



Strasbourg, 27 May 2021

CAHAI-PDG(2021)PV3

**AD HOC COMMITTEE ON ARTIFICIAL INTELLIGENCE (CAHAI)
POLICY DEVELOPMENT GROUP
(CAHAI-PDG)**

**5th online meeting
27 May 2021**

Abridged Report

Prepared by the Secretariat

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1. Opening of the meeting

1. Mr Gregor Stojin, Chair of the CAHAI, opened this 5th meeting of the CAHAI-PDG by congratulating the CAHAI-PDG's Sub-Working Groups, the Co-Chairs, the scientific expert and the secretariat for their work producing documents on human rights, democracy and the rule of law impact assessment of AI applications and on the use of AI in public sector.
2. With regard to the document on impact assessment, Mr Stojin expressed the hope that synergies with the work of other international organisations will continue to be explored; and welcomed the efforts already under way, in particular as regards the ongoing work within the OECD on the classification of AI systems.
3. He also underlined the importance of going a step further and developing a concrete deliverable/model of impact assessment after the meeting. While reflections on the criteria upon which such a model should be based have been ongoing in other international fora, a practical model has not yet been developed and thus would provide a real added value to member states.
4. As regards the draft analysis and guidelines on the use of AI in public sector, Mr Stojin encouraged the Group to discuss this thoroughly and finetune the practical recommendations made in the document.
5. In this regard, he highlighted the full complementarity of this work with the work undertaken by the CAHAI-LFG, which will meet next week to discuss its preliminary draft model provisions concerning the design, development and application of AI systems.
6. Mr Stojin also mentioned that he will be participating in the Conference of Ministers responsible for Media and Information Society, entitled "Artificial intelligence - Intelligent politics", which will take place on 10-11 June online and during which he will be updating the Ministers on the work of the CAHAI.
7. Ms Claudia Luciani, Director, Directorate of Human Dignity, Equality and Governance, Council of Europe, mentioned, in her opening presentation, the important political developments which took place at the 131st Session of the Committee of Ministers in Hamburg, on 21 May 2021, where the Ministers acknowledged the work of the CAHAI and the feasibility study, and took note of the ongoing work that is due to be completed at the end of 2021.
8. At this session the Ministers gave priority to the work on an appropriate legal framework for the development, design and application of artificial intelligence based on the Council of Europe's standards on human rights, democracy and the rule of law, and conducive to innovation.
9. Ms Luciani also underlined the importance of working together with other organisations.

10. Mr Jan Kleijssen, Director, Information Society- Action against Crime, Council of Europe, began his presentation by mentioning that the secretariat has taken good note of the proposal of regulation of AI made by the European Commission (EC) on 21 April 2021 and that the preliminary analysis undertaken by the secretariat reveals a convergence of approach on important substantive issues.
11. He recalled that the CoE regulatory approach to AI is complementary to that of the EC, in that the focus is narrowed down to preventing or mitigating through high-level provisions potential harm to human rights, democracy and the rule of law stemming from the application of AI systems, whereas the EC's focus is on market/product-based requirements. This is clearly spelled out in the EC's proposal which mentions Article 114 of the Treaty on the Functioning of the European Union, concerning the approximation of the provisions concerning the establishment and functioning of the internal market.
12. Mr Kleijssen underlined that this is a unique opportunity for both organisations to co-operate and make sure that AI applications respect the same common values, in line with the overall framework set by the 2007 Memorandum of Understanding between the two organisations. He mentioned that an exchange with the TC-INF on the EC proposal and its complementarity with CoE work is scheduled to take place on 15 June 2021.
13. In this context, Mr Kleijssen also mentioned that he will be taking part as a speaker in the 2021 POLITICO AI Summit which will take place on 31 May and concentrate on the latest developments concerning AI regulation. In his intervention he will present the work of the CAHAI.

2. Adoption of the agenda

14. The agenda was adopted unanimously without further comment.

3. Presentation of the document prepared by Sub-Working Group 2 on AI in the public sector, with input from the Co-Chairs, Consultant and Secretariat, followed by discussion

15. The lead co-ordinators of Sub-Working Group 2, Ms Zümrüt Müftüoğlu (Turkey) and Mr Peter Andre (CDDG) presented the outcome of the work of this group. This was followed by discussions.
16. The document is divided into six sections: 1. Introduction; 2. AI and the public sector: an overview; 3. Use cases of AI applications deployed by CoE Member States; 4. Benefits and risks of the use AI in the public sector; 5. Policy Guidance for public actors seeking to adopt AI; 6. Conclusions.
17. The CAHAI-PDG expressed its appreciation for the work of the Sub-Working Group 2 and the clear and comprehensive document it has produced.
18. The Chair of the CAHAI-PDG, Mr Wolfgang Teves, began the discussions by underlining the need to ensure consistency between the work of the CAHAI-PDG and the CAHAI-LFG. The CAHAI-PDG's output should complement the elements for a possible future

legal instrument currently being prepared by the CAHAI-LFG. He reminded the Group that at the end of its mandate the CAHAI will produce one single deliverable and that coordination between CAHAI-LFG and CAHAI-PDG will be ensured throughout the process, including on specific issues such as the establishment of public registers of AI applications.

