

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

Strasbourg, 3 February 2020

CAHAI-BU(2020)REP1

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

**Bureau – Second Meeting**

**Strasbourg, 23-24 January 2020**

Agora, Room G04

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**Abridged report**

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Prepared by the CAHAI Secretariat

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## **Agenda items 1 & 2. Opening of the meeting and adoption of the draft agenda**

1. The Bureau of the Ad Hoc Committee on Artificial Intelligence (CAHAI) held its second meeting in Strasbourg on 23-24 January 2020. The meeting was chaired by Mr Gregor Stojin (Slovenia), Chair of the CAHAI.
2. The agenda, as adopted by the Bureau, and the list of participants are set out in Appendices I and II respectively to this report.

## **Agenda item 3. Information from the Chair and the Secretariat**

3. The Chair recalled that the Bureau had been entrusted by the CAHAI, in the framework of the preparation of the feasibility study and in compliance with Article 13, letter a) of Annex I to CM/Res (2011)24, to proceed with the mapping of relevant legally binding instruments, soft law instruments and other legal frameworks, as well as a mapping of risks and opportunities arising from the development, design and application of artificial intelligence (hereinafter: AI), including the impact of the latter on human rights, rule of law and democracy.<sup>1</sup> He also recalled that, in line with the decision taken by the CAHAI plenary with respect to the participation of other state representatives to CAHAI's first Bureau meeting<sup>2</sup>, specific modalities of participation of such representatives had been agreed upon by the Bureau:
  - a. one participant per member State associated to the work of the Bureau would be admitted at the meeting;
  - b. the participant would be invited to contribute, under point 4.1, to the definition of the elements of the mapping of the legal frameworks applicable to AI, by making a short presentation of his/her country's domestic legal frameworks (10') and to engage in the roundtable discussion which would follow;
  - c. the participants would be invited to contribute to the agenda items (4.1-4.3), and to inform the Bureau, under Agenda item 5, of recent developments in the field of AI which are directly relevant to the mapping exercise conducted by the CAHAI.
  - d. Items 6, 7, 8 and 9 of the agenda would be discussed by the Bureau in camera.
4. The Bureau took note of the information provided by Mr Jan Kleijssen, Director, Information Society – Action against Crime, and Ms Claudia Luciani, Director, Human Dignity, Equality and Governance:
  - a. A meeting of the CAHAI Support Group – an internal think-tank of Council of Europe's staff members working on artificial intelligence issues - was held on 22 January 2020 with the participation of the CAHAI Chair;
  - b. The European Commission is preparing a White Paper on artificial intelligence, in which several possible regulatory options are being considered; several companies and representative associations, such as Google, Microsoft and IEEE, have expressed themselves in favour of AI regulation;

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<sup>1</sup> See paragraph 12 of the [abridged report](#) of the CAHAI 1st meeting on 18-20 November 2019.

<sup>2</sup> See in particular paragraph 19 of the abridged report of the CAHAI 1st meeting on 18-20 November 2019.

- c. the Council of Europe's partnership with internet companies and representative associations will be strengthened by an exchange of letters with 6 new actors<sup>3</sup>, in addition to the 16 already included in this partnership, on 6 February 2020, at the meeting of the Thematic Co-ordinator on Information Policy (TC-INF). These new partners will automatically be invited as observers and take part in CAHAI's meetings.
5. The Bureau took also note of the information provided by the Secretariat regarding:
- a. The request of the Committee of Ministers' Rapporteur Group on Legal Co-operation (GR-J) to inform the CAHAI Bureau members that some member States expressed concerns during the GR-J meeting of 16 January 2020, with regard to the decision of CAHAI to associate other member States to the work of the Bureau<sup>4</sup>;
  - b. The preparatory steps taken by the Secretariat since the first meeting of the CAHAI: these include entrusting three independent consultants with the task of preparing outlines to support the mapping of international legally binding and non-binding instruments on AI, the mapping of ethical guidelines on AI, as well as the mapping of risks and opportunities arising from the development, design and application of AI, including the impact of the latter on human rights, rule of law and democracy. The three consultants are, respectively, Mr Alessandro Mantelero, Mr Marcello Ienca and Ms Catelijne Muller.

