



Strasbourg, 26 February 2021

CAHAI(2021)03

AD HOC COMMITTEE ON ARTIFICIAL INTELLIGENCE (CAHAI)

4th meeting

Strasbourg, 26 February 2021

Online meeting – KUDO Platform

ABRIDGED MEETING REPORT

Prepared by the CAHAI Secretariat

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I. Introduction

1. The Council of Europe's Ad hoc Committee on Artificial Intelligence (hereinafter referred to as "CAHAI" or "the Committee") held its 4th plenary meeting online on 26 February 2021, in conformity with its terms of reference adopted by the Committee of Ministers on 11 September 2019.
2. The Chair, Mr Gregor Stojin (Slovenia), opened the meeting and welcomed the participants.

II. List of items discussed at the meeting and decisions taken by the CAHAI

Agenda item 1: Opening of the meeting

3. Mr Patrick Penninckx, Head of the Information Society Department, Council of Europe, addressed his opening words to the Committee.
4. The Committee thanked him for his opening remarks.

Agenda item 2: Adoption of the agenda and order of business

5. The agenda and order of business were adopted without any modifications.

Agenda item 3: Stock-taking since the latest plenary meeting and draft table of contents of main elements of a legal framework based on Council of Europe standards on human rights, rule of law and democracy

6. The Co-Chairs of the CAHAI Policy Development Group (CAHAI-PDG) and the CAHAI Legal Frameworks Group (CAHAI-LFG) presented the Working Groups' activities and the draft table of contents outlining a provisional division of labour between the CAHAI-PDG and the CAHAI-LFG and invited the Committee to express its views and comments.
7. The Committee took note of the presentations and of the draft table of contents as it stands, noting that the focus of the work for both Groups should be on the identification and elaboration of the main elements of a legal framework on AI based on Council of Europe standards, to be included in the final report by the CAHAI to the Committee of Ministers. The two Groups shall, where possible, indicate if some elements are in their view considered more suitable for a legally-binding or non-binding instrument, as well as the reasons therefor.
8. The Committee also underlined that continued close co-operation between the Co-Chairs of the CAHAI-PDG and the CAHAI-LFG should be ensured in order to prevent any unnecessary overlaps in the work of the Groups.

Agenda item 4: CAHAI multi-stakeholder consultation

9. Mr Andrey Neznamov, Co-Chair of the CAHAI-COG, presented the preparatory work carried out by the CAHAI-COG last year, in particular on the mapping of the stakeholders and its rationale.
10. Mr Thomas Schneider, member of the Bureau in respect of Switzerland, presented the draft Action Plan on the multi-stakeholder consultation.

11. The Committee took note of the presentations and its members, observers and participants exchanged views on the draft Action Plan and its Appendices.
12. At the end of the discussions, the Committee adopted the Action Plan. It took note that one delegation expressed its disagreement with the formulation of question 40 of Appendix I.

Agenda item 5: Hearing of candidates for observer status to the CAHAI (in camera; for Heads of Delegations only)

13. The Committee held a hearing of the three organisations having requested the status of observer to the CAHAI. These organisations were the Center for AI and Digital Policy (CAIDP) of the Michael Dukakis Institute, the Centre for Democracy and Rule of Law (CEDEM), and the European Association of Data Protection Professionals (EADPP).
14. The Committee unanimously agreed to admit the Center for AI and Digital Policy (CAIDP) of the Michael Dukakis Institute and the European Association of Data Protection Professionals (EADPP) to the CAHAI.
15. As regards the Centre for Democracy and Rule of Law, the Committee did not unanimously agree to admit them to the CAHAI and decided to refer the application to the Committee of Ministers, in accordance with Section III. C. on Observers, letter A of Resolution CM/Res(2011)24 on intergovernmental committees and subordinate bodies, their terms of reference and working methods.
16. The Committee instructed the Secretariat to notify the organisations of the outcome of the process.

Agenda item 6: Analysis of the electronic consultation of CAHAI members, observers and participants

17. The Secretariat presented to the Committee the updated version of the analysis of the online consultation (CAHAI(2020)09-rev3).
18. The Committee took note of the presentation by the Secretariat and agreed to make it public.

Agenda item 7: Classification of AI systems: ongoing work within OECD

19. Mr Marko Grobelnik, CAHAI member in respect of Slovenia, member of the Working Group Meeting on the Classification of AI systems within the OECD and Ms Karine Perset, Administrator of the OECD's AI Policy Observatory, OECD Division for Digital Economy Policy presented the ongoing work within the OECD on the classification of AI systems.
20. The Committee thanked Mr Grobelnik and Ms Perset for the updates on the OECD's ongoing work related to AI and for their preliminary proposals to strengthen co-operation between the OECD and the CAHAI, including in the framework of the OECD AI framework, of which it took note. It instructed both CAHAI Working Groups, as they are looking into issues related to AI definition, co-operation and compliance mechanisms, to take into account the work of the OECD and to report to the plenary at a later stage.

