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CAHAI(2021)09

# **AD HOC COMMITTEE ON ARTIFICIAL INTELLIGENCE (CAHAI)**

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## **Progress Report**

**by the Co-Chairs of the CAHAI-PDG**

**Mr Wolfgang TEVES (Germany) and Mr Zoltán TURBEK (Hungary)**

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## **I. Introduction**

Following the preparation of the feasibility study adopted by the CAHAI in December 2020, and the finalisation of the questionnaire for the CAHAI multi-stakeholder consultation in February 2021, the CAHAI Policy Development Group (CAHAI-PDG) is contributing to the elaboration of the potential elements of the future legal framework on artificial intelligence (AI) based on Council of Europe's standards on human rights, rule of law and democracy, focusing in particular on the elements which are considered to be suitable for a legally non-binding instrument and policy recommendations to member States.

For the composition of the CAHAI-PDG, please refer to Annex I of this document.

The CAHAI-PDG is chaired by Mr Wolfgang TEVES (Germany) and Mr Zoltán TURBEK (Hungary).

## **II. Meetings**

Since the beginning of 2021, the CAHAI-PDG met three times<sup>1</sup>: on 21-22 January, on 18-19 March and on 27 May. Its 6<sup>th</sup> meeting is currently scheduled for 11-12 October 2021.

## **III. Working methods**

At its January meeting, the CAHAI-PDG agreed to focus its work on two issues:

- a) The elaboration of a methodology and a practical model of assessment of the impact of AI systems on human rights, democracy and the rule of law (a human rights, democracy and the rule of law impact assessment – HUADERIA);
- b) Policy guidance on the use of AI in the public sector

It also agreed to set up two Sub-Working Groups, composed of CAHAI-PDG members, observers and participants, to prepare two documents on these issues, which were reviewed by the CAHAI-PDG in the two subsequent meetings in March and May. These documents, which have been made available to the CAHAI plenary (see respectively the documents [CAHAI-PDG\(2021\)5](#) and [CAHAI-PDG\(2021\)6](#)), are expected to be further developed and finalised at the 6<sup>th</sup> CAHAI-PDG meeting planned on 11-12 October 2021. The revised versions of the two documents will be prepared by the secretariat in close coordination with the CAHAI-PDG Co-Chairs, based on the comments received by the delegations orally during the meeting of 27 May and in writing.

## **IV. Preliminary results**

Due very constructive contributions and many efforts of the Sub-Working Groups and CAHAI-PDG members, the CAHAI-PDG has significantly advanced in the preparation of the two above-mentioned deliverables.

As regards HUADERIA, significant progress has been made in the development of the methodology and the criteria based on which a practical model of assessment can be

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<sup>1</sup> The CAHAI-PDG held two meetings in 2020.

developed. Although some fine-tuning is still necessary, there is an overall agreement on the fact that this type of assessment should address in particular two aspects:

- i. The inherent features of AI systems: in particular, the context of application and the underlying technology used, including dimensions such as explainability, traceability, level of automation, to name but a few – as well as the actors and the stakeholders involved;
- ii. The impact on human rights, rule of law and democracy. In order to measure specifically the impact on rule of law and democracy, the Group has agreed to use human rights as proxies to democracy and the rule of law. The idea is to explore if the magnitude of certain individual human rights violations closely linked to the good functioning of democratic institutions and processes, as well as rule of law core elements, could undermine democracy and the rule of law.

Moreover, it has been preliminarily agreed that a HUDERIA process should be based on 4 main steps:

- a) Identifying relevant rights and elements of rule of law and democracy which could be potentially affected based on use, context and purpose of the AI application;
- b) Impact assessment, including a more technical analysis of the challenges that a given AI application can raise from a human rights, rule of law and democracy perspective;
- c) Assessment of governance mechanisms, to determine which governance mechanisms (if any) were established in respect of the AI application;
- d) Continuous evaluation: if challenges for the protection of human rights, rule of law and democracy were ascertained in steps 2 and 3, identify suitable mitigation measures – if available – and check again impact on human rights, rule of law and democracy.

