COUNCIL OF EUROPE

CONSEIL DE L'EUROPE

Strasbourg, 23 June 2021 CAHAI-COG(2021)PV1

AD HOC COMMITTEE ON ARTIFICIAL INTELLIGENCE (CAHAI)

Consultations and Outreach Group (CAHAI-COG)

3rd Meeting, 22-23 June 2021

ABRIDGED REPORT

www.coe.int/cahai

1. Opening of the meeting

1. Mr Gregor Strojin, Chair of the CAHAI opened the meeting and welcomed all participants to this 3rd meeting of the CAHAI-COG which is devoted to the examination of the analysis of the CAHAI multi-stakeholder consultation prepared by the secretariat, with the support of the scientific expert Marc-Antoine DILHAC and his team.

2. Mr Strojin highlighted the very good response rate to the multi-stakeholder consultation, which in turn is characterised by a very balanced geographic and category distribution. He stressed that this result would not have been possible without the contribution and efforts in awareness-raising of the consultation by the members of the CAHAI and in particular by the members of the CAHAI-COG.

3. He mentioned the 131st session of the Committee of Ministers held in Hamburg on 21 May emphasising that here the Ministers of Foreign Affairs reaffirmed that, while keeping an open mind, we are now working towards elaborating a transversal legally binding instrument, setting out the broad principles for regulating AI in relation to human rights, democracy, and rule of law, and complemented, as necessary, by other sectoral, legally binding or non-binding instruments.

4. Mr Strojin also highlighted the important results of the Nicosia Conference of Ministers responsible for Media and Information Society held on 10 and 11 June on the theme of Artificial intelligence – Intelligent politics: Challenges and opportunities for media and democracy. A final declaration and four resolutions were adopted in which the Ministers recognised the impact, both positive and negative, of the application of digital technologies, including AI, on the exercise and enjoyment of human rights, including freedom of expression.

5. To conclude Mr Strojin informed the Group that Mr Victoria Alsina, the Spanish Co-Chair of the CAHAI-COG, was recently appointed as a cabinet member of the government of Catalonia in Spain as the Minister for Foreign Action and Open Government, and will therefore no longer be able to participate in the CAHAI-COG. He thanked her for all her work and important contribution to the CAHAI-COG.

6. Ms Claudia Luciani, Director, Directorate of Human Dignity, Equality and Governance, Council of Europe, continued by welcoming all the participants and highlighting the success of the multi-stakeholder consultation which collected valuable input from 260 respondents which was rich and diversified. This input ensured both a geographical and an institutional representation, with inputs coming from different regions across Europe and different actors (civil society, private sector, internet players, academia and public entities).

7. Concerning work being carried out with other organisations, Ms Luciani informed the Group that on 21 April the European Union has also come forward with its proposal for a regulation laying down harmonised rules on artificial intelligence. She added that preliminary analyses indicate that there will be ample room for both Organisations to develop legally compatible and mutually consistent legal frameworks in the spirit of the

2007 Memorandum of Understanding between the Council of Europe and the European Union and to the benefit of the greater European space – and perhaps beyond our region.

8. There are regular fora for exchange with the European Union to this purpose. Two recent examples are the CATS (Consultation meeting between the Chair of the European Union's Article 36 Committee) meeting of 18 June, where the EU Presidency confirmed that this is clearly a topic of shared interest. Moreover, Director Lucilla Siolli of DG-Connect presented the EC proposal on AI regulation during a meeting of the CM Thematic Coordinator on Information Policy. These exchanges have indicated that the work that our Organisations are doing is complementary in nature: and while the basis for the EU regulation on AI is internal market and protection of personal data, the Council of Europe can provide a real added value when it comes to ensuring that human rights, rule of law and democracy are fully adhered to, when AI applications are designed, developed and implemented.

9. Ms Luciani also mentioned that a concrete example of the synergies that we are continuously trying to ensure is the development of a common website *globalpolicy.ai*, the purpose of which is to present the wealth of work of several major intergovernmental organisations on the regulation of AI. The globalpolicy.ai website was launched in a test phase especially for this meeting, however its official launch is planned for 15 September 2021 during an event of the Slovenian Presidency of the Council of the European Union.

2. Adoption of the Agenda

10. The CAHAI-COG reviewed and adopted the draft agenda. The agenda and list of participants appear in Appendix I and Appendix II respectively.