19. The Group also requested to develop the parts of the text relating to the need to ensure a greater transparency and explainability of AI applications intended to be used in the public sector. Some delegates wondered what the exceptions to the open and transparent design mentioned in the text could be and whether examples should be given.
20. The need for continuous oversight was also mentioned, as impact assessment should not be limited to the design phase. There is a need to consider how AI systems should be tested while still in the design stage. Moreover, the text could cover the methodology of input to an AI system and the goals of the output of such systems. What data sets are used and what the goals and aims are when using these systems should also be taken into account.
21. It is necessary to make the document clearer on what it applies to, while leaving it open for future developments. Indication should be given of the sectors not covered by the document.
22. The Chairs summed up by indicating that the next steps are to integrate the comments of today's meeting into the text. In particular, delegations were invited to send in any further drafting suggestions on this document to the secretariat by 4 June. An updated document would then be prepared for the next CAHAI-PDG meeting in October.
23. As regards the CAHAI plenary in July, it was agreed that a progress report summarising the current state of play and requesting feedback from the CAHAI on key issues addressed by the document would be prepared.
24. The Group was also informed that, 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.

4. Presentation of the document prepared by Sub-Working Group 1 on human rights impact assessment, with input from the Co-Chairs, Consultant and Secretariat, followed by discussion

25. The lead co-ordinators of Sub-Working Group 1, Mr Jorge Arturo Cerdio Herran (Mexico) and Mr Martijn Scheltema (IBA) presented the outcome of the work of this Group. This was followed by a discussion.
26. The document is divided into three main sections: Section I. Methodological considerations for a Human Rights, Democracy and Rule of Law assessment model; Section II. Towards a model for performing Human Rights, Democracy and Rule of Law Impact Assessment of AI systems, building on the current experience of AI Human Rights

Impact Assessment Systems; Section III. Synergies between HRDRIA and Compliance Mechanisms.

27. The CAHAI-PDG expressed its appreciation for the work of the Sub-Working Group 1 and the in-depth and detailed document it has produced.
28. The Co-Chair of the CAHAI-PDG, Mr Zoltan Turbek (Hungary), underlined the importance of Section II of the document which lays out a model for human rights, democracy and rule of law impact assessment. The document gives four steps in the methodology to assessing risk to human rights, democracy and the rule of law.
29. The Group discussed the use of proxies and why they are needed and welcomed the proposal of Sub-Working Group 1 to identify human rights as proxies to the rule of law and democracy. The use of benchmarks was discussed but doubts were expressed as to the inclusion of benchmarking criteria based on countries' classification based on respect for human rights, rule of law and democracy.
30. For certain delegations, the role of stakeholders is not clear in the document, as they should be involved from the outset. Stakeholder engagement could help to identify the risk in the first place. Another approach proposed by certain delegates is to start with the assessment of AI related risks and then continue with human rights risk assessment to ensure there are no blind spots. This would combine risk-based and rights-based approaches.
31. The importance of making impact assessment public and ensuring transparency was underlined by several delegates. The Group agreed that it should be made clear that the document applies to both public and private sectors.
32. The Group also noted that on 27 May the EU SHERPA project released a series of recommendations concerning AI aimed at addressing ethical issues and human rights concerns. One such recommendation is to develop a baseline model for AI impact assessments.
33. The Group supported the idea 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.
34. Finally, it was decided to invite the Group to send any further comments on the document to the secretariat by 4 June. An updated document would then be prepared for the next CAHAI-PDG meeting.
35. In addition, the Group was informed that, 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.

5. Information on the ongoing work within the CAHAI-LFG and the CAHAI-COG, in particular the latest information on the multi-stakeholder consultation

36. The Group was informed that the next meeting of the CAHAI-LFG will take place on 31 May and 1 June. Discussions will focus on preliminary draft model provisions concerning the design, development and application of artificial intelligence systems. These model provisions will represent a mock-up of what the provisions of a future legal instrument could look like and are based on the results of the seven sub-working groups of the CAHAI-LFG. The CAHAI-LFG is tasked with identifying which elements should be included in the final document which is to be submitted to the CM at the end of the year.
37. Regarding the CAHAI-COG, its 3rd meeting will take place on 22-23 June. The multi-stakeholder consultation was open from 30 March until 9 May and over 250 replies were received from various stakeholders which represent rather evenly the different sectors involved and overall a good internal geographical balance. A compilation of all these replies is currently being prepared as well as a report on the results, both of which will be presented and reviewed at the next CAHAI-COG meeting for submission to the plenary meeting in July.

6. Next CAHAI-PDG meeting

38. It was confirmed that the next CAHAI-PDG meeting will take place on 11 and 12 October.

7. Any other business

39. It was announced that under the current Hungarian presidency of the CM, a high-level expert conference will be held online in October 2021 on the topic of AI. This conference will be an opportunity for a multi-stakeholder and inclusive dialogue around the CoE's initiatives in the field of AI regulation, including the work of the CAHAI, and their relevance and usefulness for national policies. A concept paper outlining the issues to be covered at the conference will be shared very soon.