#### **Agenda item 4. Exchange of views with Bureau and other member States on CAHAI's deliverables<sup>5</sup>**

##### **4.1 a. Elaboration of the feasibility study**

- 6. The Bureau heard presentations by the three above-mentioned consultants on the elements of the proposed preliminary outlines on relevant international legally binding instruments and non-binding instruments on AI, the mapping of ethical guidelines on AI, as well as the mapping of risks and opportunities arising from the development, design and application of AI, including the impact of the latter on human rights, rule of law and democracy.
- 7. Ms Jana Novorhadska, Gender Equality Rapporteur (GER), highlighted gender equality aspects which should be considered in the framework of the feasibility study. She focused in particular on developing gender-neutral algorithms, and on relevant techniques and measures which should be taken to make data sets gender neutral, which she qualified of green areas of design and deployment of AI systems, as opposite to red lines.
- 8. The Bureau held an exchange of views to further develop these outlines, their complementarity, as well as the methodology which should be considered, in view of their finalisation prior to CAHAI's second plenary meeting.
- 9. As regards the mapping of relevant international legal instruments on artificial intelligence, the Bureau agreed that it should focus on instruments developed by

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<sup>3</sup> Namely AT&T, Element AI, ICCO, IEEE, INTEL, RIPE NCC.

<sup>4</sup> The synopsis of the GR-J meeting of 16 January 2020 was shared with the Bureau members.

<sup>5</sup> Agenda items 4.1 a, b, c, d, to 4.3 were open to other participating states.

intergovernmental organisations and encompass both binding and non-binding instruments. In addition, with regard to the proposal to identify horizontal principles on artificial intelligence building on vertical, sector-specific principles, the Bureau considered that the mapping should focus especially on the areas within the remit of Council of Europe's mandate, such as human rights, rule of law and democracy<sup>6</sup>. Areas such as democracy, impact on political process and elections, freedom of expression and bio-ethics should thus be more thoroughly examined. The Bureau recommended to the consultant to be as exhaustive as possible in his approach as to enable the CAHAI to make an informed decision on the specific subjects to be covered under each mapping item, and to take into account key developments in other international organisations.

10. As regards the mapping of ethical guidelines on artificial intelligence, the Bureau agreed that the principles arising from the review of 84 documents made by the consultant offer a broad global perspective and are either complementary to those identified in legally binding instruments or may offer interesting perspectives to fill existing lacunas in such instruments<sup>7</sup>. It also indicated that the mapping of international legal instruments and soft law instruments, as well the identification of principles applicable to AI design and development, should be made by the two consultants in close coordination, so as to identify possible converging or diverging points.
11. As regards the mapping of risks and opportunities arising from the development, design and application of AI, including the impact of the latter on human rights, rule of law and democracy, the Bureau supported the choice made by the consultant to link the impact of AI to specific articles of the European Convention on Human Rights (ECHR), but also stressed the need to adopt a broader approach encompassing the impact of AI on democratic systems. It also recommended proposing practical measures and techniques (such as for instance human rights impact assessment, or green lines of AI development mentioned by the GER) which should be taken by developers of AI solutions to prevent possible human rights violations.
12. The Bureau stressed the need to ensure that the outlines prepared be as detailed as possible in view of a substantive discussion during the next plenary meeting. The Bureau members agreed to provide further feedback within a week, in order to substantiate the oral comments made during the meeting. Experts were instructed to include in their respective contributions suggested horizontal and sector-specific principles, in line with Council of Europe's competencies, and to cover the full range of relevant legal instruments relevant to CAHAI's work.
13. The Bureau considered also that the draft outlines prepared by the consultants should be circulated for further comments by the Secretariat in advance of the 2<sup>nd</sup> CAHAI Plenary meeting to Council of Europe's relevant sectors in order to ensure that they encompass the full range of issues and sector specific elements.
14. The Bureau took note of the suggestions made by other participating member States as regards possible focuses of the feasibility study: in particular, the importance of examining the impact of AI on rights protected by the ECHR (Netherlands) and of taking into account relevant data protection legal standards (Armenia), as well as the emergence of new digital rights (Spain).

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<sup>6</sup> Areas such as lethal autonomous weapons should be excluded as matters relating to national defense do not fall within the scope of the Council of Europe, as set forth in Article 1 letter d) of the Statute of the Council of Europe.

