



Strasbourg, 22 May 2023

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COMMITTEE ON ARTIFICIAL INTELLIGENCE (CAI)

5th Plenary Meeting

Strasbourg, 19 - 21 April 2023

MEETING REPORT

Prepared by the Secretariat

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I. Introduction

1. The Council of Europe's Committee on Artificial Intelligence (hereinafter referred to as "the CAI" or "the Committee") held its 5th Plenary meeting in Strasbourg from 19 to 21 April 2023, in conformity with its terms of reference adopted by the Committee of Ministers.

II. List of items discussed at the meeting and decisions taken by the CAI

Agenda item 1. Opening of the meeting

2. The Chair, Ambassador Thomas SCHNEIDER (Switzerland), opened the meeting and welcomed the Members, Participants and Observers. He mentioned that the Committee had made good progress in negotiations of the future [Framework] Convention during the last two meetings and that it was important to keep this pace moving forward.

Agenda item 2. Adoption of the Agenda and Order of Business

3. Mr Kristian BARTHOLIN, Secretary to the CAI, reminded Delegations that the meetings of the Committee now took place in person, however passive streaming of the meetings of the Committee would be provided.
4. Mr BARTHOLIN mentioned that the Organisation's intergovernmental structures normally operate with a multiannual budget cycle, meaning that all terms of reference for steering and ad hoc committees would regularly have to be evaluated, and as necessary prolonged or replaced with new terms. The Terms of Reference for the CAI had been adopted in late 2021, but due to the cessation of the membership of the Russian Federation of the Council of Europe, as decided by the Committee of Ministers in 2022, there was, however, a need to revisit all terms of reference already in 2023, including those for the Committee. He explained that the work of the Committee was likely to continue in the coming years, but perhaps with a slightly different set of tasks, including also other digital technologies than AI, and perhaps with a new name. Members of the Committee were invited to submit comments and suggestions for tasks to be included in new terms of reference to the Secretariat by the next Plenary meeting (31 May - 2 June 2023). It should be noted that terms of reference for all steering and ad hoc committees would be proposed by the Secretary General to the Committee of Ministers, which decides thereon. Neither the Secretary General, nor the Committee of Ministers, were under any legal obligation to follow suggestions made by committees, but ideas coming from them were always welcome.

5. The Committee decided to adopt, without any modifications, the agenda and order of business. It also adopted the report of the 4th Plenary meeting of the Committee.

Agenda item 3. Information by the Secretariat

6. The Committee took note of the information provided by Ms Louise RIONDEL, Co-Secretary to the CAI, regarding the activities since the 4th Plenary meeting, notably the organisation of the 5th meeting of the AI Coordination Group of the Secretariat held on 29 March 2023 and the publication in English, French, Spanish, Portuguese and Japanese of a brochure presenting an overview of the Council of Europe activities in the field of AI.
7. The Secretariat and the Chair thanked the Japanese Delegation for its voluntary contribution which financed the translation and printing of the brochure.

Agenda item 4. Election of the Chair, the Vice-Chair, and a Bureau member

8. The Secretariat provided information regarding the election of a Chair and Vice-Chair for a duration of one year, their one-year term of office which may be renewed once having expired, and the election of a new Bureau member for a term of office of one year to replace Ms Işıl Selen DENEMEÇ (Türkiye).
9. The Secretariat informed the Committee that both Mr Thomas SCHNEIDER and Vice-Chair Mr Gregor STROJIN (Slovenia) stood for re-election and that Mr Jasper FINKE (Germany) had informed the Secretariat that he stands for election to the Bureau.
10. The Committee re-elected Mr SCHNEIDER as Chair and Mr STROJIN as Vice-Chair by acclamation for a second term of one year. The Committee also elected Mr Jasper FINKE (Germany) as Bureau member for the remainder of its Terms of Reference by acclamation.

Agenda item 5. Exchange of information

11. The Committee took note of the intervention by Mr Ralph KASS (Luxembourg), Chair of the Gender Equality Commission (GEC) who spoke about its activities and standard-setting work in the field of AI and gender equality. Mr KASS made reference to the ongoing elaboration of the Council of Europe's Gender Equality Strategy 2024 - 2029, the enormous potential of AI technologies to both reinforce and fight gender inequalities and stereotypes in societies, and to the need to take account of these important technological developments in standard-setting activities of the Council of Europe.

12. The Committee warmly thanked Mr KASS for his participation in the meeting.

Agenda item 6. Hearing of candidates for observer status with the CAI

13. The Committee took note of the presentations by the representatives for Pour Demain and the European Trade Union Confederation, respectively, in relation to their candidacies for observer status with the CAI.

14. The Committee decided to grant observer status with the CAI to both organisations.

Agenda item 7. Negotiation of the Draft Preamble and Chapter VII (Plenary Session)

15. The Chair and the Secretariat presented the Draft Preamble and Chapter VII prepared by the Drafting Group at its last session.