As regards the policy guidance on the use of AI in the public sector, the approach taken is to provide examples of use cases of AI applications in Council of Europe's member States, to review the benefits and risks of the use of AI in the public sector, and to provide concrete policy recommendations for public actors seeking to adopt AI.

Policy recommendations concern the measures that should accompany the design, procurement, the development and the deployment of AI technologies in the public sector, as well as the efforts to be deployed when it comes to continuous education, with a view to making the public sector more accountable, transparent and respectful of European standards on human rights, rule of law and democracy.

## V. Requests for guidance

Feedback from the CAHAI is sought in particular with regard to the following issues:

### HUDERIA:

#### 1. Inherent features of AI systems

Would the delegations have any suggestions to make with regard to the inherent features of AI systems which would have to be considered in the framework of the assessment, as described in the document [CAHAI-PDG\(2021\)5](#), pages 10-15?

#### 2. Assessing impact on democracy and the rule of law

Would the delegations have specific suggestions as to how to assess impact on democracy and the rule of law, in addition to “proxy rights” previously described (for further reference see CAHAI-PDG (2021)05, pages 16-21)?

### 3. Main steps for performing a HUDERIA

Would the delegations have specific suggestions on the main steps for performing a HUDERIA as described above (for further reference see CAHAI-PDG (2021)05, pages 24-28?)

#### Policy guidance for the use of AI in the public sector:

1. Do the delegations support the approach taken in this document? Are there any other aspects which should be addressed?
2. Would the delegations have specific suggestions or additions to make to the policy recommendations formulated in pages 15-25 of the document [CAHAI-PDG\(2021\)6](#), particularly as regards the design, procurement, the development and the deployment of AI technologies in the public sector, as well as the efforts to be deployed when it comes to continuous education?

## **VI. Next steps**

The CAHAI-PDG will, at its 6<sup>th</sup> meeting, finalise the methodology and practical model of HUDERIA, as well as the policy recommendations for the use of AI in the public sector.

It will also discuss which findings from both documents will be included as suitable elements for a legally non-binding instrument and policy recommendations to member States, with a view to their transmission to the CAHAI for its 6<sup>th</sup> plenary meeting.

## **VII. Conclusion**

We consider that the work of the CAHAI-PDG has progressed as planned and expect to be able to submit the results of the work of the Group to the CAHAI in accordance with the instructions provided by the Committee.

**APPENDIX**  
**COMPOSITION OF THE CAHAI-PDG**

**Member States of the Council of Europe / Etats membres du Conseil de l'Europe**

Belgium	Ms Peggy VALCKE - Researcher and Professor in ICT and Media at the Faculty of Law at the KU Leuven / chercheuse et professeur en ICT et médias à la faculté de droit à la KU Leuven	Belgique
Bosnia and Herzegovina	Mr Dag DZUMRUKCIC - Minister counsellor, Department for International Legal Affairs, Ministry of Foreign Affairs / Ministre conseiller, Département des affaires juridiques internationales, Ministère des affaires étrangères	Bosnie-Herzégovine
Bulgaria	Ms Totka CHERNAEVA – Head of European Programs and Projects Unit Information Technology Directorate / Chef de l'unité "Programmes et projets européens" Direction des technologies de l'information	Bulgarie
Estonia	Ms Siiri AULIK - Adviser, Public Law Division, Estonian Ministry of Justice / Conseillère, division du droit public, ministère estonien de la justice	Estonie
Germany	Mr Wolfgang TEVES - Head of Division for Digital Strategy; Key Policy Issues of the Information Society, Federal Ministry of Justice and Consumer Protection / Chef de la Division de la stratégie numérique, questions politiques clés de la société de l'information, ministère fédéral de la justice et de la protection des consommateurs	Allemagne
Greece	Mr Konstantinos SFIKAS - Executive, Department of Open Governance and Transparency / Exécutif, Service de la gouvernance ouverte et de la transparence	Grèce
Hungary	Mr Zoltán TURBÉK - Director, Department of International Organisations, Ministry of Foreign Affairs and Trade / Directeur, Département des organisations internationales, Ministère des affaires étrangères et du commerce	Hongrie
Ireland	To be nominated / A nommer	Irlande
Italy	Mr Guido SCORZA – Lawyer, Adjunct Professor of IT Law, Journalist, member of the Italian Data Protection Authority / Avocat, professeur adjoint de droit des technologies de l'information, journaliste, membre de l'autorité italienne de protection des données  in case of unavailability to be deputised by / en cas d'indisponibilité pour être suppléé par  Ms Alessandra PIERUCCI - Service for EU and International Matters, Garante per la protezione dei dati personali / Service pour les affaires européennes et internationales, Contrôleur de la protection des données	Italie

