COUNCIL OF EUROPE

CONSEIL DE L'EUROPE

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**EUROPEAN COMMITTEE ON LEGAL CO-OPERATION
(CDCJ)**

**ADMINISTRATION AND ARTIFICIAL INTELLIGENCE –
CDCJ-ADMIN-AI**

Revised Terms of Reference and Workplan

Document prepared by the Secretariat
Directorate General Human Rights and Rule of Law – DG I

I.   Introduction

1.   At its 95th plenary meeting (4-5 and 23-24 November 2021), CDCJ examined the concept paper on a CDCJ activity proposal in the fields of administrative law and artificial intelligence prepared and presented by Ms Kai Härmand (Estonia).[1] The Committee decided to initiate one of the activities identified in the concept note, namely to expand and develop the Council of Europe handbook on "The Administration and You" in the light of the use of artificial intelligence (AI) and non-AI algorithmic systems in administrative law, and as a first step, to draw up a comparative study on the use of AI and other algorithmic systems in administrative procedures and administrative support-systems or algorithmic decision-making systems in the member States. The Committee has instructed the Secretariat to draw up for the Bureau's approval draft terms of reference for a drafting group of CDCJ members and a draft workplan for implementing the activity.

2.   The Bureau discussed the activity at its 109th meeting (23-24 February 2021) and considered that, at this stage, it was preferable to proceed with an update of the text by consultants with expertise of the relevant different areas of artificial intelligence in order to make rapid progress, instead of forming a drafting group of CDCJ members, as it was agreed by the CDCJ.[2]

3.   Due to the specific expertise needed, the combined knowledge of both in the AI and relevant legal fields, as well as having the capacity to assess these proceedings in the contexts of administrative law and impact on them, the Secretariat was not able to secure the relevant expertise in health care, labour, and education sectors. The difficulties encountered in the implementation of this activity where shared with the Bureau at its 111th meeting, and it was proposed to revise the approved workplan and to start the work with the research on administrative proceedings, as a first step and in parallel to continue searching with the other consultations in the sectors mentioned above.

4.   At the instruction of the Bureau, the Secretariat contracted the consultant for AI and administrative justice, in line with the Terms of Reference for the consultants approved by the Bureau. The consultant, Professor Johan Wolswinkel, presented the outline of the comparative study, approved by the CDCJ at its 97 plenary meeting (held online, on 1-3 December 2021).

5.   At its 97th plenary meeting (1-3 December 2021), the CDCJ decided to establish a limited working group of experts (CDCJ-ADMIN-AI) to update the handbook "The Administration and You", to assist the Committee in its mandate related to the update of the said handbook, prepared and published by the CDCJ in 2018. The limited group of experts was to be established in line with Resolution CM/Res(2021)3 on intergovernmental committees and subordinate bodies, their terms of reference and working methods (applicable as of 1 January 2022), and article 14 (b) of Appendix I.

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[1] Appendix III to the report of the 95th meeting of the European Committee on Legal Co-operation (CDCJ) - CDCJ(2020)8 final.
[2] Paragraph 6 of the report of the 109th meeting of the Bureau of the European Committee on Legal Co-operation (CDCJ-BU) - CDCJ-BU(2021)7.

6.   In line with the decision of the CDCJ, a call of expression of interest for the limited working group of experts (CDCJ-ADMIN-AI) was issued on 25 February 2022 by an email sent to the heads of delegations, and subsequently on 8 June 2022. In July 2022 the Bureau examined the nominations received and approved the composition of the group, insofar as the CDCJ experts designated by heads of delegations concerned.

II.   Revised terms of reference of CDCJ-ADMIN-AI and workplan

Revised Terms of Reference of CDCJ-ADMIN-AI

Role

7.   In line with [Resolution CM/Res(2021)3 on intergovernmental committees and subordinate bodies, their terms of reference and working methods](#) (applicable as of 1 January 2022), and article 14 (b)[3] of Appendix I, a limited working group of CDCJ is established to assist the Committee in its mandate related to the updating of the handbook on "The Administration and You" prepared and published by the CDCJ in 2018.

