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## **Artificial Intelligence and Education**

2nd Working Conference

# **REGULATING THE USE OF AI SYSTEMS IN EDUCATION**

## CONCEPT NOTE

**24 – 25 October 2024**

Council of Europe Headquarters, Strasbourg

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## CONCEPT NOTE

### Background

In 2019, the Committee of Ministers of the Council of Europe, aware of the complexity and rapid development of the digital environment and emerging technologies and their profound impact on citizens' lives, societies and economies, as well as on education, freedom of expression and citizen participation, recommended that member state governments explore the implications of artificial intelligence and other emerging technologies for education in general and more specifically for their use in education.<sup>1</sup> In this context, the Steering Committee for Education (formerly the Steering Committee for Education Policy and Practice) launched a new intergovernmental project on Artificial Intelligence and Education (AI&ED) in 2020.

As part of the AI&ED project, the Education Department commissioned a report to explore in detail the links between AI and education through the lens of the Council of Europe's mandate to protect human rights, support democracy and promote the rule of law. The report "*Artificial intelligence and education: A critical view through the lens of human rights, democracy and the rule of law*",<sup>2</sup> identifies some potential challenges of AI and education and concludes with a preliminary needs assessment to stimulate and inform further critical debate between learners, educators, AI researchers, commercial developers, policy makers and all other stakeholders.

In parallel with the report, a survey of Council of Europe member states was conducted to better understand national initiatives related to AI and education. The survey "*State of Artificial Intelligence and education across Europe*"<sup>3</sup> found that most of the responding member states have established or are in the process of establishing general policies and strategies for the use of AI. However, AI and education is not addressed as a special or distinct case, due to the absence of specific policies.

The Education Department organised the 1st Working Conference on 19-20 October 2022 to present the report and preliminary results of the survey. The survey and the conference,<sup>4</sup> together with the report, helped to lay the foundations for the Council of Europe's future work in the field of AI&ED.

Considering the ongoing work of the Committee on Artificial Intelligence (CAI) on the development of a Framework Convention on Artificial Intelligence, Human Rights, Democracy and the Rule of Law and the above-mentioned report, the Standing Conference of Ministers of Education of the Council of Europe adopted a resolution<sup>5</sup> on the use of AI in education at its 26th session on 29 September 2023. The resolution underlines the importance of ensuring that the use of artificial intelligence systems and data analytics in educational settings protects human rights, supports democracy and promotes the rule of law, and highlights the potential added value and contribution of a sectoral instrument setting out for education the principles and commitments for the implementation of the (then draft) Framework Convention.<sup>6</sup>

In this context, Ministers of Education welcomed the proposal to develop a legal instrument to regulate the use of AI systems in education for the promotion and protection of human rights, democracy and the rule of law, applying the provisions of the Framework Convention to the education sector. They also welcomed the proposal to develop a Recommendation of the

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1. Recommendation CM/Rec(2019)10 of the Committee of Ministers to member States on developing and promoting digital citizenship education, available at [https://search.coe.int/cm/Pages/result\\_details.aspx?ObjectID=090000168098de08](https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=090000168098de08).

2. Holmes W., Persson J., Chounta I.-A., Wasson B. and Dimitrova V. (2022), "*Artificial intelligence and education: A critical view through the lens of human rights, democracy and the rule of law*", Council of Europe, available at [www.coe.int/en/web/education/-/new-isbn-publication-artificial-intelligence-and-education](http://www.coe.int/en/web/education/-/new-isbn-publication-artificial-intelligence-and-education).

3. See the infographic <https://rm.coe.int/the-state-of-artificial-intelligence-in-education-infographic-/1680aef139>.

4. See the highlights <https://rm.coe.int/artificial-intelligence-and-education-post-conference-summary/1680aae327>.

5. *Resolution on harnessing the potential of Artificial Intelligence in and through education*.

6. Available at [www.coe.int/en/web/artificial-intelligence/cai](http://www.coe.int/en/web/artificial-intelligence/cai).

Committee of Ministers to ensure that teaching and learning about AI takes into account the impact of AI on human rights, democracy and the rule of law and prioritises the active participation and agency of teachers and learners.

