AD HOC COMMITTEE
ON ARTIFICIAL INTELLIGENCE
(CAHAI)

Compilation of responses to
the Multi-Stakeholder Consultation
(A to E)

www.coe.int/cahai

Table of Content

<A+> Alliamce for Inclusive AI

State (where your institution is based)	**Switzerland**
Institution: Name of the institution/body/company	<A+> Alliamce for Inclusive AI
Personal capacity: Your socio-professional category	Higher occupations
Your stakeholder group	Civil society
2. In view of the elaboration of a legal framework on the design, development and application of AI, based on the standards of the Council of Europe on human rights, democracy and the rule of law, what kind of definition of artificial intelligence (AI) should be considered by the CAHAI	No definition, with a legal instrument focused on the effect of AI systems on human rights, de-mocracy and the rule of law
2bis. If "other" please explain below	
3. What are the reasons for your preference?	Technology is never neutral, the other definitions are limited.
4. Please select the areas in which AI systems offer the most promising opportunities for the protection of human rights, democracy and the rule of law	Welfare;• Public administration;
4bis. If other, which areas and why?	
5. Please indicate which of the following AI system applications in your view have the greatest potential to enhance/protect human rights, democracy and the rule of law?	• AI applications to promote gender equality (e.g. analytical tools);
6. Please briefly explain how such applications would benefit human rights, democracy and the rule of law.	It is a chance to massively correct biases.
7. What other applications might contribute significantly to strengthening human rights, democracy and the rule of law?	Race equality correctors.
8. Please select the areas in which the deployment of AI systems	• Justice;• Welfare;• Law enforcement;•

poses the highest risk of violating human rights, democracy and the rule of law 8bis. Other	
9. Please briefly explain how such applications might violate human rights, democracy and the rule of law.	Lack of transparency, risk of irreparable damage.
10. Please indicate the types of AI systems that represent the greatest risk to human rights, democracy and the rule of law	Facial recognition supporting law enforcement• Emotional analysis in the workplace to measure employees' level of engagement; Smart personal assistants (connected devices); Scoring / scoring of individuals by public entities• Medical applications for faster and more accurate diagnoses
11. Please briefly explain how such applications might violate human rights, democracy and the rule of law.	Most of them can amplify current inequalities
12. What other applications might represent a significant risk to human rights, democracy and the rule of law?	Polluted databases or data blindspots in key areas
13. In your opinion, should the development, deployment and use of AI systems that have been proven to violate human rights or undermine democracy or the rule of law be 13bis. Other	No opinion
14. In your opinion, should the development, deployment and use of AI systems that pose high risks with high probability to human rights, democracy and the rule of law be:	Regulated (binding law)
15. In your opinion, should the development, deployment and use of AI systems that pose low risks with high probability to human rights, democracy and the rule of law be:	Subject to moratorium
16. In your opinion, should the development, deployment and use of AI systems that pose high risks with low probability to human rights, democracy and the rule of law be:	Regulated (binding law)
17. What are the most important legal principles, rights and interests that need to be addressed and therefore justify regulating the	Respect for human dignity;Equality;Freedom of expression, assembly and association;• Non-discrimination;• Legal certainty;

development, deployment and use of AI systems?	
18. In your opinion, in what sectors/areas is a binding legal instrument needed to protect human rights, democracy and the rule of law? 18bis. Other	Law enforcement;Justice;Welfare;
19. Self-regulation by companies is more efficient than government regulation to prevent and mitigate the risk of violations of human rights, democracy and the rule of law.	I fully agree
20. Self-regulation by companies is sufficient to prevent and mitigate the risk of violations of human rights, democracy and the rule of law	I completely disagree
21. Which of the following instruments of self-regulation do you consider to be the most efficient? 21bis. Other	None
22. Existing international, regional and/or national binding and/or non-binding legal instruments are sufficient to regulate AI systems in order to ensure the protection of human rights, democracy and the rule of law.	I completely disagree
23. Please provide examples of existing international, regional and/or national (binding and/or non-binding) instruments that in your view are effective in guiding and regulating the design, development and use of AI systems to ensure compatibility with the standards for human rights, democracy and the rule of law	Current environmental laws.
24. If you responded disagree/completely disagree to question 22, please indicate why existing international, regional and/or national (binding and/or non-binding) legal instruments are not sufficient to regulate AI systems (select all you agree with):	• They provide a basis but fail to provide an effective substantive protection of human rights, democracy and the rule of law against the risks posed by AI systems;

