

# ITU Regional Cybersecurity Forum for Europe and CIS

27-28 February 2020  
Sofia, Bulgaria

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ITU Regional Initiative for Europe on enhancing trust and confidence in the use of ICTs

ITU Regional Initiative for CIS on the development and regulation of infocommunication infrastructure to make cities and human settlements inclusive, safe, and resilient



Hosted and co-organized by:



REPUBLIC OF BULGARIA  
State e-Government Agency



REPUBLIC OF BULGARIA  
Ministry of Transport, Information Technology  
and Communications



# CIVIL LIABILITY FOR ARTIFICIAL INTELLIGENCE

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NEW TECHNOLOGIES

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International Telecommunication Union



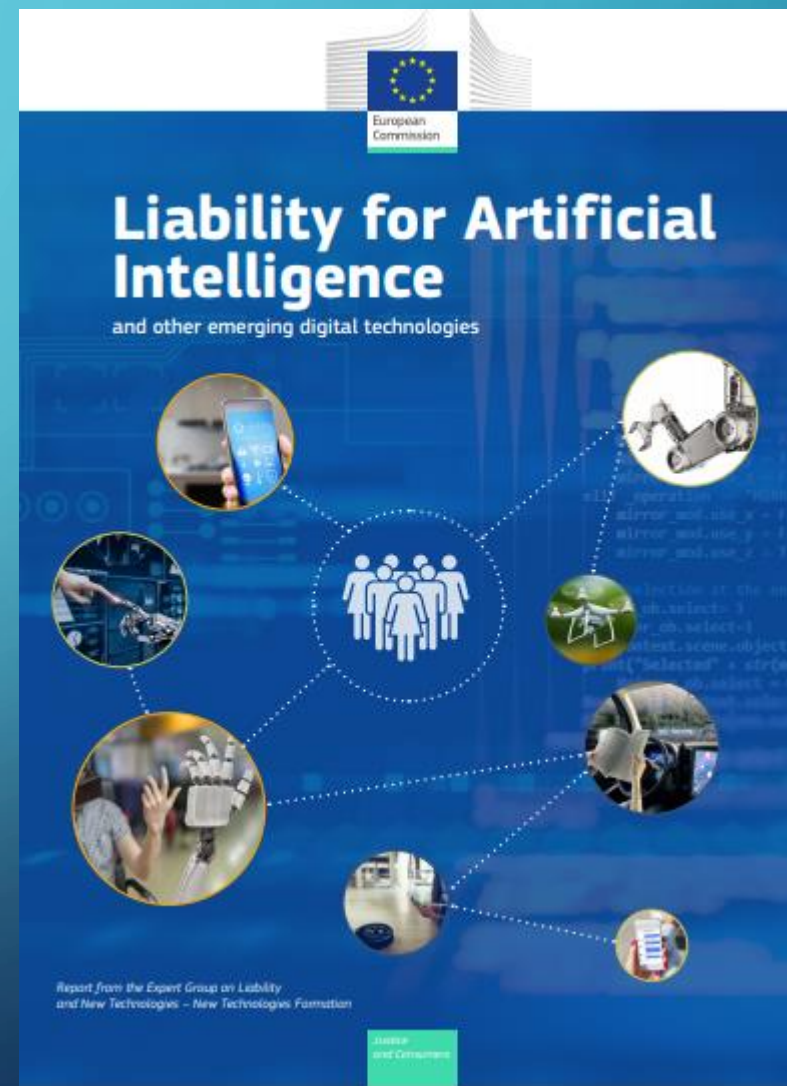
International Telecommunication Union

**"ITU Regional Cybersecurity Forum"**

For Europe and CIS

27-28 February 2020

# EUROPEAN COMMISSION EXPERT GROUP ON LIABILITY AND NEW TECHNOLOGIES



# POSSIBLE, FORESEEABLE, POTENTIAL



openness  
predictability  
autonomy  
vulnerability  
opacity  
data  
complexity

1. Logging by design
2. Commercial and technological unit
3. AI and regulatory sandboxes

# 1. LOGGING BY DESIGN

- The producer equips the technology with means of recording information if logging is appropriate and proportionate taking into account:
  - The type and magnitude of the risk posed by the technology
  - The availability of alternative means of gathering such information
  - Technical feasibility
  - Costs
- This enable operators to comply with their duty of care
- Failure to comply:
  - Presumption in favor of the victim
  - The operator may pass on the loss to the producer



# 1. APPLICATION OF LOGGING BY DESIGN



- Rebuild the patterns of events

- Precautions:

- Data integrity and confidentiality: no third party may alter the data: victim or insurance



- Test with autonomous cars: access to recorded data 5 minutes before the incident



## 2. COMMERCIAL & TECHNOLOGICAL UNITS

- 2 or more persons cooperate on a contractual basis in the provision of different elements of a CTU taking into account:
  - Any joint or coordinated marketing of the different elements,
  - The degree of their technical or operational interdependency
  - The degree of specificity or exclusivity of their combination
- The victim shows that at least one element caused her damage in a way triggering liability, but not which element
- All potential tortfeasors are liable
  - Joint and several liability

## 2. APPLICATION OF COMMERCIAL & TECHNOLOGICAL UNITS

SMART HOME  
EQUIPPED BY

**A**

ALARM **B**

INSTALLER **C**

ECOSYSTEM  
MANAGED BY **D**

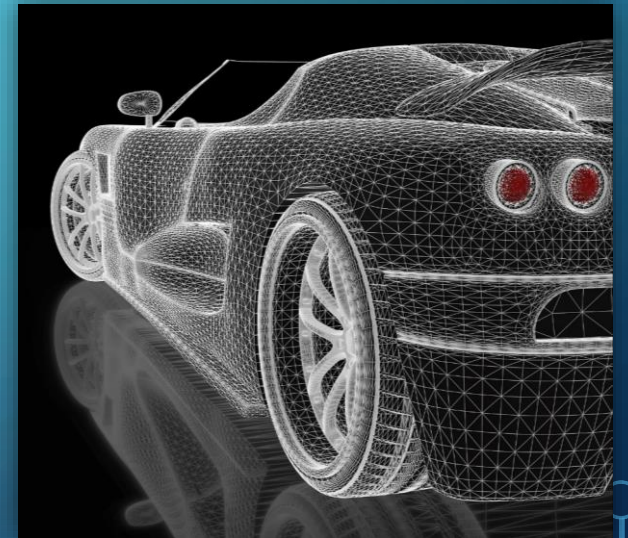
IAP  
**E**

- ▶ The UCT is formed by A, B & D
- ▶ Except if it's a joint offer (ex: package E)
- ▶ The victim sues A, B & D
- ▶ No fragmentation of liabilities



### 3. IA AND REGULATORY SANDBOXES

- Risk of intra-EU fragmentation of legal frameworks
- Cooperation with regulators
- Complemented by:
  - Cybersecurity
  - Consumers' protection



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