Agenda item 8: Status of the consultation on the draft Declaration of the Committee of Ministers on the risks of computer-assisted or artificial-intelligence-enabled decision making in the field of the social safety net.

21. The Secretariat informed the Committee about other pending requests by the Committee of Ministers for opinions of the CAHAI, and made proposals for how to proceed with them. In particular, it was proposed that a draft reply to any requests would be prepared by the secretariat, transmitted to the Chair and then subject to a written procedure of approval by the members of the Committee.
22. The Committee decided to follow the proposal by the Secretariat concerning the procedure to be applied when replying to requests for opinions by the Committee of Ministers and instructed the Secretariat to submit to the Committee of Ministers the comments of the CAHAI, as amended, on the draft Declaration of the Committee of Ministers on the risks of computer-assisted or artificial-intelligence-enabled decision making in the field of the social safety net.

Agenda item 9: Information point: Conference on “Protecting Human Rights in the era of AI - Europe as an international standard setter for the regulation of Artificial Intelligence” – Conference organised by the German Chairmanship of the Committee of Ministers

23. The Committee took note of the information provided by Mr Wolfgang Teves, member of the CAHAI in respect of Germany, on the Conference on “Protecting Human Rights in the era of AI - Europe as an international standard setter for the regulation of Artificial Intelligence” organised in January 2021 by the German Chairmanship of the Committee of Ministers.

Agenda item 10: Dates and place of the next meetings

24. The Committee took note of document CAHAI(2020)25rev3 including the dates of CAHAI plenary meetings, Bureau meetings and Working Group meetings for 2021.
25. The next plenary meeting will be held on 5-7 July 2021.

Agenda item 11: Any other business

26. The Committee took note of the information provided by Mr David Leslie, member of the Bureau in respect of the United Kingdom, of the primer on the feasibility study published by the Alain Touring Institute, and thanked him for this initiative. It also took note of the information provided by the Delegation of Azerbaijan concerning the upcoming conference on “Artificial Intelligence for Digital Governance.”
27. One delegation suggested to amend paragraph 93 of the full report of the 3rd plenary meeting in line with paragraph 179 of the Feasibility Study, which was agreed upon by the Committee.

Agenda item 12: Adoption of the abridged report and close of the meeting

28. The CAHAI adopted the abridged meeting report and list of decisions.
29. The Chair thanked all participants for their active participation in the meeting and the Secretariat for its support in organising the meeting.

End of the meeting

APPENDIX I

AGENDA AND ORDER OF BUSINESS

Friday, 26 February, morning		
Timing	Document reference	Agenda item
9.30 am		1. Opening of the meeting <ul style="list-style-type: none"> Mr Patrick Penninckx, Head of Information Society Department, Council of Europe
9.45 am	CAHAI(2021)OJ1	2. Adoption of the Agenda and Order of Business
10.00 am	CAHAI-BU(2021)REP1 CAHAI-PDG(2021)PV1rev. CAHAI-LFG(2021)PV1 Feasibility study CAHAI(2020)23 Abridged plenary meeting report CAHAI(2020)26 Full plenary meeting report CAHAI(2020)27	3. Stock-taking since the latest plenary meeting and draft table of contents of main elements of a legal framework based on Council of Europe standards on human rights, rule of law and democracy <ul style="list-style-type: none"> Presentation by the Co-Chairs of the CAHAI Policy Development Group (CAHAI-PDG) and CAHAI Legal Framework Groups (CAHAI-LFG) on Working Groups' activity Presentation of the draft table of contents and comments by CAHAI members, observers and participants
10.45 am	Action Plan CAHAI(2021)02	4. CAHAI multi-stakeholder consultation <ul style="list-style-type: none"> Presentation by Ms Victoria Alsina and Mr Andrey Neznamov, Co-Chairs of the CAHAI-COG, of the preparatory work carried out by the CAHAI-COG last year, in particular on the mapping of the stakeholders and its rationale Presentation by Thomas Schneider, member of the Bureau in respect of Switzerland, on the draft Action Plan on the multi-stakeholder consultation followed by discussion with the delegations
11.30 am		5. Hearing of candidates for observer status to the CAHAI (in camera; for Heads of Delegations only)
12 pm		Closing of the morning session