Luxembourg	<p>Mr Max GINDT - Department of State, Media and Communications Services / Ministère d'État, Service des médias et des communications</p> <p>in case of unavailability to be deputised by / en cas d'indisponibilité pour être suppléé par</p> <p>Mr Thierry ZEIEN - Attaché, Department of State, Media and Communications Services / Attaché, Ministère d'État, Service des médias et des communications</p>	Luxembourg
Netherlands	<p>Ms Monika MILANOVIC - Legal advisor Information Society, Public Values and Fundamental Rights, Department of Digital Government, Ministry of the Interior and Kingdom Relations / Conseillère juridique, Société de l'information, valeurs publiques et droits fondamentaux, Département du gouvernement numérique, Ministère de l'intérieur et des relations au sein du Royaume</p> <p>in case of unavailability to be deputised by / en cas d'indisponibilité pour être suppléé par</p> <p>Mr Michael VOS - Senior Policy Advisor, AI Policy Team, Ministry of Justice and Security / Conseiller politique principal, équipe chargée de la politique d'AI, ministère de la justice et de la sécurité</p>	Pays-Bas
Poland	Mr Robert KROPLEWSKI - Plenipotentiary of the Minister of Digitization for the Information Society, Ministry of Digitization / Plénipotentiaire du ministre de la numérisation pour la société de l'information, Ministère de la numérisation	Pologne
Russian Federation	Mr Andrey KULESHOV - Advisor on International Cooperation and Coordination at the Centre for AI Science and Technology, Moscow Institute of Physics and Technology / Conseiller en matière de coopération et de coordination internationales au Centre pour la science et la technologie de l'IA, Institut de physique et de technologie de Moscou	Fédération de Russie
Slovakia	Ms Barbora ŠIKUTOVA - Legal expert, International Law Section, Department of European Affairs and Foreign Relations, Ministry of Justice / Juriste expert, Section du droit international, Service des affaires européennes et des relations extérieures, Ministère de la justice	Slovaquie
Slovenia	Mr Marko GROBELNIK - Expert researcher in the field of Artificial Intelligence (AI), Department for Artificial Intelligence, Jozef Stefan Institute, Slovenia / Chercheur expert dans le domaine de l'intelligence artificielle (IA), Département de l'intelligence artificielle, Institut Jozef Stefan, Slovénie	Slovénie
Spain	Mr Ricardo SANZ - Professor of Systems and Autonomous Engineering in the Technical University of Madrid, Researcher of the joint centre CSIC-UPM on Autonomous Systems and Robotics / Professeur d'ingénierie des systèmes et d'ingénierie autonome à l'Université technique de Madrid, chercheur du centre commun CSIC-UPM sur les systèmes autonomes et la robotique	Espagne