16. The Committee negotiated the draft Preamble and Chapter VII prepared by the Drafting Group and agreed on amendments to the text, subject to preliminary scrutiny reservations. In particular, the Committee discussed the following issues:

- An addition of references to other international human rights legal instruments in draft recitals 11, 12 and 13 of the Preamble;
- An improvement and reformulation of draft recital 15 of the Preamble regarding the need to oppose the use of AI systems that is incompatible with respect for human rights;
- An addition of more references to children's rights in draft recitals 6 and 12 of the Preamble;
- An addition of more references to gender equality and gender inclusion throughout the draft text;
- An addition of references to principles of accountability, explainability and fairness in Preamble;
- An addition of specific details on procedural rules, including in particular on topics and format of participation of various stakeholders, for the Conference of the parties in draft Article 27 of the operative part of the text;

- Certain changes, additions and improvements concerning the composition of participants and modalities of their cooperation in draft Article 28 of the operative part of the text;
- Possible changes, additions and improvements in the model of implementation (issues of specific tasks, functions and powers and possible consultations with other stakeholders) of the [Framework] Convention in draft options A and B of Article 29, as well as the arguments in favor of one or the other option;

17. The Committee instructed the Drafting Group to take these proposals and amendments into account.

Agenda item 8. Re-examination of the Draft Preamble and Chapter VII (Drafting Group Session)

18. The Drafting Group redrafted the Draft Preamble and Chapter VII in light of the proposals made by the Plenary and written comments and suggestions submitted by individual Delegations.

Agenda item 9. Comments on Chapters I, IV and V (Plenary Session)

19. The Chair and the Secretariat presented the text of Chapters I, IV and V of the revised “Zero Draft”. In addition to the comments submitted in writing beforehand, Delegations also expressed their respective positions regarding the provisions under the discussion. In particular, they had questions and made proposals regarding the following issues:

- certain changes, additions and improvements in the definitions in Article 2 of the revised “Zero Draft”, in particular, whether there was a need for the definition of “lifecycle”, “artificial intelligence provider”, “artificial intelligence user” and “artificial intelligence subject” and specific formulations of these terms;
- certain changes, additions and improvements in the list of grounds for discrimination and designation of protected groups and characteristics in Article 3 of the revised “Zero Draft”;
- certain changes, additions and improvements regarding the scope of the future [framework] Convention in Article 4 of the revised “Zero Draft” as well as regarding its applicability to the private sector as well as various issues relating to national defence and national security;

- certain changes, additions and improvements in the formulation of protected, vulnerable or discriminated groups in Article 12 of the revised “Zero Draft”;
- a replacement of the “within its jurisdiction and in accordance with its domestic law” formulation recurring throughout the revised “Zero Draft” with a general *chapeau* provision at the beginning of either Chapter IV or in Article 1;
- an introduction of a reference to the principle of proportionality promoting a graduated and risk-based approach towards implementation of various principles of the [Framework] Convention as the introductory principle of Chapter IV;
- certain changes, additions and improvements in Articles 19 and 20 of the revised “Zero Draft” insofar as the nature, scope and specific modalities of access to and functioning of these safeguards are concerned;
- certain changes to the restrictions clause in Article 21 of the revised “Zero Draft”, in particular the need to give a more expanded version of the grounds for restrictions of rights;
- the need to move Articles 22 and 23 of the revised “Zero Draft” to draft Chapter VIII and/or a merger of these provisions with draft Article 30.

20. In addition to the above-mentioned points, the EU Delegation signalled its wish to reinsert the Dispute Settlement provision (former Article 32) back into the draft Convention.

21. As a result of the exchange, the Committee provided general comments on the draft text of Chapters I, IV and V for consideration by the Drafting Group.

Agenda item 10. Drafting of Chapters I, IV and V (Drafting Group Session)

22. The Drafting Group examined Chapters I, IV and V of the revised “Zero Draft” and redrafted it considering the comments made in the Plenary session and the written contributions.

23. The Committee instructed the Secretariat to distribute the resulting text of Chapters I, IV and V with explanatory remarks to the Plenary for examination at its next meeting.

Agenda item 11. Date and place of the next meeting

24. The Committee decided to hold the 6th Plenary meeting in Strasbourg on 31 May - 2 June 2023.

Agenda item 12. Any other business

25. The Committee held an exchange of views regarding the progress in the negotiations of the draft [Framework] Convention so far, with many Delegations expressing their overall satisfaction with the pace of negotiations, but nevertheless wishing to hold a second reading of the draft text.
26. The Committee examined the timeline of its work and its working methods in light of the deadline set by the Committee of Ministers for submitting the draft [Framework] Convention, and expressed concern regarding the feasibility of finalising the text by September 2023. The Committee instructed the Bureau, with the support of the Secretariat, to prepare a proposal for the organisation of the work of the Committee, including a revised timeline for discussion in the Committee at its next Plenary meeting.
27. The Committee held an exchange about the pace of technological developments of artificial intelligence with new powerful tools, like the ones deriving from generative AI, being rolled out and the public discussion of issues surrounding such deployments. In view of high public importance of its on-going work, the Committee decided to instruct the Bureau to prepare a communiqué for the public on the work done by the CAI. It will be submitted to the Committee for validation at its next Plenary meeting.

Agenda item 13. Adoption of the List of Items Discussed and Decisions Taken, and close of the meeting

28. The Committee decided to adopt the List of Items Discussed and Decisions Taken.
29. The Committee took note of the closing remarks by Mr Patrick PENNINCKX, Head of the Information Society Department, who underlined the importance of the work of the CAI, in view notably of the current public debate about the use of AI systems.
30. He further reiterated the window of opportunity for advancing the work of the Committee in Europe and globally, and underlined the priority given to the topic in the preparations of the upcoming 4th Summit of Heads of State and Government of the Council of Europe, to be held in Reykjavik, Iceland, on 16-17 May 2023.

End of the meeting