



Strasbourg, 14 November 2019

CAHAI(2019)04

AD HOC COMMITTEE ON ARTIFICIAL INTELLIGENCE (CAHAI)

1st meeting

Strasbourg, 18-20 November 2019

Palais de l'Europe, room 9

Item 8.1

Working groups and multi-stakeholder consultations

Prepared by the CAHAI Secretariat

Item 8.1- Working groups and multi-stakeholder consultations: exchange of views on principles, format, stakeholders and timetable

Summary and objectives

This document presents various elements to facilitate discussions at the first CAHAI meeting on the Committee's working methods. It also includes a draft of potential principles on the interaction between CAHAI and relevant stakeholders and a number of aspects that the Committee should consider in this exchange.

Action required

The Committee will examine the proposed document and hold an exchange of views on the subject with a view to its finalisation and decision on its follow-up.

Main points for consideration:

- Do the members of CAHAI agree with the approach and principles proposed in this document regarding working methods until 31 May 2020?
- Are there any comments and opinions regarding the working methods, principles of consultations, format, conduct of consultations, including the minimum number of key actors that CAHAI should seek?
- Are there any other suggestions and questions that need to be considered?

I. Tasks to be accomplished and framework resulting from Resolution CM/Res(2011)24 and the mandate of CAHAI

1. Under the terms of reference of CAHAI (CM/Del/Dec(2019)1353/1.5-app), the committee is requested to do so:
 - to draw up by **31 May 2020** a progress report, including specific proposals for future action and, if necessary, on its working methods, which should be submitted to the Committee of Ministers;
 - examine by **31 December 2021, on the** basis of broad multi-stakeholder consultations, the feasibility and potential elements of a legal framework for the development, design and application of artificial intelligence, based on Council of Europe standards in the field of human rights, democracy and the rule of law.
2. The mandate as adopted by the Committee of Ministers has not defined any subordinate structures. Articles 13 and 14 of Annex 1 to [Resolution CM/Res\(2011\)24](#) concerning intergovernmental committees and subordinate bodies, their terms of reference and working methods) provide for different possibilities:
 - Article 13.a: The ad hoc committee may ask its bureau "to execute any additional specific tasks delegated by its committee".
 - Article 14.a: The ad hoc committee may appoint "a rapporteur, a drafting committee or both".
 - Article 14.b: The ad hoc committee may, in order to speed up the work, entrust "a rapporteur or a limited number of committee members with a specific task to be fulfilled by their next meeting".

- Article 14.c. : The ad hoc committee may, in exceptional cases and for specialised tasks which cannot be carried out by a member of the committee or by the Secretariat, " to have recourse to consultants".

3. On the basis of the CAHAI's mandate, two plenary meetings (3 days each) and two Bureau meetings will be held each year, according to a schedule to be approved by the Committee.

II. Proposal of working methods

4. Two distinct periods seem to have to be identified: the period until 31 May 2020 (initiation of work and submission of a progress report) and the period until 31 December 2021 (finalisation of the feasibility study with a view to its communication to the Committee of Ministers).
5. This proposal for a working method therefore only concerns the period up to 31 May 2020.
6. It is submitted to the CAHAI for discussion the possibility of giving a mandate, as provided for in Article 13(a) of CM/Res(2011)24, to the Bureau to initiate the drafting work and, if necessary, to conduct any necessary consultation during this period.
7. To this end, the services of expert consultants may also be used to provide support for the execution of specialised tasks that cannot be carried out by a member of the Bureau or the Secretariat.
8. The detailed working modalities of the Bureau will be decided in detail at its first meeting in January 2020.

III. Conduct of consultations

9. The work of CAHAI, including the work of drafting the feasibility study, must be based on a broad consultation procedure with all stakeholders, in order to enable CAHAI to arbitrate between the proposals and the positions collected.
10. On the basis of the discussions at the first plenary meeting on these aspects, the Bureau, supported by the secretariat, will be able to draft a roadmap that will explain the principles and format of the multi-stakeholder consultations, stakeholders, modalities and framework/schedule for these consultations for 2020-2021, roadmap which will be submitted to CAHAI for approval at its first plenary meeting in 2020.

Contribution methods

11. With regard specifically to the multi-stakeholder consultations to be conducted, several methods of input can be distinguished:
 - Written contributions, addressed both to the various CAHAI participants and observers (including civil society organisations, Council of Europe partner Internet companies and other private sector and scientific actors), collected in the form of questionnaires;
 - Oral contributions, which may take the form of interviews during working sessions (in person or remotely by videoconference).
12. Other participatory modalities may be considered depending on the results sought, including the holding of conferences with proceedings.

