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

2017/2007(INI) - 03/07/2018 - Text adopted by Parliament, single reading

The European Parliament adopted, by 631 votes to 27, with 19 abstentions, a resolution on three-dimensional printing, a challenge in the fields of intellectual property rights and civil liability.

Towards new legal standards: Members recalled that 3D printing is considered one of the most advanced technologies where Europe can play a leading role. The Commission has identified 3D printing as a **priority area** for action with strong economic potential, in particular for innovative small businesses. It recognized the benefits of 3D printing by sponsoring 21 projects based on this technology between 2014 and 2016 through the Horizon 2020 initiative.

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.

However, 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.

In order 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: Parliament 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: Members pointed out that new technologies are able to scan objects or people and generate digital files which can subsequently be printed in 3D which can affect **image rights** and the right to privacy. 3D-printing technology may also raise **security and especially cyber-security concerns**, particularly with regard to the manufacturing of weapons, explosives and drugs and any other hazardous objects. Particular care should be taken with regard to production of that kind.

At EU level, Directive 85/374/EEC on liability for defective products covers all contracts. Members 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. In addition, 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 Commission is called on 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.