Friday, 26 February - afternoon		
2.30 pm		4. [continued] CAHAI multi-stakeholder consultation Presentation on the draft Action Plan on the multi-stakeholder consultation followed by discussion with the delegations
3.15 pm	CAHAI(2020)09-rev3 (restricted)	6. Analysis of the electronic consultation of CAHAI members, observers and participants Presentation by the secretariat followed by discussion
3.45 pm		7. Classification of AI systems: ongoing work within OECD Presentation by Mr Marko Grobelnik, CAHAI member in respect of Slovenia, member of the Working Group Meeting on the Classification of AI systems within OECD and Ms Karine Perset, Administrator of the OECD's AI Policy Observatory, OECD Division for Digital Economy Policy
4.15 pm	CAHAI(2021)01	8. Status of the consultation on the draft Declaration of the Committee of Ministers on the risks of computer-assisted or artificial-intelligence-enabled decision making in the field of the social safety net. Information by the Secretariat concerning other pending requests by the Committee of Ministers for opinions of the CAHAI, and proposals for how to proceed with them.
4.30 pm		9. Information point: Conference on “Protecting Human Rights in the era of AI - Europe as an international standard setter for the regulation of Artificial Intelligence” – Conference organised by the German Chairmanship of the Committee of Ministers
4.35 pm	CAHAI(2020)25rev3	10. Dates and place of the next meetings
4.40 pm		11. Any other business
4.45 pm		12. Adoption of the abridged report and close of the meeting
5 pm		End of the meeting

APPENDIX II

MEMBER STATES OF THE COUNCIL OF EUROPE / ETATS MEMBRES DU CONSEIL DE L'EUROPE

ALBANIA / ALBANIE

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ANDORRA / ANDORRE

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Ms Jordi ASCENSI, Project Coordinator, Andorra Innovation Hub – Andorra Research & Innovation /
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Mr Erik HOVSEPYAN, Senior Specialist, International Cooperation Department, EU and International Organizations Division, Ministry of High-Tech industry /
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CAHAI(2021)03

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NORTH MACEDONIA / MACEDOINE DU NORD

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POLAND / POLOGNE

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RUSSIAN FEDERATION / FÉDÉRATION DE RUSSIE

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Mr Patrick PENNINGCKX, Head of Department, Information Society Department / *Chef du Service de la société de l'information*

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INTERPRETERS / INTERPRÈTES

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APPENDIX III

CAHAI 2nd Deliverable – due end of 2021
* DRAFT *

Elements for a Legal Framework
– Suggestion for a DRAFT ‘Table of Contents’

Draft Table of Contents and initial division of tasks between LFG and PDG (status 12.02.2021)

1. Introduction
2. Potential elements for a **horizontal** binding legal instrument (**LFG**)
 - A. Scope & Purpose of the legal instrument (AI Definition, guiding Principles)
 - B. Substantive elements (drawing e.g. on Chapter 7: potentially relevant rights and obligations, as well as potential red lines)
 - C. Procedural elements
 - Potential compliance mechanisms for the legal framework (Incl. a Human Rights, Democracy & Rule of Law Impact Assessment) (**taking into account PDG Sub-group 1 ongoing work**)
 - Potential follow-up mechanisms
3. Potential elements for a sectoral approach
 - A. Council of Europe mapping work on Verticals (**PDG**)
 - B. Recommendations on further sectoral instruments that may be needed (**LFG + PDG**)
4. Further policy guidance
 - E.g. on AI in the public sector (**PDG Sub-group 2**)
5. Conclusions

Taking into account results from COG

Subgroups LFG

1. **SG Scope & Basic Principles:**
 - scope, purpose, definitions, basic principles, general criteria for a risk-based approach (identify relevant parameters, e.g. sector, use, ...) *(N.B. this is not about developing a HRIA methodology) (N.B.2 this subgroup could also cover economic and social rights, keeping in mind ongoing work, e.g. CM is preparing a Declaration on AI and social rights).* (FS, Ch.2 – 3.3 – 5)
2. **SG Human Value Dignity, Autonomy & Freedoms**
 - incl. privacy, self-determination, digital identity) (FS, Ch.7.1.1-2-3)
3. **SG Non-discrimination, gender equality, fairness, diversity** (Ch.7.1.4)
4. **SG Impact on democracy and rule of law; right to fair trial** (Ch.7.1.8-9)
5. **SG Accountability, Responsibility, Transparency**
 - prevention of harm, responsible data governance (Ch.7.1.2-5-6-7)
 - role of MS and private actors, including liability (Ch.7.2-7.3)
6. **SG “Red lines”**
 - describe in detail particular uses of AI technology – like in relation to profiling, tracking, surveillance – that pose such serious risks that additional measures, incl. a ban or moratorium seems appropriate + determine criteria to distinguish situations for possible ban v. moratorium)
7. **SG Cooperation; compliance; follow-up** (provisions to be considered in a binding instrument) (Ch.9)

First draft by March 15