Executive summary

The Legal Affairs Committee of the European Parliament, at its meeting of 12 January 2017, urged the drafting of a European Union (EU)-wide legislative framework that would govern the creation, use and potential taxation of robots and artificial intelligence (AI), including proposing a form of “electronic personhood” to ensure rights and responsibilities for the most capable “smart robots” and AI.

During the session, a motion¹ (the Motion) for a European Parliament Resolution was put forward.

Among other things, the Motion calls for the European Commission (the Commission) to consider whether companies should be required to calculate and report the contribution of robotics and AI to their economic results for the purpose of taxation and/or social security. No specific details as to how such calculations should be made or how such value may be taxed in the future were included in the Motion.

A European Parliament press release² was also issued at the conclusion of the meeting.
Detailed discussion

A report\(^3\) by Rapporteur\(^4\) Mady Delvaux (Group of the Progressive Alliance of Socialists and Democrats, Luxembourg), in which many (but not all) of the issues are described, was approved by 17 votes to 2, with 2 abstentions.

Both the report and the Motion set out a number of areas believed to be in need of specific oversight from the EU, including:

- The creation of a European agency for robotics and AI
- A legal definition of “smart autonomous robots,” with a system of registration for the most advanced instances
- An advisory code of conduct for robotics engineers, which would be designed to better guide the ethical design, production and use of robots
- A new reporting protocol for companies which would potentially require them to calculate and report the economic contribution of robotics and AI to their financial results, for the purpose of calculating taxation and social security contributions
- A new mandatory insurance scheme for companies which would cover future loss or damage caused by robots

The proposed legal status for robots would be analogous to corporate personhood, which allows firms to take part in legal cases both as the plaintiff and respondent.

In addition, the report points out that “robots’ civil liability is a crucial issue which needs to be addressed at the EU level. However, it does not appear appropriate to settle the issue by establishing the robot as a liable legal person.” Should the definition of robotics and AI extend to the business-specific use of these technologies (i.e., in terms of business process support or improved decision-making capabilities) then such liability issues will be important for businesses to understand, as both user and/or provider of such technology.

Potential tax issues

The Motion calls on the Commission to start monitoring job trends more closely, with a special focus on the creation and loss of jobs in the different fields/areas of qualification, in order to know in which fields jobs are being created and in which jobs are being lost as a result of the increased use of robots.

The report states that, bearing in mind the effects that the development and deployment of robotics and AI might have on employment and, consequently, on the viability of the social security systems of the Member States, consideration should be given to the possible need to introduce corporate reporting requirements on the extent and proportion of the contribution of robotics and AI to the economic results of a company for the purpose of taxation and social security contributions.

Such requirements would potentially require a company to report the contribution of robotics and AI to the economic results of a company for the purpose of taxation and social security contributions.

The Motion, however, does not set out any detail as to how the impacts of robotics and/or AI should be calculated, nor how the value created may potentially be taxed in future.

It is important to also note that the current report does not include specific reference to Robotic Process Automation (RPA), generally defined as the application of technology that allows a person to configure computer software or a “robot” to capture and interpret existing applications for processing a transaction, transforming and moving data, triggering responses and communicating with other digital systems.

Because RPA is demonstrating such a transformative effect on business practices (including significant impacts on current talent models), it is reasonable to assume that future discussions within the Committee will cover this issue, including the potential future taxation aspects.

The motion furthermore takes the view that in the light of the possible effects on the labor market of robotics and AI, a general basic income should be seriously considered, and invites all Member States to do so.
Definitions

The report sets out the difficulties of defining robotics and AI, particularly in regard to how such technologies may add value to business operations and decision-making. It further notes that there is absence of any real consensus on such a definition within the global scientific community.

Paragraph 1 of the motion for a resolution from the Committee (which is set out in the report) suggests that the Commission “propose a common European definition of smart autonomous robots and their subcategories by taking into consideration the following characteristics of an intelligent robot:

- Acquires autonomy through sensors and/or by exchanging data with its environment (inter-connectivity) and trades and analyses data
- Is self-learning (optional criterion)
- Has a physical support
- Adapts its behaviours and actions to its environment

Implications

While the discussion of robotics and AI within various committees has been occurring for some time, the specific tax aspects outlined in the committee session represent a new direction of travel, and should therefore be monitored by companies employing these forms of technology, either internally or as part of their business model. In particular, the definition of which elements of robotics (both physical and virtual) that emerges will be crucial for businesses to understand, as it will likely have an impact on future tax policy work at either the EU and/or national levels.

Next steps

This legislative initiative by the Legal Affairs Committee invites the Commission to present a legislative proposal. Under the EU operating protocols, it is not obliged to do so, but must state its reasons if it refuses. The full house of the European Parliament will vote on the draft proposals in February, which will need to be approved by absolute majority.

Endnotes

4. A person who is appointed by an organization to report on the proceedings of its meetings.
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