These are reflected in the [Education Strategy 2024 – 2030](#)<sup>7</sup> under the third pillar “Advancing education through a human rights-based digital transformation” and included in the [Programme and Budget 2024 – 2027](#).<sup>8</sup>

## Context

The regulatory landscape for AI is still evolving. Globally, there are more than 300 policy initiatives in more than 60 countries that aim to regulate AI.<sup>9</sup> Two prominent regulatory frameworks are the Council of Europe Framework Convention on Artificial Intelligence, Human Rights, Democracy and the Rule of Law<sup>10</sup> and the EU AI Act.<sup>11</sup>

The Framework Convention - the first ever international legally binding treaty - aims to ensure that activities within the lifecycle of artificial intelligence systems are fully consistent with human rights, democracy and the rule of law, while being conducive to technological progress and innovation.<sup>12</sup> The Convention, which is also open to non-European countries, establishes a legal framework that covers the entire lifecycle of AI systems and addresses the risks they may pose, while promoting responsible innovation. It adopts a risk-based approach to the design, development, use and decommissioning of AI systems, which requires careful consideration of the potential negative consequences of using AI systems.

The AI Act is a European regulation on artificial intelligence (AI) - the first comprehensive regulation on AI by a major regulator anywhere. It aims to improve the functioning of the internal market and promote the uptake of human-centric and trustworthy artificial intelligence (AI), while ensuring a high level of protection of health, safety, fundamental rights, including democracy, the rule of law and the environment, against the harmful effects of AI systems in the European Union and promoting innovation. The Act classifies AI applications into three risk categories. First, applications and systems that pose an unacceptable risk, such as government-run social scoring are banned. Second, **high-risk applications**, such as a CV-scanning tool that ranks job applicants, are subject to specific legal requirements. Lastly, applications not explicitly banned or listed as high-risk are largely left unregulated.

Current AI policies and legislation, including the Framework Convention and the EU AI Act, emphasise risk management, transparency and ethical considerations, but often overlook the unique needs of education and children. Furthermore, they do not adequately address the specific needs of children or the education sector and the critical formative role of education in human development.

Following the Standing Conference of Ministers of Education, and in line with the request of the Committee of Ministers, the Council of Europe commissioned a preparatory study to set out the case for the legal instrument proposed in the above-mentioned Resolution. The preparatory study for the development of a legal instrument to regulate the use of Artificial Intelligence in education<sup>13</sup> - presented at the 5th Plenary Session of the Steering Committee for Education (CDEDU) on 22 March 2024 - highlights the increasing use of Artificial Intelligence (AI) technologies in education systems and their potential to influence educational practices. AI systems in education range from adaptive tutoring systems and plagiarism detection to e-proctoring and chatbots. While these systems and their possibilities for teaching

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7. Council of Europe Education Strategy 2030 “Learners first – Education for today’s and tomorrow’s democratic societies”, <https://rm.coe.int/education-strategy-of-the-council-of-europe-2024-2030/1680aee0c4>.

8. <https://rm.coe.int/programme-and-budget-2024-2027/1680aee0c3>.

9. OECD repository of over 1000 AI policy initiatives from 69 countries, territories and the EU <https://oecd.ai/en/dashboards/overview>.

10. [www.coe.int/en/web/digital-citizenship-education](http://www.coe.int/en/web/digital-citizenship-education).

11. <https://artificialintelligenceact.eu/>.

12. [www.coe.int/en/web/artificial-intelligence/the-framework-convention-on-artificial-intelligence](http://www.coe.int/en/web/artificial-intelligence/the-framework-convention-on-artificial-intelligence).

13. <https://rm.coe.int/preparatory-study-for-the-development-of-a-legal-instrument-on-regulat/1680af118c>.

and learning are actively debated, they can also pose risks, such as automating poor pedagogical practices, disempowering teachers and learners, and undermining human rights.

The preparatory study also highlights the specific needs of children, underlining the importance of protecting their rights and taking into account their developmental stages. Children, as a unique population with specific developmental needs and rights, pose a particular challenge in the context of AI in education. The potential misuse of AI in education could have long-term, irreversible effects on children, affecting their cognitive, emotional and social development.

The study also considers education to be a special case because of its role in actively shaping and supporting human development. More specifically, the aims of education are to enable a child to reach his or her full potential (UNCRC, Article 29) and to develop informed, responsible citizens who actively participate in democratic processes and address societal challenges. It is argued that the use of AI may interfere with these aims.

It also underlines that education, with its specific ethical, legal and pedagogical dimensions, requires a tailored approach to AI regulation that safeguards human rights, promotes democratic values and ensures educational equity.