3. Presentation of the compilation and the report on the multi-stakeholder consultation by the secretariat and the scientific expert, followed by discussion with the CAHAI-COG

11. The Co-Chair of the CAHAI-COG, Mr Andrey Neznamov, informed the Group that the compilation of replies to the consultation has already been published on the CAHAI website and the analysis of the results will also be published once approved by the CAHAI plenary.

12. He underlined that the outcome of the consultation will act as a support to the CAHAI-LFG which will allow it to take a position on key regulatory questions as well as feeding additional elements into its work. This is a non-binding support tool for the deliberations within the CAHAI.

13. The 260 replies included 49 from state-based respondents and replies from civil society, academia, public sector, technical community which is a good spread of input.

14. It will then be up to the CAHAI/CM to decide whether to use these findings or not. It must be remembered that the replies are not mere perceptions, stakeholders have fully reflected on their input.

15. Mr Neznamov thanked all those who had taken the time to participate in the consultation.

16. Each of the five sections of the analysis of the replies to the consultation was then presented to the CAHAI-COG by the Secretariat followed by discussions.

17. The CAHAI-COG noted that concerning the definition of AI systems, it is important to have a technologically neutral definition which applies to real-world use cases. The question was raised of whether existing definitions could be used. The lack of a clear answer in this regard reflects the complexity of the debates.

18. The use of AI applications for facial recognition and scoring of individuals raised the most comments and concerns. The CAHAI-COG agreed that facial recognition and social scoring led to concerns regarding the potential for mass surveillance, restrictions on freedom of assembly, and the impact on democratic rights.

19. The CAHAI-COG noted that is the replies to the consultation showed that there is much support for a binding regulation, in particular concerning potential high-risk applications of AI systems. Self-regulation appeared not to be sufficient.

20. The importance of human dignity was underlined by several delegations. Human dignity remains a reference for any legal work, it allows for a diversity of interpretation and allows for the protection of other human rights. In the consultation, human dignity was deemed the most important legal principle, right or interest that needs to be addressed.

21. The CAHAI-COG took note that the respondents frequently stated that it should be the responsibility of the developers or the deployers to demonstrate that the AI system does not have a negative impact on individuals.

22. The Group agreed that the question of a ban on facial recognition is a polarising one where there was no clear majority in favour or against.

23. The CAHAI-COG noted that the results of the consultation urge CoE to be clear, consistent, pedagogical and forceful in taking binding measures. A legal instrument should adapt to evolving technology. Civil society should be empowered, and the public involved in AI policy making.

4. Summary of key findings of the report and takeaways of the meeting to be brought to the attention of the CAHAI plenary

24. Mr Neznamov underlined that the analysis is of course not binding on the Council of Europe, including the CAHAI. Its role is to provide ideas to be considered when going forward. It will be the task of CAHAI-LFG to decide which issues to develop as elements for a future legal instrument, and finally the CM will decide what to do with the output of the CAHAI.

25. Concerning facial recognition, there was a high consensus on human oversight and the need for strong safeguards in the use of facial recognition.

26. Certain delegations pointed out that even for experts it is not clear how AI systems can enable the protection of human rights, democracy and the rule of law. It could be made clearer how AI applications could foster human rights, democracy and the rule of law. Opportunities and protection by AI should also be considered.

5. Information by the Co-Chairs of the CAHAI-LFG

27. The CAHAI-LFG has so far held three meetings in 2021. Seven sub-working groups were created each dealing with a different element of AI. The output of the first five sub-working groups was collated into a document entitled Preliminary draft Model Provisions concerning the Design, Development and Application of Artificial Intelligence Systems which was examined at the last meeting of the CAHAI-LFG on 31 May and 1 June. This document is in fact a mock-up of what a possible future legal instrument could look like, with an overview of elements that could be presented to the CM for inclusion in a legal instrument.

28. Following the last CAHAI-LFG meeting, the model provisions will be revised in light of comments received during the meeting and provided in writing after the meeting and to also include the output of the sub-working groups six and seven.

29. The document will then be re-examined at the next meeting of the CAHAI-LFG in September. A progress report, prepared by the Secretariat and the Co-Chairs, on the work and the interim results of the CAHAI-LFG thus far will be presented to the next CAHAI plenary meeting in July.