<sup>7</sup> For instance, the principle of sustainability appears to be more developed in soft law than in hard law.

#### **4.1 b. Stock-taking of the outcome of the electronic consultation of CAHAI member states and observers**

15. The Bureau was informed of the responses received in the framework of the electronic consultation of CAHAI member States and observers, and took note that the deadline for additional submissions had been extended to 10 January, at the request of several countries. The Bureau :

- instructed the Secretariat to communicate to delegations which had not yet contributed that they should do so well in advance of the next plenary meeting;
- requested the Secretariat to update the working documents prepared following additional submissions, and to proceed and analyse the information received by preparing a consolidated document for the CAHAI Plenary's consideration;
- requested the Secretariat to share with the consultants the elements stemming from the electronic consultation which related to the issues to be considered in the feasibility study for consideration and inclusion in their respective mappings;
- considered the added value of rendering public the responses to the consultation and decided that the Secretariat should enquire with representatives from member States through an electronic consultation as to whether there would be any principled objections to make it public.

#### **4.1 c. Mapping of the work on AI already carried out within the Council of Europe and other international organisations: implications for coordination and co-operation**

16. The Bureau took note of the updates made in the documents concerning the work undertaken by other international organisations and other multi-stakeholders initiatives. In this regard, it requested the Secretariat to invite member States to provide updates on relevant national legislation and policies on AI, based on a template which would be prepared by the Secretariat in advance of the second Plenary meeting.

17. The Bureau also noted that several CoE bodies, such as the Parliamentary Assembly, were working on AI related issues.

#### **4.1 d. Working methods of the CAHAI for the preparation and the finalisation of the feasibility study**

18. The Bureau discussed the methodology and working methods for the finalisation of the feasibility study, and the possible timelines for the finalisation of the above-mentioned mappings by Council of Europe's independent consultants.

19. The Bureau instructed the Secretariat to prepare, on the basis of the above-mentioned input from the consultants, a draft outline of the feasibility study for examination at the next plenary meeting.

20. Finally, the Bureau also agreed to proceed with finalising a Bureau paper outlining the draft workplan, relevant timelines (including the inputs which be provided in the framework of the multi-stakeholders consultation) and options for working methods, for discussion by the Plenary in March. Such working methods could include the set-up of working groups executing specific tasks assigned by the CAHAI, or the appointment of a rapporteur.

#### **4.2 Multi-stakeholder consultations: exchange of views on format, relevant stakeholders, calendar**

21. The Bureau had an exchange of views on the format, relevant stakeholders and calendar for the multi-stakeholders' consultation, based on the relevant preliminary document prepared by the Secretariat including relevant elements coming from the electronic consultation mentioned above under point 4.1: namely, the readiness expressed by some member States to engage into national consultations, as well as the inputs which could be provided by CAHAI participants and observers to the multi-stakeholders consultation.
22. The Bureau underlined the importance of fully involving Council of Europe's committees addressing AI issues within their areas of work as part of the multi-stakeholders' consultation. It stressed the links existing between the process of preparation of the feasibility study and the multi-stakeholders' consultation, and highlighted that consultation should not be carried out without clear reference documents and should have well-defined output(s).
23. With regard to national consultations, it assessed that clear guidelines should be developed for member states as to the purpose and the format of consultations, so as ensure certain homogeneity of the different inputs received and facilitate their better processing afterwards. The Russian Federation and Azerbaijan representatives expressed their readiness to contribute to this process by making available appropriate resources and facilities.

#### **4.3 CAHAI's progress report to the Committee of Ministers and proposals for further action**

24. The Bureau held an exchange of views on the elements of the progress report which, according to the CAHAI Terms of Reference, should include specific proposals for further action and, if need be, to its working methods and be presented to the Committee of Ministers by 31 May 2020.
25. The Bureau agreed that such report should provide substantive elements of guidance on future CAHAI activities: in this regard, it should draw on the findings of the mappings carried out in the framework of the feasibility study and include a specific roadmap for the realisation of the CAHAI's mandate. The report should also indicate whether additional funding is needed to perform efficiently the CAHAI's mandate and to improve the visibility of its work. Finally, the report should provide information on which steps will be taken by CAHAI to ensure synergies and complementarity of its work with the work carried out by other sectors of the Council of Europe and other international organisations.
26. The Bureau entrusted the Secretariat with preparing the draft progress report for the CAHAI 2<sup>nd</sup> Plenary meeting and to include in the agenda a specific item for discussion.