25. Please indicate other specific legal gaps that in your view need to be addressed at the level of the Council of Europe	Gender and race affirmative actions.
26. Individuals should always be informed when they interact with an AI system in any circumstances.	I fully agree
27. Individuals should always be informed when a decision which affects them personally is made by an AI system.	I fully agree
28. Individuals should always be informed when an AI system is used in a decision-making process which affects them personally.	I fully agree
29. Individuals should have a right to a meaningful explanation of algorithmic based decisions, in particular how the algorithm reached its output.	I fully agree
30. Individuals should always have the right that any decision taken by an AI system in the framework of judicial proceedings are reviewed by a "human" judge.	I fully agree
31. Individuals should have a right to demand the review of an algorithmic based decision by a human being.	I fully agree
32. There should always be a person responsible for reviewing algorithmic based decisions in the public sector and private companies.	I fully agree
33. Public institutions should not use AI systems to promote or discredit a particular way of life or opinion (e.g. "social scoring").	I fully agree
34. States should be obliged to design, develop and apply sustainable AI systems that respect applicable environmental protection standards.	I fully agree
35. The code behind AI systems used in the public and private sectors should always be accessible to the competent public authorities	I fully agree

for the purposes of external audit.	
36. **There should be higher transparency standards for public entities using AI than for private entities.**	I fully agree
37. **There should be higher standards for access to an effective remedy for individuals in relation to decisions informed and made by an AI system in the field of justice than in the field of consumer protection.**	I fully agree
38. **Member States should establish public oversight mechanisms for AI systems that may breach legally binding norms in the sphere of human rights, democracy and the rule of law.**	I fully agree
39. **Errors and flaws discovered in AI systems which have led or could lead to the violation of human rights, democracy and the rule of law must be reported to the competent authorities.**	I fully agree
40. **The use of facial recognition in public spaces should be prohibited.**	I fully agree
41. **The information obtained through the use of facial recognition systems should always be reviewed by a human being before being used for purposes that have an impact on individual freedom, such as in relation to a person boarding an airplane, upon police arrest or in the framework of judicial proceedings.**	I fully agree
42. **The use of AI systems in democratic processes (e.g. elections) should be strictly regulated.**	I fully agree
43. **Should a future legal framework at Council of Europe level include a specific liability regime in relation to AI applications?**	Yes
44. **If yes, what aspects should be covered?**	Civil and criminal liability.
45. **In your opinion, how useful would the following compliance mechanisms be in**	Rather useful Rather useful Rather useful

preventing and mitigating the risks to human rights, democracy and the rule of law arising from the design, development and application of AI? - **Human rights, democracy and rule of law impact assessments** - **Certification and quality labelling** - **Audits and intersectional audits** - **Regulatory sandboxes** - **Continuous automated monitoring**	Indifferent/no opinion Rather useful
46. Please indicate what combination of mechanisms should be preferred to efficiently protect human rights, democracy and the rule of law **46bis. Other**	Human rights, democracy and rule of law impact assessments ; Continuous automated monitoring; Audits and intersectional audits;
47. Please select which mechanism(s) should be part of either a binding instrument or a non-binding instrument to best protect human rights, democracy and the rule of law. - **Human rights, democracy and rule of law impact assessments** - **Certification and quality labelling** - **Audits and intersectional audits** - **Regulatory sandboxes** - **Continuous automated monitoring**	Binding instrument Binding instrument Binding instrument Binding instrument Binding instrument
47.bis. Other	
48. In your opinion, how useful would the following follow-up activities be if implemented by the Council of Europe? - **Monitoring of AI legislation and policies in member States** - **Capacity building on Council of Europe instruments, including assistance to facilitate ratification and implementation of**	Rather useful Rather useful Indifferent/no opinion Indifferent/no opinion

- **relevant Council of Europe instruments** - **AI Observatory for sharing good practices and exchanging information on legal, policy and technological developments related to AI systems** - **Establishing a centre of expertise on AI and human rights**	
49. What other mechanisms, if any, should be considered?	Piloting good practices
50. Are there any other issues with respect to the design, development and application of AI systems in the context of human rights, democracy and the rule of law that you wish to bring to the attention of the CAHAI?	
Date of submission	03/05/2021 08:16:01

5Rights Foundation

State (where your institution is based)	**London, United Kingdom**
Institution: Name of the institution/body/company	5Rights Foundation
Personal capacity: Your socio-professional category	Intermediate occupations
Your stakeholder group	Civil society
2. In view of the elaboration of a legal framework on the design, development and application of AI, based on the standards of the Council of Europe on human rights, democracy and the rule of law, what kind of definition of artificial intelligence (AI) should be considered by the CAHAI	A technologically-neutral and simplified definition, such as "a set of sciences, theories and techniques whose purpose is to reproduce by a machine the cognitive abilities of a human being" (See the CAHAI feasibility study, §5)
2bis. If "other" please explain below	
3. What are the reasons for your preference?	A technology-neutral definition is important to account for new and emerging future technologies, which may extend beyond machine learning or automated decision-making. If the definition was limited to 'automated decision making' that might also exclude services which use a mix of automated decision making and moderated/human decision making.