Specific task

8.   The CDCJ-ADMIN-AI is tasked with making proposals on the direction the CDCJ should take in respect of the future work on administrative law and AI and elaborating the updated Handbook "The Administration and You". The update should address the use of artificial intelligence (AI) and other algorithmic systems in administrative law. The basis of this work will be a comparative report, examining aspects of the use of AI in administrative law, the impact and changes artificial intelligence technology has brought to administrative rule of law, relations between individuals and public authorities, as well as how the principles of good administration (equal treatment; transparency; access etc.) are applied in practice in a user-friendly way.

Composition

9.   The CDCJ-ADMIN-AI is composed of up to eight experts, interested to contribute to this work, as follows:

-    up to three CDCJ experts designated by the heads of delegation,
-    two independent consultants,
-    three experts from research institutes or organisations with expertise on artificial intelligence aspects.

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[3] "Where necessary, in order to expedite the progress of their work, committees may entrust a rapporteur or a limited number of committee members with a specific task to be fulfilled by their next meeting, using primarily information technologies."

10. The experts and consultants should have a thorough knowledge of administrative law, and/or of artificial intelligence governance, good understanding of AI, machine learning, or the broader AI ecosystem (i.e. Internet of Things, big data, etc.), and have experience in policy development and decision making nationally or internationally on these issues.

Working methods and expected results

11. The CDCJ-ADMIN-AI will perform its functions and responsibilities online between September 2022 and December 2023, with a possible finalisation of the updated handbook in December 2023.

12. It shall be assisted in its work by the Secretariat of the CDCJ, and within the limits of budgetary appropriations, by up to two independent consultants.

Revised workplan

13. The proposed workplan takes into account the continuing impact of the COVID-19 pandemic on the working methods of the CDCJ; therefore, when and if needed, meetings will be organised on-line.

	Specific tasks / activity	Dates / period	Responsibility / Working methods	Role of CDCJ
1	**Launch of the restricted consultation procedure for consultancy services**	By 30 April 2021	Secretariat	
2	**Finalisation of the procedure and selection of a consultant**	October 2021	Secretariat	
3	**Desk - review of relevant administrative proceedings vis-a vis the principles identified in the handbook and use of artificial intelligence (AI) and non-AI algorithmic systems in them, identification of the gap in the existing information and preparation of the questionnaire to complement the existing resources; drawing up of a preliminary outline of a comparative study**	November - December 2021	Secretariat Consultant	
4	**Collecting of the additional information via questionnaire prepared by the consultant**	December 2021- January 2022	Secretariat Consultant Questionnaire to member States	CDCJ /Bureau to examine and approve the questionnaire if considered necessary

5	**Analysis of the additional information and complementing the preliminary draft comparative study**	February-September 2022	Secretariat and the consultant	CDCJ members to facilitate national experts' contribution to providing the relevant information to the consultant and the Secretariat
6	**Establish CDCJ-ADMIN-AI, a multi-disciplinary limited working group (consultants, experts designated by member States, and representatives of qualified research institutes or organisations)**	September 2022	Secretariat to contract additional experts, Bureau to be consulted in case of numerous expressions of interests	
7	**Draft comparative study and proposals in respect of the CDCJ's future work on administrative law and AI at its 99th plenary meeting**	December 2022	Consultant and the Secretariat	To be approved by the CDCJ at its plenary
8	**Updating the handbook** **Meetings of the CDCJ-ADMIN-AI (2 online meetings)**	November 2022-November 2023 February 2023 October 2023	Secretariat CDCJ-ADMIN-AI	
9	**Exchange of views on the updated handbook at CDCJ's 101th plenary meeting**	November/December 2023	Secretariat CDCJ-ADMIN-AI	CDCJ to hold an exchange of views with experts and CDCJ-ADMIN-AI CDCJ to examine and approve the revised handbook and agree on the future follow-up to be reflected in the relevant CDCJ documents (Terms of Reference, workplan), in time for the possible approval by the Committee of Ministers

| 10 | **Publishing the handbook and its dissemination** | July- December 2023 | Online dissemination by secretariat, CDCJ members and observers | CDCJ to ensure wider dissemination of information |
| 11 | **Implementation of follow-up activities by CDCJ** | January 2024- December 2025 | CDCJ | |