6. Information by the Co-Chairs of the CAHAI-PDG

30. The CAHAI-PDG held a constructive and in-depth meeting on 27 May. Two documents were on the agenda on human rights impact assessment and AI in the public sector.

31. Concerning the document on human rights impact assessment it was decided to revise the document based on the comments made during the meeting and further comments provided in writing after the meeting.

32. Moreover, it was decided to develop a checklist of questions to be used to complement the methodology of impact assessment, and with a view to providing a more operational guidance. There could be examples provided of what these guiding or probing questions could look like. This checklist will be presented for approval at the next CAHAI-PDG meeting in October.

33. Also, once the document is finalised, key findings would be extracted to become part of the elements to be prepared by the CAHAI by the end of its mandate and sent to the CM as part of the bigger package.

34. Regarding the public sector document, it was decided to further develop policy guidance on certain themes, mapping the impact of the use of AI systems in the public sector, underlining the benefits and giving concrete examples.

35. The resulting guidance document could be used by public institutions for guidance when using or thinking about deploying AI systems.

36. Both the revised documents and the results of the MSC will be examined at the next CAHAI-PDG meeting in October. A progress report, prepared by the Secretariat and the Co-Chairs, on the work and output of the CAHAI-PDG so far will be presented to the next CAHAI plenary meeting in July.

37. The work of the CAHAI-COG will feed into the work of the CAHAI-PDG and the CAHAI-LFG and certain issues while not being included in the future legal instrument will be kept on the radar as important reflexions for the future.

7. Any other business

38. Mr Patrick Penninckx, Head of Information Society Department mentioned the Internet Governance Forum which will be taking place at the end of the year (6-10 December) hosted by Poland and covering all aspects of digital development. Consideration could be given to how the CAHAI's work could be represented and how the IGF would be used as a consultation space for the CAHAI. The IGF has shown a keen interest in the work of the CAHAI.

8. Closing remarks by Mr Patrick Penninckx, Head of Information Society Department

39. In his closing words, Mr Penninckx highlighted the significance of the Resolution on freedom of expression and digital technologies adopted by the specialised Ministers of the Council of Europe member states, on the occasion of the Conference of Ministers responsible for Media and Information Society, jointly organised by the Council of Europe and the Republic of Cyprus.

40. Mr Penninckx also mentioned the conference being organised in October under the Hungarian Presidency of the CM, which will take a wide view of AI development in European society sharing concrete examples of the use of AI applications in everyday life at all levels.

41. He ended by welcoming the presence of a representative of the EU Commission at the CAHAI meetings, underlining that it is crucial for the Council of Europe and the European Union to mutually inform each other on developments. The same obviously applies vis-à-vis other regional and international organisations.

APPENDIX I – AGENDA

22 June 2021		
Time	**Document reference**	**Agenda item**
2:30 pm	CAHAI-COG(2020)PV1 (first meeting report) CAHAI-COG(2020)PV2 (second meeting report)	**1. Opening of the meeting** • Mr Gregor Strojin, Chair of the CAHAI • Ms Claudia Luciani, Director, Directorate of Human Dignity, Equality and Governance, Council of Europe • Mr Jan Kleijssen, Director, Information Society - Action against Crime, Council of Europe
2:45 pm	CAHAI-COG(2021)OJ1	**2. Adoption of the Agenda**
2:50 pm	CAHAI(2021)06 Compilation of responses to the Multi-Stakeholder Consultation (A-E) Compilation of responses to the Multi-Stakeholder Consultation (F-M) Compilation of responses to the Multi-Stakeholder Consultation (N-Z) CAHAI-COG(2021)01 Draft analysis of the multi-stakeholder consultation	**3. Presentation of the compilation and the report on the multi-stakeholder consultation by the secretariat and the scientific expert, followed by discussion with the CAHAI-COG**
5:30 pm		*End of the first day session*
23 June 2021		
2:30 pm		**[continuation: 3: Presentation of the compilation and the report on the multi-stakeholder consultation by the secretariat and the scientific expert, followed by discussion with the CAHAI-COG]**