Sweden	Mr Magnus NORDSTRÖM - Deputy director, Europe Division, Department for European Security Policy, Ministry for Foreign Affairs / Directeur adjoint, Division Europe, Service de la politique européenne de sécurité, Ministère des affaires étrangères	Suède
Switzerland	Mr Thomas SCHNEIDER - Ambassador, Federal Department of the Environment, Transport, Energy and Communications, Deputy Director, Federal Office of Communications, Head of International Relations / Ambassadeur, Département fédéral de l'environnement, des transports, de l'énergie et de la communication, Vice-Directeur, Office fédéral de la communication, Chef Relations internationales	Suisse
Turkey	Ms G. Benan AKBAS - EU Expert, Directorate General for EU and Foreign Affairs, Ministry of Science and Technology / Expert de l'UE, Direction générale des affaires européennes et étrangères, Ministère de la science et de la technologie	Turquie
United Kingdom	<p>Ms Damini SATIJA - Senior Policy Advisor at the Centre for Data Ethics and Innovation / Conseiller politique principal au Centre pour l'éthique des données et l'innovation</p> <p>in case of unavailability to be deputised by / en cas d'indisponibilité pour être suppléé par</p> <p>Mr Christopher THOMAS - Policy Advisor in the AI Assurance team / Conseiller politique dans l'équipe AI Assurance</p>	Royaume-Uni

### PARTICIPANTS

#### **Council of Europe bodies and institutions / Organes et institutions du Conseil de l'Europe**

Congress of Local and Regional Authorities	Mr Roman CHLAPAK, Secretary, Governance Committee	Congrès des pouvoirs locaux et régionaux
Conference of INGOs	<p>Ms Francesca FANUCCI - Senior legal advisor at European Center for Not-for-Profit Law / Conseiller juridique principal au Centre européen pour le droit des associations à but non lucratif</p> <p>alternating with / en alternance avec</p> <p>Mr Didier SCHRETER - Representative of the Conference of INGOS, Chair of the European Association for Audiovisual Media Education (EAAME) / Représentant de la Conférence des OING, Président de l'Association Européenne pour l'Éducation aux Médias Audiovisuels (AEEMA)</p>	Conférence des OING

Advisory Council on Youth (CCJ)	Ms Emilija GAGRCIN - Advisory Council on Youth / Conseil consultatif sur la jeunesse	Conseil consultatif sur la jeunesse (CCJ)
Cultural Support Fund (Eurimages)	Mr Thierry HUGOT - Financial analyst, Eurimages Secretariat, / Analyste financier, Secrétariat d'Eurimages  alternating with / en alterance avec  Mr Nicolas SAYDE - Project manager, Eurimages Secretariat / Chargé de Projet, Secrétariat d'Eurimages	Fonds culturel (Eurimages)
Data Protection Unit	Mr Alessandro MANTELERO - Associate Professor of Private Law and Law & Technology at the Polytechnic University of Turin / Professeur associé de droit privé et de droit et technologie à l'Université polytechnique de Turin Postal address: Politecnico di Torino, Corso Duca degli Abruzzi 24, I - 10129 Torino	Unité de protection des données
European Audiovisual Observatory	Ms Sophie VALAIS - Legal Analyst / Conseiller juridique	Observatoire européen de l'audiovisuel
European Committee on Democracy and Governance (CDDG)	Mr Peter ANDRE - Senior Expert for legal affairs, Federal Ministry of Interior, Austria, CDDG Rapporteur on Democracy and Technology / Expert principal pour les affaires juridiques, Ministère fédéral de l'intérieur d'Autriche, Rapporteur du CDDG sur la démocratie et la technologie  as observers / en rôle d'observateurs  Ms Judith ORLAND - Programme Manager Democracy and AI, Democratic Governance Division, CDDG Secretariat  and / et  Ms Sonia SIRTORI - Head of the Democratic Governance Division, CDDG Secretariat	Comité européen sur la démocratie et la gouvernance (CDDG)
European Court of Human Rights (ECHR)	Ms Anca RADU - Assistant Lawyer, Division 30, Registry of the European Court of Human Rights, Council of Europe / Juriste assistante, Division 30, Greffe de la Cour européenne des droits de l'homme, Conseil de l'Europe	Cour européenne des droits de l'homme (ECHR)
Gender Equality Commission	Ms Käthlin SANDER - Head of Gender Equality Policy, Equality Policies Department, Ministry of Social Affairs, Estonia / Responsable de la politique d'égalité entre les sexes, département des politiques d'égalité, ministère des affaires sociales, Estonie  as observer / en rôle d'observateur  Mme Cécile GREBOVAL, Programme Manager Gender Mainstreaming, Gender Equality Advisor, / Responsable de programme Gender Mainstreaming, Conseillère en matière d'égalité entre les femmes et les hommes	Commission pour l'égalité de genre