#### **5. Tour de table: Recent developments in the field of artificial intelligence and other relevant activities<sup>8</sup>**

27. The Bureau took note of the different initiatives and policies adopted by member States in the field of AI, as described in the compilation of responses mentioned above under point 4.1.b.

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<sup>8</sup> Agenda item 5 was open to other participating states.

28. The Bureau also took note of the different steps undertaken by the Secretariat and by CAHAI members to enhance the visibility of the CAHAI, including the implementation of a communication plan including regular interviews of members, conclusions by the Chair after each meeting, and transmission of CAHAI-related information on social media, as well as the mapping of key events in the AI field where a contribution should be made by the CAHAI.

## **6. Preparation of next meetings<sup>9</sup>**

29. The Bureau discussed the elements of the draft agenda of the next plenary meeting.

30. At the request of one Bureau member seeking clarifications, the Secretariat recalled that, in accordance with the 1<sup>st</sup> CAHAI Plenary's decision<sup>10</sup> and the legal opinion delivered by the Council of Europe's Jurisconsult<sup>11</sup> participation of other member States in the Bureau requires a decision by consensus at each plenary meeting.

31. The Bureau agreed that, as regards the participation of representatives of other member States in Bureau meetings, only one representative should be present, and that replacement of such representative during the meeting should not be possible.

## **7. Observers: state of play, admission criteria and next steps<sup>12</sup>**

32. The Secretariat presented the compilation of observers' applications (15) received in advance of the CAHAI Bureau meeting, and recalled that no deadline had been set for observers' application.

33. The Bureau of the CAHAI examined the applications received against the criteria agreed upon by the CAHAI.<sup>13</sup> It concluded that all organisations that have put forward their applications could be given the opportunity to address the Committee on the first day of the CAHAI second plenary meeting, to inform of their proposed contributions, their work in this field and any proposals in this area the CAHAI should be aware of, in order to enable the CAHAI to take an informed decision with respect to their possible status as observer to CAHAI or possible involvement in future activities (ie. multi-stakeholders' consultations). The Bureau considered that it would be important to strictly limit the representatives speaking time to allow sufficient time for the discussion of all agenda items.

34. The Bureau held that a thorough assessment against the criteria (and possibly any other clarifications or elements that member states consider important) should be

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<sup>9</sup> Agenda item discussed in camera, with Bureau members only

<sup>10</sup> See paragraph 19 of the [abridged report](#) of the CAHAI 1<sup>st</sup> Plenary session on 18-20 November 2019.

<sup>11</sup> See the Legal Opinion delivered by the Council of Europe's Jurisconsult, DD(2020)16 24/01/2020, paragraph 2, distributed at the request of the Secretariat during the GR-J meeting of 16 January 2020: "*Resolution CM/Res(2011)24 on intergovernmental committees and subordinate bodies, their terms of reference and working methods does not prohibit a committee from exceptionally associating other members to the work of the bureau provided the following conditions are fulfilled:*

- *the CAHAI adopts this decision by consensus (no objection has been expressed);*
- *the possibility to attend bureau meetings will be offered to all members of the CAHAI on equal footing;*
- *the additional members would not become bureau members and would not be entitled to the defrayal of their expenses;*
- *the bureau retains the right to reserve certain parts of its meetings to the participation of the elected bureau members only;*
- *Resolution CM/Res(2011)24 remains fully applicable, in particular no decision on substantive issues would be taken by the bureau*".

<sup>12</sup> Agenda item discussed in camera, with Bureau members only

<sup>13</sup> See paragraph 13 of the [abridged report](#) of the CAHAI 1<sup>st</sup> Plenary session on 18-20 November 2019.

done by the Committee members when deciding in respect of each organisation's possible involvement.

