

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

Strasbourg, 7 April 2020

CAHAI-BU(2020)REP2

AD HOC COMMITTEE ON ARTIFICIAL INTELLIGENCE (CAHAI)

Bureau – Third Meeting

27 March 2020

Online meeting

10.00 a.m.– 12.30 p.m. (CET)

Abridged report

Prepared by the CAHAI Secretariat

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Agenda item 1. Opening of the meeting

1. Following the outbreak of the COVID-19 global pandemic, the Council of Europe has implemented a range of precautionary measures at its Strasbourg headquarters and in its field offices, including suspension of all physical meetings on-site. In particular, the 2nd Plenary meeting of the Ad hoc Committee on Artificial Intelligence (CAHAI), originally scheduled from 11 to 13 March 2020, was postponed.
2. In this unique context, the CAHAI Bureau held on 27 March 2020 a meeting by videoconference to discuss how progress in CAHAI's work and in the fulfilment of CAHAI's objectives could nonetheless be achieved. The third meeting of the Bureau of the CAHAI took place with Mr Gregor Stojin (Slovenia) in the Chair and with the participation of four Bureau members. Two Bureau members were excused, while Ms Marine Kettani (France) contributed to the meeting through written comments communicated in advance of the meeting for the Bureau's consideration.
3. 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 2. Statement by the Secretariat

4. The Bureau took note of the information provided by Mr Jan Kleijssen, Director, Information Society – Action against Crime, Ms Claudia Luciani, Director, Human Dignity, Equality and Governance, and Mr Patrick Penninckx, Head of the Information Society Department:
 - a. Artificial intelligence (AI) applications are being used by member States to support the fight against COVID-19 pandemic for a variety of purposes, such as the search for a treatment, support with medical examinations, exploitation of available scientific information about the pandemic, as well as assistance with the enforcement of containment policies and the monitoring of patients. Amongst the challenges arising from the use of these applications features the need to ensure a careful balance between data privacy and public health concerns and a more rigorous human-AI interaction, in line with the values protected by the Council of Europe.
 - b. The Council of Europe, through its standards and practical guidance¹, can help its member states to develop responses that are both based on state-of-the-art technological solutions and which respect human rights, democracy and the rule of law. In this connection, the relevance of a legal framework on the design, development and application of AI based on the values of the Council of Europe is enhanced. It is therefore important that the CAHAI's work continues to progress, and adapts to the current circumstances while taking into account the challenging context for member states and other participants contributing to CAHAI's work.

Agenda item 3. Exchange of views with Bureau members on the COVID-19 situation and likely implications for CAHAI's work and calendar of events

5. The Bureau discussed the current situation and implications of the COVID-19 pandemic on CAHAI's outputs and working methods. The Bureau acknowledged the unprecedented situation and underlined the importance of ensuring progress in

¹ See for instance the [Joint Declaration](#) by the Chair of the Consultative Committee of Convention 108+ and the Data Protection Commissioner of the Council of Europe, which recalls the applicable principles of the above-mentioned Convention, including in the context of the COVID-19 pandemic

CAHAI's work nevertheless, which requires an adaptation of CAHAI's working methods, and increased use of digital opportunities and online consultations.

6. The Bureau members expressed the need to take into account the difficulties that some member States might have in contributing to these consultations due to the priority being given to pandemic countering actions. They underlined the need for the Secretariat to ensure that any timelines would accommodate the necessary flexibility to allow meaningful contributions and consultations through online processes, and that, as proposed by France, whenever possible, tacit acceptance procedures should be avoided.

Agenda item 4. CAHAI's progress report to the Committee of Ministers: working methods for its finalisation and submission

