out in general, civil liability is a matter that is not harmonised and is subject to national legislation. At EU level, Directive 85/374/EEC on liability for defective products covers all contracts. Members felt that it should be noted that it is progress in 3D printing among other things that has led the Commission to undertake a public consultation with the aim of **assessing whether this Directive is fit for purpose** in relation to new technological developments.

General liability rules also cover the liability of intermediary service providers. Members considered that a **specific liability regime should be envisaged** for damage caused by an object created using 3D-printing technology, as the number of stakeholders involved and the complex process used to create the finished product often make it difficult for the victim to identify the person responsible. The liability could lie with the creator or vendor of the 3D file, or the producer of the 3D printer, the producer of the software used in the 3D printer, the supplier of the materials used or even the person who created the object, depending on the cause of the defect discovered.

Members called on the Commission to:

- carefully consider the civil liability issues related to 3D-printing technology, including when it assesses the functioning of Council Directive 85/374/EEC on liability for defective products;
- explore the possibility of setting up a civil liability regime for damages not covered by Directive 85 /374/EEC;
- clearly define the various responsibilities by identifying the parties involved in making a 3D object: software designer and supplier, 3D printer manufacturer, raw materials supplier, object printer and all others involved in making the object.

Lastly, with respect to any new legislation, Members stated that innovation should be promoted and accompanied by law, without the law acting as a brake or a constraint.