35. It also considered that in the light of the procedure set out in CM/Res (2011)24 with respect to the decision-making process, the CAHAI should take a separate decision for each organisation, and that this procedure should take place in camera (member States only).
36. In response to a request for clarification made by the Secretariat, concerning how to proceed with the notification of requesting organisations of their invitation, the Bureau advised to seek confirmation by member States as to whether all observers' applications should be invited to the 2<sup>nd</sup> CAHAI Plenary meeting and charged the Secretariat of carrying out a silent procedure: in the absence of objections of principle, all organisations mentioned in the compilation of expressions of interests would be invited to the first day of the second plenary meeting of CAHAI to make a short presentation about their intention to contribute to CAHAI's work.

#### **8. Dates and place of the next meeting of the Bureau<sup>14</sup>**

37. The Bureau agreed to hold its next meeting in Paris, in the week of 6-10 July 2020.

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<sup>14</sup> Agenda item discussed in camera, with Bureau members only



## APPENDIX I: Agenda

	<b>1. Opening of the meeting</b>
<a href="#">CAHAI/BU(2020)OJ1</a>	<b>2. Adoption of the draft agenda</b>
	<b>3. Information from the Chair and the secretariat</b>
	<b>4. Exchange of views with Bureau and other member States on CAHAI's deliverables</b>
CAHAI-BU(2020)01 ( <i>restricted</i> )	<b>4.1 Elaboration of the feasibility study</b> a. Presentations by experts, member states' representatives and the Gender Equality Rapporteur of proposed elements to be included in the draft feasibility study and roundtable discussion
<a href="#">CAHAI(2020)01-prov</a> CAHAI(2020)02-prov ( <i>restricted</i> )	b. Stock-tacking of the outcome of the electronic consultation of CAHAI member states and observers <ul style="list-style-type: none"> <li>• List of responses (as of 10/01/2020)</li> <li>• Compilation of responses (as of 10/01/2020)</li> </ul>
<a href="#">CAHAI(2019)INF2-rev1</a> <a href="#">CAHAI(2019)INF1-rev1</a>	c. Mapping of the work on AI already carried out within the Council of Europe and other international organisations: implications for coordination and cooperation <ul style="list-style-type: none"> <li>• Council of Europe work and recent initiatives on artificial intelligence</li> <li>• Work undertaken by other international organisations and other multi-stakeholder initiatives</li> </ul>
	d. Discussion of the working methods of the CAHAI for the preparation and finalisation of the feasibility study
<a href="#">CAHAI(2019)04-fin</a> CAHAI(2020)03-prov ( <i>restricted</i> )	<b>4.2 Multi-stakeholder consultations: exchange of views on format, relevant stakeholders, calendar</b> <ul style="list-style-type: none"> <li>• <u>Background document</u>: Working groups and multi-stakeholder consultations: principles, format, stakeholders and timetable</li> <li>• Multi-stakeholder consultations: the way forward – discussion paper</li> </ul>
	<b>4.3 CAHAI's progress report to the Committee of Ministers and proposals for further action</b>
	<b>5. Tour de table: Recent developments in the field of artificial intelligence and other relevant activities</b>

<a href="#">CAHAI-BU(2019)REP1</a> <a href="#">CAHAI(2019)07</a>	<p><b>6. Preparation of next meetings</b> <i>(for Bureau members only)</i></p> <ul style="list-style-type: none"> <li>• <u>Background documents</u>: Abridged meeting reports of the Bureau and of the CAHAI</li> </ul>
<a href="#">CAHAI(2019)05-fin</a> CAHAI(2020)05-prov <i>(restricted)</i>	<p><b>7. Observers: state of play, admission criteria and next steps</b> <i>(for Bureau members only)</i></p> <ul style="list-style-type: none"> <li>• <u>Background document</u>: Admission of observers to the CAHAI</li> <li>• Compilation of expressions of interest received (as of 07/01/2020)</li> </ul>
	<p><b>8. Dates and place of the next meeting of the Bureau</b> <i>(for Bureau members only)</i></p>
	<p><b>9. Any other business</b> <i>(for Bureau members only)</i></p>

## ORDER OF BUSINESS

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<b>23 January</b>	Morning (from 9.30 am)	Items 1,2,3,4
	Afternoon	Item 4 (continued)
<b>24 January</b>	Morning	Items 4 (continued), 5
	Afternoon <i>(Bureau members only)</i>	Items 6, 7, 8, 9