7. The Secretariat recalled that, according to CAHAI's Terms of Reference, a progress report on CAHAI activities must be submitted to the Council of Europe's Committee of Ministers by 31 May 2020. A draft report [CAHAI(2020)11] was prepared by the Secretariat for review by the CAHAI at its planned second plenary meeting in March 2020. In line with the Bureau's previous decision, the draft report included information on CAHAI's work to date, its working methods, outputs and roadmap, potential budgetary implications, and a list of concrete proposals for action for the Committee of Ministers. Following the COVID-19 outbreak, the draft report was amended to reflect on the possible impact of the pandemic on CAHAI's activities.
8. The Bureau examined the draft report and discussed how to ensure that this report could be finalised for its adoption by member States and submission to the Committee of Ministers by 31st of May 2020.
9. The Bureau expressed support to the draft progress report prepared by the Secretariat. A few drafting suggestions were made, which were duly noted by the Secretariat.
10. With regard to the table of contents of the feasibility study appended to the progress report, it should be considered as a working draft, subject to possible further amendments, based on any further comments from CAHAI member States. With respect to the mapping of instruments and guidelines on artificial intelligence, it was also suggested to include a selection of relevant instruments, policies and strategies developed at national level, and not to focus only on the mapping of international instruments. Furthermore, Bureau members agreed that the feasibility study should focus on the analysis of both risks and opportunities arising from the development and implementation of artificial intelligence applications. It was also indicated that the role and the responsibilities of the private sector in developing human rights compatible solutions should be further explored in the framework of the study.
11. The Bureau instructed the Secretariat to reflect the changes discussed in the draft progress report and to initiate a call for comments among member States. Based on the comments received within three weeks from the beginning of the consultation, the Secretariat should prepare an updated version of the report, which should be submitted to member States with an additional two weeks deadline for final approval. This timeline should allow the CAHAI to respect the deadline set out its terms of reference for submission of the progress report to the Committee of Ministers (31 May 2020).

Agenda item 5. CAHAI's working methods: discussion of draft proposals

12. The Bureau discussed three working documents, which set out concrete proposals for CAHAI's working methods for 2020-2021 and a proposed roadmap for its deliverables (working document CAHAI(2020)10 prov and CAHAI(2020)10 ADD), and considered

the proposals set out in the paper on multi-stakeholder consultations (CAHAI(2020)03-prov). The Secretariat recalled that these working documents had been prepared in line with the orientations discussed by the Bureau during its previous meeting and building upon proposals for establishing thematic working groups put forward by several delegations.

13. The Bureau welcomed the proposals set out in the draft working documents. The members discussed the scope of the work of the proposed three Working Groups and the modalities of how these would function in 2020, given the COVID-19 outbreak in member states and travel limitations, and the continuity of their work in 2021. At this point in time, it was considered too early to discuss any budgetary implications, as long as it was not possible to forecast whether meetings could be held in Council of Europe's premises or in a host member state. As noted in the description, the CAHAI's budget could only cover a minimum part of the operating costs of these working groups.
14. Furthermore, the Secretariat underlined that the proposal included a clear reference under each working group's working methods that meetings could be held through technological means, as long as the organisation of physical meetings would not be possible. However, subject to an agreement by the CAHAI to set up these working groups, it remained to be seen, based on expressions of interests received, how many experts would volunteer to contribute to each working group, and if so, the implications for the organisation of online meetings (based on the number of participants) or other contributions needed.
15. The Bureau also requested the Secretariat to ensure that the accompanying instructions calling for comments on these papers include the necessary clarifications. Comments received by member states should be clearly identified in the revised working versions that would be circulated for approval by CAHAI, and if a consensus emerged as to the set-up of these working groups, clear information on the expected deadlines for appointments should be included.
16. The Bureau also exchanged views on how to ensure that CAHAI's feasibility study is finalised with the involvement and contributions of all relevant stakeholders. They appreciated the proposed steps ahead, through a dedicated limited working group, and in order to ensure a broader outreach to relevant stakeholders that would not necessarily be regular participants to the CAHAI. They considered that this dimension will need to be regularly reviewed, to take into account any changes to the current limits posed by the COVID-19 measures, and that the Secretariat should ensure that adequate technological tools are identified and made available.
17. Considering the exceptional situation created by COVID-19 and with a view to minimising the impact on CAHAI's work, the Bureau agreed that the working groups should each function under the leadership and active participation of at least one Bureau member. They also agreed to resume this discussion at its next meeting, following the completion of the consultations on these working documents.

Agenda item 6. Elaboration of the feasibility study: exchange of views on the draft reports of the consultants

18. The Bureau examined the elements of the three draft reports prepared by the Council of Europe (CAHAI(2020)06-prov; CAHAI(2020)07-prov; CAHAI(2020)08-prov) and sought clarifications from the Secretariat on their content and proposed timeframe for completion. It was clarified that the outlines should be considered as preparatory work for the drafting by the CAHAI of the feasibility study and not as elements of the feasibility study, whose structure and contents would have to be approved by the

CAHAI. The outlines were aimed at providing guidance on selected issues which had been previously considered by the CAHAI as deserving particular attention in the framework of the feasibility study.