APPENDIX I

Thursday, 27 May 2021		
9.30 am		1. Opening of the meeting <ul style="list-style-type: none"> • Mr Gregor Strojín, Chair of CAHAI; • Mr Jan Kleijssen, Director, Information Society- Action against Crime, Council of Europe; • Ms Claudia Luciani, Director, Directorate of Human Dignity, Equality and Governance, Council of Europe
9.45 am	CAHAI-PDG(2021)PV1 CAHAI-PDG(2021)PV2	2. Adoption of the agenda
10 am	CAHAI-PDG(2021)06	3. Presentation of the document prepared by Sub-Working Group 2 on AI in the public sector, with input from the Co-Chairs, Consultant and Secretariat, followed by discussion
12 pm		Lunch
2.30 pm	CAHAI-PDG(2021)05	4. Presentation of the document prepared by Sub-Working Group 1 on human rights impact assessment, with input from the Co-Chairs, Consultant and Secretariat, followed by discussion
4.30 pm		5. Information on the ongoing work within the CAHAI-LFG and the CAHAI-COG, in particular the latest information on the multi-stakeholder consultation
4.40 pm		6. Next CAHAI-PDG meeting
4.45 pm		7. Any other business
4.50 pm		8. Closing remarks
5 pm		End of the meeting

APPENDIX II

MEMBERS OF THE POLICY DEVELOPMENT GROUP / MEMBRES DU GROUPE D'ELABORATION DES POLITIQUES

BELGIUM/BELGIQUE

Ms Peggy VALCKE – 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

BOSNIA AND HERZEGOVINA/BOSNIE-HERZEGOVINE

BULGARIA / BULGARIE

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

ESTONIA / ESTONIE

Ms Siiri AULIK - Adviser, Public Law Division, Ministry of Justice / Conseillère, division du droit public, Ministère de la justice

GERMANY / ALLEMAGNE

Mr Wolfgang TEVES – Chair / Président

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

Ms Isabella FLORES OVIEDO - Ministry of Justice and Consumer Protection / Ministère fédéral de la justice et de la protection des consommateurs

GREECE / GRECE

Mr Konstantinos SFIKAS - Executive, Department of Open Governance and Transparency / Exécutif, Service de la gouvernance ouverte et de la transparence

HUNGARY / HONGRIE

Mr Zoltán TURBÉK – Co-Chair / Co-Président

Director, Department of International Organisations, Ministry of Foreign Affairs and Trade / Directeur, Département des organisations internationales, Ministère des affaires étrangères et du commerce

IRELAND / IRLANDE

Ms Eimear FARRELL - Assistant Principal, National AI Strategy & EU industrial policy, Department of Business, Enterprise & Innovation / Directeur adjoint, Stratégie nationale d'IA et politique industrielle de l'UE, Département des affaires, des entreprises et de l'innovation

ITALY / ITALIE

Mr Guido SCORZA – Apologised / Excusé

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

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

LUXEMBOURG / LUXEMBOURG

NETHERLANDS / PAYS-BAS

Ms Monika MILANOVIC - Legal Advisor, Ministry of the Interior and Kingdom Relations / Conseillère juridique, Ministère de l'intérieur et des relations au sein du Royaume

Mr Sander MUL - Senior Policy Adviser, Ministry of Justice and Security / *Conseiller politique principal, Ministère de la justice et de la sécurité*

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 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

SLOVAKIA / SLOVAQUIE

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

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Mr Gregor STROJIN – Chair of the CAHAI / Président du CAHAI
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SWEDEN / SUEDE

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

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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 / 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

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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

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Mr Christopher THOMAS - Policy Advisor in the AI Assurance team / Conseiller politique dans l'équipe AI Assurance

Mr Cailean OSBORNE - Centre for Data Ethics and Innovation / Centre pour l'éthique des données et l'innovation

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

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**European Union and Observers from International Organisations / Union européenne et
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Ms Yordanka IVANOVA -

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DE COOPERATION ET DE DEVELOPPEMENT ECONOMIQUES (OCDE)**

**ORGANIZATION FOR SECURITY AND CO-OPERATION IN EUROPE (OSCE) / ORGANISATION POUR
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Observer States to the CAHAI / Etats observateurs au CAHAI

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

ELEMENT AI

FACEBOOK

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INSTITUTE OF ELECTRICAL AND ELECTRONICS ENGINEERS (IEEE)

Ms Clara NEPPEL, Dr - Senior Director, European Business Operations / Directeur principal, Opérations commerciales européennes

TELEFONICA

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

Ms Sara Candela ESTEBAN –

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

AI TRANSPARENCY INSTITUTE

ALGORITHMWATCH PLATFORM

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SECRETARIAT GENERAL OF THE COUNCIL OF EUROPE

EUROPEAN COURT OF HUMAN RIGHTS (ECHR) / COUR EUROPEENNE DES DROITS DE L'HOMME (CEDH)

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

Mr Patrick PENNINGCKX - Apologised / Excusé

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

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

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

Mr Kristian BARTHOLIN

Co-Secretary of CAHAI / *Co-Secrétaire du CAHAI*

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

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

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