## APPENDIX II: List of participants

### MEMBERS OF THE BUREAU

#### BELGIUM

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**Ms Peggy VALCKE (Vice-Chair)**

Researcher and Professor in ICT and Media  
Faculty of Law at the KULC

#### ESTONIA

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**Ms Siiri AULIK**

Advisor  
Public Law Division  
Ministry of Justice

#### FRANCE

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**Mme Marine KETTANI**

Chargée de mission auprès du chef du service de  
l'expertise et de la modernisation  
Ministère de la justice

#### GERMANY

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**Mr Wolfgang TEVES**

Head of Division for Digital Strategy Key Policy  
Issues of the Information Society, Federal Ministry  
of Justice and Consumer Protection

#### ITALY

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**Mr Marco BELLEZZA**

Innovation Advisor to the Minister of Economic  
Development  
Ministry of Economic Development

#### SLOVENIA

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**Mr Gregor STROJIN (Chair)**

LL.M, State Secretary  
Ministry of Justice

#### SWITZERLAND

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**Mr Thomas SCHNEIDER**

Ambassador  
Federal Department of the Environment,  
Transport, Energy and Communications  
Deputy Director, Federal Office of  
Communications  
Head of International Relations

### OTHER PARTICIPATING STATES

States listed hereafter are admitted to the meeting of the Bureau in accordance with the CAHAI decision to associate other member States in the work of the Bureau without defrayal of expenses and voting rights, according to the specific modalities set forth in the report. (cf. point 19 of the [abridged report](#) of the 1st Plenary Meeting)

#### ARMENIA

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**Ms Astghik BALDRYAN**

Deputy to the Permanent Representative of  
Armenia

#### AZERBAIJAN

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**Mr Fariz T. JAFAROV**

Director of E-GOV Development Center

#### NETHERLANDS

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**Ms Hanneke PALM**

Deputy to the Permanent Representative of the  
Netherlands

#### RUSSIAN FEDERATION

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**Mr Pavel KHRISTENKO**

Director of the Department of Strategic  
Development and innovation of the Ministry of  
Economic Development of the Russian Federation

#### SPAIN

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**Mr Mario HERNANDEZ RAMOS**

Cabinet Advisor to the Minister of Justice  
Ministry of Justice

## **GENDER EQUALITY RAPPORTEUR**

### **Ms Jana NOVOHRADSKA**

Gender Equality Rapporteur of the CAHAI

Office of the Deputy Prime Minister of the Slovak Republic for Investments and Informatization

## **CONSULTANTS**

### **Mr Marcelo IENCA**

Senior Researcher, ETH Zurich

### **Ms Catelijne MULLER, LL.M.**

President of Stichting ALLAI Nederland

### **Mr Alessandro MANTELERO**

(via videoconference)

Tenured Aggregate Professor at Politecnico di

Torino - Tongji University, Italy

## **SECRETARIAT GENERAL OF THE COUNCIL OF EUROPE**

### **DIRECTORATE GENERAL OF HUMAN RIGHTS AND RULE OF LAW (DG I)**

#### **Mr Jan KLEIJSEN**

Director

Information Society – Action against Crime

#### **Mr Patrick PENNINGCKX**

Head of Department

Information Society Department

### **DIRECTORATE GENERAL OF DEMOCRACY (DG II)**

#### **Ms Claudia LUCIANI**

Director

Directorate of Human Dignity, Equality and  
Governance

## **SECRETARIAT OF THE CAHAI**

#### **Ms Clementina BARBARO**

Co-Secretary of CAHAI, DG I

**Ms Robyn EYDE** - Secretariat, Central Division

#### **Ms Livia STOICA BECHT**

Co-Secretary of CAHAI, DG II

**Ms Claire ROBINS** - Secretariat, Counter-  
terrorism Division

**Mr Yannick MENECEUR** - Policy Adviser, DG I

**Ms Laetitia DIMANCHE**, Trainee, Information  
Society Department

**Ms Lucy ANCELIN** - Assistant to the CAHAI

## **INTERPRETERS**

#### **Ms Lucie DE BURLET**

**Mr Grégoire DEVICTOR**

**Mr Luke TILDEN**

#### **Ms Pascale MICHLIN**

**Mr Jean-Jacques PEDUSSAUD**

**Mr Zacharie KAYTOUE**, Trainee