19. The Bureau members agreed to provide further feedback on the elements of the reports prior to their finalisation. The Bureau discussed identified gaps that would merit further consideration by the three consultants and agreed that a few additional aspects needed to be included or further developed. They instructed the Secretariat to liaise with the experts in this respect.
20. The Bureau also considered important that the papers be circulated as soon as possible to CAHAI members for information, as these included important elements of relevance for the work of the future working groups going ahead.

Agenda item 7. Observers: state of play, admission criteria and next steps

21. The Bureau took stock of the state of play, as the current situation did not enable the CAHAI to proceed with a hearing of representatives of organisations and institutions having applied for the status of observer to CAHAI. The Bureau considered that in the light of the current situation, it would not be a good use of time and resources to hold the initial planned hearing during the upcoming plenary meeting. Therefore, it considered that it would be preferable to proceed and screen the initial applications and replace the hearing by a written proposal of the Bureau, inviting member states to take a decision on pre-screened and selected candidates.
22. The Secretariat introduced the working documents setting out the observer nominations (2) received since the second meeting of the CAHAI Bureau (CAHAI(2019)05-fin; CAHAI(2020)05-prov-rev1, CAHAI (2020)04-prov). The Secretariat informed the Bureau that IEEE SA, which had previously applied to become an observer, had, as of 6 February 2020, been granted observer status, by virtue of its membership in the Council of Europe's Partnership with Internet Companies.
23. The Bureau discussed the two new applications received, in the light of the criteria established by the CAHAI for the review of observer applications. The Bureau agreed that the proposal of the Bureau with respect to the applications should be communicated to the members for a final decision on admission to be reached as soon as possible. The Bureau requested the Secretariat to initiate the procedure, in order to enable the CAHAI to take an informed decision on this admission procedure in written form.

Agenda item 8. Point for information: Voluntary Contribution from Japan

24. The Bureau members welcomed and expressed their appreciation for the generous voluntary contribution received from Japan to support CAHAI's work and enable its outreach to other non-member States.

Agenda item 9. Any other business

25. The Bureau discussed, at the suggestion of one of its members, the impact of the current context on the use of AI applications and whether the CAHAI or its Bureau should consider issuing a statement. The Secretariat informed the Bureau members of the imminent publication in several languages of an article on "Artificial intelligence and control of COVID-19" on the Council of Europe's website.² The Secretariat took note

² See <https://www.coe.int/en/web/artificial-intelligence/home>

of the request of a Bureau member to receive information about the typology of Council of Europe's instruments in due course.

26. Finally, the Bureau members thanked the Secretariat for the smooth organisation of this first online meeting of the Bureau, and the Chair for its excellent steer of the discussions.

APPENDIX I: Agenda

CAHAI/BU(2020)OJ2	1. Opening of the meeting
	2. Statement by the Secretariat
	3. Exchange of views with Bureau members on the COVID 19 situation and likely implications for CAHAI's work and calendar of events
CAHAI(2020)11-prov	4. CAHAI's progress report to the Committee of Ministers: working methods for its finalisation and submission
CAHAI(2020)10 ADD CAHAI(2020)03-prov CAHAI(2020)10-prov	5. CAHAI's working methods: discussion of draft proposals
CAHAI(2020)06-prov CAHAI(2020)07-prov CAHAI(2020)08-prov	6. Elaboration of the feasibility study: exchange of views on the draft reports of the consultants
CAHAI(2019)05-fin CAHAI(2020)05-prov-rev1 CAHAI (2020)04-prov	7. Observers: state of play, admission criteria and next steps
	8. Point for information: Voluntary Contribution from Japan
	9. Any other business

APPENDIX II: List of participants

MEMBERS OF THE BUREAU

BELGIUM

Ms Peggy VALCKE (Vice-Chair)

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

ESTONIA

Ms Siiri AULIK

Advisor
Public Law Division
Ministry of Justice

FRANCE

Mme Marine KETTANI - *Apologised*

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

GERMANY

Mr Wolfgang TEVES - *unavailable*

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

ITALY

Mr Marco BELLEZZA

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

SLOVENIA

Mr Gregor STROJIN (Chair)

LL.M, State Secretary
Ministry of Justice

SWITZERLAND

Mr Thomas SCHNEIDER

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

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

Mr Yannick MENECEUR

Policy Adviser, DG I

Ms Livia STOICA BECHT

Co-Secretary of CAHAI, DG II