We also urge the CoE to consider the term 'extended intelligence' as per MIT's Media Lab's evolving conceptual framework: "Instead of thinking about machine intelligence in terms of humans vs. machines, we should consider the system that integrates humans and machines — not artificial intelligence, but extended intelligence. Instead of trying to control or design or even understand systems, it is more important to design systems that participate as responsible, aware and robust elements of even more complex systems. And we must question and adapt our own purpose and sensibilities as designers and components of the system for a much more humble approach." It is critical to recognise that AI systems are human-built and controlled, representing forms of statistical analysis at scale based on input data.

(See Resisting Reduction: A Manifesto - Designing our complex future with machines, by Joichi Ito: https://jods.mitpress.mit.edu/pub/resisting-reduction/release/17)

4. Please select the areas in which AI systems offer the most promising opportunities for the protection of human rights, democracy and the rule of law	Law enforcement; Education; Social networks/media, internet intermediaries ;
4bis. If other, which areas and why?	AI systems can offer promise for the enjoyment of human rights across a wide variety of areas, if designed and implemented with the objective of protecting and promoting these rights. Children's freedoms and rights to safety, welfare, healthcare, education, and future prosperity as part of sustainable societies can certainly benefit from AI designed upon child-centred principles. Child-centred AI design can for example support law enforcement in preventing and detecting child sexual exploitation and abuse, or finding missing children. It can enable access to more personalised and richer education or promote children's information, social connectivity and development through digital free play. The key to these benefits is in appropriate design and development in consultation with children and in respect of their existing rights, as set out in the UNCRC and its General comment No. 25.
5. Please indicate which of the following AI system applications in your view have the greatest potential to enhance/protect human rights, democracy and the rule of law?	Facial recognition supporting law enforcement ; AI applications to prevent the commission of a criminal offence (e.g. anti-money laundry AI appli-cations); AI applications to promote gender equality (e.g. analytical tools); AI applications used for analysing the performance of pupils/students in educational institutions such as schools and universities; AI applications determining the allocation of educational services;
6. Please briefly explain how such applications would benefit human rights, democracy and the rule of law.	AI systems designed with children's rights and needs in mind can have a positive impact on their development and wellbeing. AI can deliver personalised learning and support, which can expand access to and improve educational outcomes for all children. It can also enhance accessibility for disabled children. AI can improve health outcomes through better research, monitoring and diagnostics. AI can enhance children's safety by scanning for illegal or harmful content (e.g. child sexual abuse material) or helping authorities find lost or abducted children. Interacting with AI in free play can bring children pleasure as well as stimulate creativity and cognitive development.
7. What other applications might contribute significantly to strengthening human rights,	N/A

democracy and the rule of law?	
8. Please select the areas in which the deployment of AI systems poses the highest risk of violating human rights, democracy and the rule of law **8bis. Other**	Welfare; Education; Social networks/media, internet intermediaries ;
9. Please briefly explain how such applications might violate human rights, democracy and the rule of law.	Social networks/media, internet intermediaries AI powers recommendation systems on social media. These systems suggest to children the videos to watch next, the news to read, the music to listen to, the things to buy and who to be friends with. Powered by vast quantities of children's data, AI-driven recommendation systems use persuasive design techniques to keep children engaged for as long as possible, generating more advertising opportunities to sell and more data to share. This commodification of childhood undermines a number of children's rights and can cause significant harm, the extent of which is only just becoming evident and is bound to increase as AI becomes ever more prevalent in children's lives. AI systems routinely serve children (even when the systems know they are under 18) pornography, extreme and real-life violence, discriminatory or hateful content, disinformation and content that endorses risky or unhealthy behaviours such as anorexia, self-harm, suicide. These algorithms also share children's content with unknown adults, compounding the risk and exposure of children to e.g. bullying, blackmail, recruitment by extremist causes, or sexual exploitation and abuse. The routine use of AI to recommend children's profiles to stranger adults on social media platforms can be exploited by groomers and nefarious actors seeking to establish contact with child victims (e.g. for sexual abuse or for financial scams). 5Rights has found that in 2020, 75% of the top 12 most popular social media platforms used globally used AI to recommend children's profiles to strangers. Recommendation systems can limit children's development by aligning too closely with their perceived preferences and creating an information bubble. This can limit a child's worldview, online experience and level of knowledge, and as such, the child's right to freedom of expression and opinion. For example, the AI system may not account for children from minority groups or children who differ substantially from their peers, or may not support alternate developmental trajectories that are not usually represented in data sets. As a result, such systems could potentially reinforce stereotypes for children and limit the full set of possibilities that should be made available to every child. This can result in, or reinforce, negative self-perceptions, which can lead to self-censoring or self-injurious behaviour. Welfare Predictive modelling applications are used for the allocation of social welfare services and access to justice and healthcare, taking data from public welfare benefits, medical records, judicial information and more. Predictive analytics profile children and can reinforce historical patterns of systemic bias and discrimination. A recent example is the wrongful withdrawal and forced return of child-benefits from 26,000 families in the Netherlands, disproportionately impacting children from ethnic minority backgrounds.