Venice Commission	Mr Michael JANSSEN, Elections and Political Parties Division, Secretariat of the Venice Commission / Elections et partis politiques, Secrétariat de la Commission de Venise	Commission de Venise
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**European Union and Observers from International Organisations / Union européenne et Observateurs des Organisations Internationales**

European Union	Ms Eike GRAEF, Policy officer, Directorate-General for Justice and Consumers, Directorate C : Fundamental Rights and Rule of Law, Unit C.2: Fundamental rights policy, European Commission / Responsable des politiques, Direction générale de la justice et des consommateurs, Direction C : Droits fondamentaux et de l'état de droit, Unité C.2: Politique des droits fondamentaux, Commission européenne	Union européenne
EDPS (European Data Protection Supervisor)	Mr Xabier LAREO LÓPEZ DE VERGARA - Technology and security officer, European Data Protection Supervisor / Responsable de la technologie et de la sécurité, Contrôleur européen de la protection des données	CEPD (Controleur Européen de la Protection des Données)
FRA	Ms Jana GAJDOSOVA - Programme Manager - Just, Digital and Secure Societies, Research & Data Unit, European Union Agency for Fundamental Rights	FRA
OECD	<p>Ms Karine PERSET - Administrator – Artificial Intelligence Policy Observatory, Digital Economy Policy Division; Science, Technology and Innovation Directorate / Administrateur - Observatoire des politiques d'intelligence artificielle, Division de la politique de l'économie numérique, Direction de la science, de la technologie et de l'innovation</p> <p>in case of unavailability to be deputised by / en cas d'indisponibilité pour être suppléé par</p> <p>Ms Laura GALINDO - Consultant, Artificial Intelligence Policy Observatory, Digital Economy Policy Division; Science, Technology and Innovation Directorate / Consultante, Observatoire des politiques d'intelligence artificielle, Division de la politique de l'économie numérique, Direction de la science, de la technologie et de l'innovation</p>	OCDE
OSCE (Organization for Security and Co-operation in Europe)	Ms Julia HAAS, Assistant Project Officer, Office of the Representative on Freedom of the Media	OSCE

**Observer States to the CAHAI / Etats observateurs au CAHAI**

Canada	Mr Philippe-André RODRIGUEZ, DPhil - A/Deputy Director, Center for International Digital Policy, Global Affairs Canada, Government of Canada / Directeur Adjoint p.i., Centre pour la Politique Numérique Internationale, Affaires Mondiales Canada, Gouvernement du Canada	Canada
Israel	Mr Cedric Yehuda SABBAH, Director, International Cybersecurity & IT Law, Office of the Deputy Attorney General (International Law), Ministry of Justice, Israel / Directeur, Cybersécurité internationale et droit des technologies de l'information, Bureau du procureur général adjoint (droit international), Ministère de la Justice, Israël	Israël
Mexico	Dr. Jorge Arturo CERDIO HERRAN – Professor, Autonomous Technological Institute of Mexico (ITAM) / Professeur, Institut Technologique Autonome de Mexique (ITAM)	Mexique
United States of America	Mr Aamod OMPRAKASH, Foreign Affairs Officer, Bureau of Democracy, Human Rights, and Labor, Office of Multilateral and Global Affairs / Responsable des affaires étrangères, Bureau de la démocratie, des droits de l'homme et du travail, Bureau des affaires multilatérales et mondiales	Etats-Unis d'Amérique