In this regard, the preparatory study highlights several key areas where regulation is needed to safeguard human rights and ensure the ethical use of AI in educational settings. A comprehensive and nuanced regulatory framework that specifically addresses the use of AI systems in education will ensure that AI systems enhance learning without causing harm, protect the rights and interests of learners and educators, and promote equal access to educational opportunities. Such a framework will also prevent negative impacts, such as the potential to perpetuate bias, compromise student privacy, and prioritise easily measurable competencies over holistic educational goals such as critical thinking, creativity, and social-emotional development.

As part of the Programme and Budget 2024-2024, the Education Department is developing a policy toolbox on teaching and learning with and about AI, which will be followed by the drafting of a Committee of Ministers Recommendation on the same topic. The toolbox aims to support education systems in integrating artificial intelligence. The Education Department is also exploring the feasibility of developing a European evaluation framework to assess educational technologies. Both the toolbox and the feasibility study will be presented at the working conference.

## **Conference focus and outputs**

The theme of the conference is "Regulating the use of AI systems in education". Within this framework, the conference will provide an opportunity for key stakeholders from different backgrounds across Europe to work together in a series of engaging, informative and interactive formats to

- explore the regulatory dimensions of AI in Education (AIED),
- identify key legal and pedagogical considerations for AIED,
- develop actionable recommendations for the development of responsible and equitable regulation of AIED, and
- provide feedback on other ongoing initiatives (policy toolbox and feasibility study).

The conference is expected to produce the following outputs, which will be further developed in collaboration with the CDEDU and interested conference stakeholders:

- Actionable recommendations for the development of the proposed legal instrument that ensure the ethical, equitable and effective use of AI systems in educational settings.
- Key elements for the proposed legal instrument
- Informed feedback and expert input on the policy toolbox and feasibility study

The conference will also discuss other relevant issues, such as AI governance in education, teaching and learning with and about AI, future-proofing education systems, and the idea of a European evaluation framework to assess educational technologies.

## Programme topics

The following topics will be explored through context-setting keynotes, discussions, clarifying challenges and shared insights.

### Day 1

- Future proofing education
- Leveraging potential benefits of AI within educational settings
- Safeguarding against potential risks and challenges of AI systems
- Identifying appropriate components of regulation of AI in education

### Day 2

- Defining a legal instrument for AI in education
- Main elements for the proposed legal instrument
- Support mechanisms and policy toolkits

## Participants

The conference will provide an opportunity for a diverse range of key stakeholders to come together including government experts from member states, representatives of international organisations, professional associations, civil society organisations, private sector companies active in the field, and educators and academics working on artificial intelligence and education.

### Government experts

The Steering Committee for Education is kindly invited to consider nominating experts with a strong background in Artificial Intelligence and education. It is hoped that the nominated experts will be able to represent their country's needs and requirements, while also having a thorough understanding of the implementation possibilities and challenges related to AI in educational settings. It would be greatly appreciated if the experts could share their insights and experiences, which will undoubtedly be crucial in shaping the discussions and outcomes of the conference.

### Independent experts

The conference organising committee would also be grateful to receive **independent experts'** applications from related fields, as they may be able to contribute valuable insights into the regulatory and practical dimensions of AI in education.

## Registration

Please register at <https://forms.office.com/e/Ht3daQy0PG> **before and no later than 1 September 2024.**

In order to ensure a balanced and diverse representation, the Conference organising committee will evaluate independent applicants based on their professional background, relevant work outputs, and their potential to contribute to discussions on regulating AI systems in educational settings.

The selection process will give priority to applicants who are able to make a valuable contribution to the conference. Once the committee has completed the selection procedure, we will inform the selected participants accordingly. Should you require further information,

including practical details, updates about the conference and background documents, please do not hesitate to visit the Conference webpage.

### **Conference organising committee**

Comprising experts from diverse fields, the Conference organising committee is dedicated to curating a program that addresses the most pressing issues at the intersection of Artificial Intelligence and education. The committee will contribute to the planning and organisation of the conference, ensuring a seamless and productive experience for all participants. The members of the committee are experts selected by the Council of Europe Secretariat through an open international call and notably:

- Beth HAVINGA, Connect-EdTech
- Wayne HOLMES, University College London
- Christian STRACKE, University of Bonn
- Jen PERSSON, Defend Digital Me
- Ron SALAJ, Impactskills, University of Turin

### **Council of Europe Secretariat responsible for the organisation in Strasbourg**

- Villano QIRIAZI, Head of the Education Department
- Ahmet-Murat KILIÇ, Head of the Digital Transformation and E-Learning Unit
- Pierre VARASI, Junior Project Officer
- Benedita SANTOS SILVA, Junior Project Officer
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