

ETHICAL AND LEGAL IMPLICATIONS OF NEURO-ENHANCEMENT

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How do neuro-enhancements align with the law? How do neuro-enhancements align with European normative anchors? Most neuro-enhancement technologies are still experimental and it is not at all clear whether they will ever show enhancement potential in healthy individuals. Furthermore, neuro-enhancement is such a broad umbrella term that it may be unsuitable to provide sufficient analytical clarity necessary for developing a regulation. However, if classifications are merely techno-centric or pathological, important aspects of fundamental rights may be ignored or neglected. Therefore (I believe) that legal policies on neuro-enhancement should aim, first and foremost, to restore the dignity and liberty of the people affected. This might only involve the goal to increase physical accessibility to the workplace and to sensitize the work environment for someone who is now considered disabled.

As a result of the uneven distribution of new technologies discrimination may occur within the group of the disabled and not only between people with or without a certain disability. Techno-centric vision of disability may also infringe rights (e.g. when certain regulatory classification prevents/or prescribes the use of the necessary/desired medical device. Tension within one given group (such as the deaf community) may create further sub-groups with multiple disadvantages (e.g. deaf community with or without cochlear implant). When one speaks on neuro-enhancement he/she may mean “fixed”, “enhanced”, “corrected”, “treated”, or “prevented” human conditions. Numerous specific legal questions rise from the possibility of enhancement, such as liability, access and discrimination. In the presentation I would like to briefly map the main legal questions and then to elaborate on some specific legal aspects, such as how neuro-enhancement may interfere with informed consent procedures. Can we assume the continuity of identity and will or gradually adjusted process of informed consent were more appropriate. How should we use these technologies to interpret the intent of the terminally ill, of the seriously ill or how to assess the will of the patients with neurodegenerative conditions?