4 pm		**4. Summary of key findings of the report and takeaways of the meeting to be brought to the attention of the CAHAI plenary**
4:45 pm	CAHAI-LFG(2021)PV2 (second meeting report) CAHAI-LFG(2021)PV3 (third meeting report)	**5. Information by the Co-Chairs of the CAHAI-LFG** • Update by the Co-Chairs of the CAHAI-LFG on recent progress
5 pm	CAHAI-PDG(2021)PV2 (fourth meeting report) CAHAI-PDG(2021)PV3 (fifth meeting report)	**6. Information by the Co-Chairs of the CAHAI-PDG** • Update by the Co-Chairs of the CAHAI-PDG on recent progress
5:15 pm		**7. Any other business**
5:20 pm		**8. Closing remarks by Mr Patrick Penninckx, Head of Information Society Department**
5:30 pm		*End of the meeting*

APPENDIX II – LIST OF PARTICIPANTS

MEMBERS OF THE CONSULTATIONS AND OUTREACH GROUP / *MEMBRES DU GROUPE DE CONSULTATION ET DE SENSIBILISATION*

BOSNIA AND HERZEGOVINA / BOSNIE-HERZEGOVINE

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

CZECH REPUBLIC / REPUBLIQUE TCHEQUE

Ms Adriana DERGAM - Member of the Council of the Government of the Czech Republic for Human Rights, Board Member of the LatAm Chapter, European Chamber of Technology (EUTEC) / Membre du Conseil du Gouvernement de la République tchèque pour les droits de l'homme, Membre du Conseil d'administration du chapitre LatAm, Chambre européenne des technologies (EUTEC)

GERMANY / ALLEMAGNE

GREECE / GRECE

Ms Kalliopi POLITOU - Executive, Department of Digital Investment Economics and Digital Skills / Exécutif, Département d'économie numérique des investissements et des compétences numériques

IRELAND / IRLANDE

Ms Aphra KERR – Professor, Maynooth University and the ADAPT SFI Research Centre for Digital Media Technology / Professeur, Université de Maynooth et Centre de Recherche ADAPT SFI pour les technologies des médias numériques

ITALY / ITALIE

Ms Serena DELL'AGLI - PhD in European Law and Economics, Infratel Italia S.p.A. Techical Secretariat staff member / Docteur en droit européen et en économie, Infratel Italia S.p.A. Membre du personnel du secrétariat technique

LUXEMBOURG / LUXEMBOURG

REPUBLIC OF MOLDOVA / REPUBLIQUE DE MOLDOVA

Ms Veronica CRETU - Independent expert / Expert indépendant

POLAND / POLOGNE

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

RUSSIAN FEDERATION / FEDERATION DE RUSSIE

Mr Andrey NEZNAMOV - Co-Chair of CAHAI-COG/ Co-président du CAHAI-COG
Senior researcher of the Russian Academy of Sciences, Executive Director for AI regulation, Sberbank / Chercheur principal de l'Académie russe des sciences, Directeur exécutif de la réglementation de l'IA, Sberbank

SLOVAKIA / SLOVAQUIE

Ms. Jana NOVOHRADSKÁ - Digital Agenda Division Officer, Department of Digital Policies and International Cooperation, Ministry of Investments, Regional Development and Informatization of the Slovak Republic, *CAHAI Gender Equality Rapporteur*/ Responsable de la Division de l'agenda numérique, Service des politiques numériques et de la coopération internationale, Ministère des investissements, du Développement régional et de l'Informatisation de la République slovaque, *Rapporteuse sur l'égalité de genre du CAHAI*

TURKEY / TURQUIE

Ms Zümrüt MUFTUOGLU – Expert, Digital Transformation Office, Presidency of the Republic of Turkey / Expert, Bureau de la transformation numérique, Présidence de la République de Turquie

Other representatives of the CAHAI and its working groups / Autres représentants du CAHAI et ses groupes de travail

Mr Gregor STROJIN – Chair of the CAHAI / Président du CAHAI
Advisor to the President, Supreme Court of the Republic of Slovenia / Conseiller du Président, Cour suprême de la République de Slovénie

Mr Wolfgang TEVES – Chair of the CAHAI-PDG / Président du CAHAI PDG
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

Mr Zoltán TURBÉK – Co-Chair of the CAHAI-PDG/ Co-Président du CAHAI-PDG
Director, Department of International Organisations, Ministry of Foreign Affairs and Trade / Directeur, Département des organisations internationales, Ministère des affaires étrangères et du commerce

Ms Peggy VALCKE – Co-Chair of the CAHAI-LFG / Co-Présidente du CAHAI-LFG / Vice-Chair of the CAHAI / Vice-Présidente du CAHAI
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