General principles that may apply to interaction with relevant actors

13. This document outlines possible principles for defining and conducting the consultation process between CAHAI and the various stakeholders:

- a) **Consultations should provide added value:** In this case, a consultation should generate information that CAHAI delegations could not otherwise obtain and/or promote a certain degree of stakeholder buy-in, develop the necessary synergies with their work, ensuring that duplication is avoided. This information and lessons learned should be used to enrich the final outcome of the drafting process.
- b) **Consultations should be planned in such a way that stakeholders have sufficient time to respond and can provide their comments in a timely manner.** Stakeholders must have a reasonable period of time to prepare their input and respond to requests for feedback. It is important to consider the most appropriate time for the communication of this information (for example, in the initial phase of the process or at a later stage).
- c) **Consultations should be conducted in a manner that allows for the effective use of resources,** both from CAHAI and from relevant stakeholders, avoiding as much as possible "consultation fatigue".
- d) **Some flexibility is required in choosing the most appropriate form of consultation.** Consultation can take various forms, including formal meetings, written consultation (requesting general comments in response to specific questions or more specific reactions/comments on a draft text), direct participation of actors outside CAHAI through hearings, national consultations (in consultation with the Bureau, and the CAHAI secretariat) and subsequent delegation reporting of the results to CAHAI. The most appropriate consultation, in terms of form and timing, will depend on the subject and the needs as regards the expected output, the deadline by which the latter must be delivered
- e) **Consultations should be transparent.** CAHAI should be kept regularly informed of any stakeholder consultations conducted as part of the drafting process and the results it has produced. The names of stakeholders consulted in the work of CAHAI will be officially mentioned in the documents produced and their written contributions published. Stakeholders will be kept informed of the outcome of the work in which they have participated.
- f) **CAHAI will have full flexibility to use the information gathered during the consultation process.** For example, it will not be required to incorporate suggestions that it deems irrelevant, unfounded and inconsistent with the objectives of its mandate.

14. The proposals above attempt to take into account the need to ensure that interactions: (a) meet the needs of CAHAI, (b) take place in a manner that allows for the efficient use of resources and corresponds to CAHAI's means for timely implementation (c) have in mind the specific sensitivities of the different participants and observers.

Stakeholders

15. Given the diversity and number of actors likely to be relevant and/or interested in these consultations, it is difficult to identify at this stage in detail all the actors who will be involved in these multi-stakeholder consultations. In addition, given the time available to CAHAI to develop and finalize its work, issues related to the timing and resources allocated to consultations are of particular importance.
16. CAHAI delegations are therefore invited to discuss the priority actors to be considered in this framework. They have the possibility to organize, under their responsibility and at their charge, multi-stakeholder consultations at the national level. The template for the synoptic table for this type of consultation will be provided by the Secretariat.
17. It goes without saying that the timetable for consultations should include the modalities for consulting the relevant intergovernmental bodies and committees of the Council of Europe which have the necessary expertise to make a useful contribution to the substantive issues

covered by the feasibility study, taking into account their respective agendas and their ability to adapt to the CAHAI work plan.

IV. Proposed next steps

a) Step 1 (November 20, 2019- January 23, 2020)

18. Provided that CAHAI discusses the above in detail, the next steps could be considered is that the Bureau be mandated by the Plenary to:
 - a. define the practical modalities of the consultation on the basis of the guidelines provided by CAHAI in advance of its first meeting in January 2020, and initiate drafting work (including any necessary consultation at this stage)
 - b. establish a minimum list of actors who could be invited to participate in consultations and in what form;
 - c. define a list of key events on the margins of which adequate consultation could be carried out in 2020
 - d. launch a consultation to check whether CAHAI members are willing to engage in consultations at the national level;
 - e. define a potential timetable for consultations
 - f. examine at its first meeting the requests received from organisations that have written to the Committee in order to request observer status and/or offer to contribute to it through consultations and to propose to the Committee, on the basis of agreed admission criteria, which organizations should be invited to the next CAHAI plenary meeting and/or on another form of participation.

b) Step 2 (2nd CAHAI Plenary Meeting, March 2020)

19. At the 2nd meeting, the Committee will consider for adoption a roadmap on the principles and format of multi-stakeholder consultations, stakeholders, modalities and framework/schedule for these consultations for 2020-2021.
20. The second plenary meeting will also be an opportunity to evaluate the methods adopted and adapt them according to the orientation given to the work, on the basis of proposals that the Bureau will develop taking into account the different possible methods with regard to Articles 13 and 14 of Annex 1 to Resolution CM/Res(2011)24, such as restricted drafting committees and/or rapporteurs.

c) Step 3: (March 2020-31 May 2020)

21. Following the second plenary meeting, CAHAI will finalise (according to modalities to be defined) the progress report, including specific proposals for future actions and, if necessary, on its working methods, which should be presented to the Committee of Ministers.
22. Subject to any possible questions it may submit to the Committee of Ministers regarding future actions, it could publicly confirm the modalities of the consultation process, and according to the defined working modalities, contact the relevant actors and/or publish and disseminate the first consultation documents as appropriate.