**OBSERVERS ADMITTED TO THE CAHAI / OBSERVATEURS ADMIS AU CAHAI**

**Council of Europe partner Internet companies / Entreprises internet partenaires du Conseil de l'Europe**

Facebook	Ms Marisa JIMÉNEZ MARTÍN - Director and Deputy Head of EU Affairs	Facebook
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IEEE (Institute of Electrical and Electronics Engineers)	Mr Nicolas ECONOMOU - Chair, Law Committee, IEEE Global Initiative on Ethics of Autonomous and Intelligent Systems  in case of unavailability to be deputised by / en cas d'indisponibilité pour être suppléé par  Ms Clara NEPPEL - Dr, Senior Director, European Business Operations / Directeur principal, Opérations commerciales européennes	IEEE
TELEFONICA	Mr Christoph STECK - Director, Public Policy & Internet / Directeur, Politique publique et Internet	TELEFONICA

**Civil Society Organisations, other private sector and academic actors relevant to the work of the CAHAI / Organisations de la Société civile, autres acteurs du secteur privé et académique, concernés par les travaux du CAHAI**

Access Now	Ms Fanny HIDVÉGI - Europe Policy Manager / Responsable de la politique européenne  in case of unavailability to be deputised by / en cas d'indisponibilité pour être suppléé par  Mr Daniel LEUFER - Europe Policy Analyst / Analyste des politiques européennes	Access Now
AlgorithmWatch	Mr Matthias SPIELKAMP - Co-founder of the AlgorithmWatch platform / Co-fondateur de la plateforme AlgorithmWatch  in case of unavailability to be deputised by / en cas d'indisponibilité pour être suppléé par  Ms Angela MÜLLER - Senior Policy & Advocacy Manager / Responsable principal de la politique et du soutien aux intérêts	AlgorithmWatch
AI Transparency Institute	Ms Eva THELISSON – CEO / PDG	AI Transparency Institute
EADPP	Mr Constantinos TSIOURTOS - Advisor to the Chair, European Association of Data Protection Professionals / Conseiller de la présidence, Association européenne des professionnels de la protection des données	EADPP
EEEI	Mr Robert RANQUET - Vice President Public Affairs – AI / Vice-président des affaires publiques - IA	EEEI
Homodigitalis	Mr Eleftherios CHELIOUDAKIS - Co-founder and Secretary of the Board of Directors / Co-fondateur et secrétaire du conseil d'administration	Homodigitalis
IBA	Mr Martijn SCHELTEMA - Prof. - Partner at Pels Rijcken and Member of the Advisory Panel Business Human Rights Committee of the IBA / Associé chez Pels Rijcken et membre du panel consultatif du Comité des droits de l'homme des entreprises de l'IBA	IBA

Medialaws	<p>Mr Marco BASSINI – Postdoctoral Researcher and Professor of IT Law, Bocconi University - Vice Editor-in-Chief, MediaLaws / Chercheur postdoctoral et professeur de droit des technologies de l'information, Université Bocconi - Vice-rédacteur en chef, MediaLaws</p> <p>in case of unavailability to be deputised by / en cas d'indisponibilité pour être suppléé par</p> <p>Mr Oreste POLLICINO - Full Professor of Constitutional Law and Media Law, Bocconi University / Member of the Management Board of the EU Fundamental Rights Agency</p> <p>or / ou</p> <p>Mr Giovanni DE GREGORIO - PhD Candidate, Milan State University - Bicocca and Research Fellow in Media Law, Bocconi University</p>	Medialaws
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#### **Independent Experts / Experts indépendants**

United Kingdom	Lord Tim CLEMENT-JONES CBE - House of Lords Liberal Democrat Spokesperson (Digital) / Porte-parole libéral-démocrate de la Chambre des Lords (Digital)	Royaume-Uni
Belgium	Ms Nathalie SMUHA - Researcher - Department of International & European Law, KU Leuven, Member of the OECD Network of Experts on AI (ONE AI), Former Coordinator of the EC High-Level Expert Group on AI / Chercheur - Département de droit international et européen, KU Leuven, membre du réseau d'experts de l'OCDE sur l'IA (ONE AI), ancien coordinateur du groupe d'experts de haut niveau de la CE sur l'IA	Belgique