PARTICIPANTS

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

CONFERENCE OF INGOS / CONFÉRENCE DES OING

Ms Francesca FANUCCI - Senior legal advisor at European Center for Not-for-Profit Law, Netherlands / Conseiller juridique principal au Centre européen pour le droit des associations à but non lucrative, Pays-Bas

ADVISORY COUNCIL ON YOUTH (CCJ) / CONSEIL CONSULTATIF SUR LA JEUNESSE (CCJ)

Ms Emilija GAGRCIN - Advisory Council on Youth / Conseil consultatif sur la jeunesse

European Union and Observers from International Organisations / Union européenne et Observateurs des Organisations Internationales

EUROPEAN UNION / UNION EUROPEENNE

Ms Yordanka IVANOVA –

EUROPEAN DATA PROTECTION SUPERVISOR (EDPS) / CONTROLEUR EUROPEEN DE LA PROTECTION DES DONNEES (CEPD)

ORGANIZATION FOR SECURITY AND CO-OPERATION IN EUROPE (OSCE) / ORGANISATION POUR LA SECURITE ET LA COOPERATION EN EUROPE (OSCE)

Ms Julia HAAS - Assistant Project Officer, Office of the Representative on Freedom of the Media / Chargé de projet adjoint, Bureau du Représentant pour la liberté des médias

OBSERVERS ADMITTED TO THE CAHAI / OBSERVATEURS ADMIS AU CAHAI

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

INTERNATIONAL COMMUNICATIONS CONSULTANCY ORGANISATION (ICCO)

RIPE NCC

TELEFONICA

Ms Paloma VILLA MATEOS, Manager, Public Policy & Internet / ***Gestionnaire, Politique publique et Internet***

Mr Gonzalo LOPEZ BARAJAS, Manager, Public Policy & Internet / Gestionnaire, Politique publique et Internet

Civil Society Organisations, other private sector and academic actors relevant to the work of the CAHAI / Organisations de la Societe civile, autres acteurs du secteur prive et academique, concernes par les travaux du CAHAI

MEDIALAWS

SCIENTIFIC EXPERT / EXPERT SCIENTIFIQUE

Mr Marc-Antoine DILHAC - PhD, Professor of philosophy at the Université de Montréal, Associate member of the Mila and holder of the Canadian Research Chair in Public Ethics and Political Theory / Professeur de philosophie à l'Université de Montréal, membre associé du Mila et titulaire de la Chaire de recherche du Canada en éthique publique et théorie politique

SECRETARIAT GENERAL OF THE COUNCIL OF EUROPE / SECRETARIAT GENERAL DU CONSEIL DE L'EUROPE

DIRECTORATE GENERAL OF HUMAN RIGHTS AND RULE OF LAW / DIRECTION GÉNÉRALE DES DROITS DE L'HOMME ET DE L'ÉTAT DE DROIT (DG I)

Mr Jan KLEIJSSEN – Apologised / Excusé
Director, Information Society – Action against Crime, Council of Europe / Directeur, Société de l'Information – Lutte contre la Criminalité, Conseil de l'Europe

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

DIRECTORATE GENERAL OF DEMOCRACY / DIRECTION GÉNÉRALE DE LA DÉMOCRATIE (DG II)

Ms Claudia LUCIANI – Director, Directorate of Human Dignity, Equality and Governance / Directrice, Direction de la dignité humaine, de l'égalité et de la gouvernance

SECRETARIAT OF THE CAHAI / SECRÉTARIAT DU CAHAI

Ms Clementina BARBARO
Co-Secretary of CAHAI / Co-*Secrétaire du CAHAI*

Mr Kristian BARTHOLIN
Co-Secretary of CAHAI / Co-*Secrétaire du CAHAI*

Mr Alexsandr TIULKANOV – Special advisor on digital developments / *Conseiller spécial sur les développements numériques*

Ms Laetitia DIMANCHE - Project Assistant, Information Society Department / *Assistante de projet, Service de la société de l'information*

Ms Lucy ANCELIN - Assistant to the CAHAI / *Assistante du CAHAI*

Ms Claire ROBINS - Secretariat, Counter-terrorism division / *Secrétariat, Division Anti-terrorisme*

Mr Rafael ISMAYILOV – Trainee / Stagiaire