	Education
	AI-powered surveillance of children in school settings (e.g. for invigilating exams) as well as online tracking, monitoring and filtering software on EdTech systems can restrict children's freedoms, breach their right to privacy and perpetuate discrimination. The use of an automated algorithm to moderate for exam grades in the UK in Summer 2020 led to a huge number of student's teacher-assessed results being downgraded, which was later shown to have disproportionately negatively affected children from poorer backgrounds. The unfairness this created eventually led to scrapping of the algorithmically awarded grades.
10. Please indicate the types of AI systems that represent the greatest risk to human rights, democracy and the rule of law	AI applications determining the allocation of social services; AI applications determining the allocation of educational services; AI applications used for analysing the performance of pupils/students in educational institutions such as schools and universities; AI applications for personalised media content (recommender systems); Smart personal assistants (connected devices)
11. Please briefly explain how such applications might violate human rights, democracy and the rule of law.	AI systems which are not designed based on child-centred principles, trained on appropriate data sets and tested to ensure neutral or positive outcomes for children, can have major impacts on children's safety, privacy, cognitive development, health and educational outcomes, social relationships, economic well-being and freedoms. Children may be less able to recognise that they are interacting with and impacted by AI and less able to fully understand the implications thereof. They often lack the resources to respond to instances of bias or to dangerous content which has been amplified by AI technology. Children may be less able to react, manage stressful situations or seek redress. Their negative impacts can be more severe and longer-lasting on children than for adults. The risks include: Discrimination and exclusion through bias – The digital world already reflects existing bias – the low visibility and stereotyping of women and minorities in online content and games has for example been well-documented – which AI can reinforce. Automating decision-making in new areas also carries risks. Predictive modelling applications are used for the allocation of social welfare services and access to justice and healthcare, taking data from public welfare benefits, medical records, judicial information and more. Predictive analytics profile children and can reinforce historical patterns of systemic bias and discrimination. Recent examples are the wrongful withdrawal and forced return of child-benefits from 26,000 families in the Netherlands, disproportionately impacting children from ethnic minority backgrounds; or the use of AI for exam grading in the UK which discriminated against children from poorer backgrounds. Limitations of children's opportunities and development from AI-based predictive analytics and profiling – Recommendation systems, which are ubiquitous in social media and search engines, can limit children's development by aligning too closely with the user's perceived preferences and creating an information bubble. This can limit a child's worldview, online experience and level of knowledge, and as such, the child's right to freedom of expression and opinion. For example, the AI system may not account for children from minority groups or children who differ substantially from their peers, or may not support alternate developmental trajectories that are not usually represented in data sets. As a result, such systems could potentially reinforce stereotypes for children and limit the full set of

| | possibilities that should be made available to every child. This can result in, or reinforce, negative self-perceptions, which can lead to self-censoring or self-injurious behaviour.

Infringement of data protection and privacy rights – AI systems embedded in the platforms routinely used by children systematically breach their privacy rights. Smart toys, wearable devices and smart home devices are permanently connected to the internet and share vast quantities of children's data with companies and third parties; they are also susceptible to hacking and other security breaches. More than half the remote learning platforms recommended by governments during COVID-19 school closures failed to provide adequate privacy protection. Interactive online games collect enormous amounts of personal data, ranging from a player's voice or physical appearance to their location or social network, as well as detailed information from the player's actions within the game world, which may be analysed to create in-depth profiles of a player's cognitive abilities and personality. Children can easily lose control of their private content, which can cause long-term distress (e.g. revenge porn).

Restriction of freedom through surveillance – AI-powered surveillance of children in public spaces but also in school settings (e.g. for monitoring exams) as well as online tracking, monitoring and filtering software on children's (educational) devices can |
|---|---|
| **12. What other applications might represent a significant risk to human rights, democracy and the rule of law?** | N/A |
| **13. In your opinion, should the development, deployment and use of AI systems that have been proven to violate human rights or undermine democracy or the rule of law be**
13bis. Other | Banned |
| **14. In your opinion, should the development, deployment and use of AI systems that pose high risks with high probability to human rights, democracy and the rule of law be:** | Banned |
| **15. In your opinion, should the development, deployment and use of AI systems that pose low risks with high probability to human rights, democracy and the rule of law be:** | Regulated (binding law) |
| **16. In your opinion, should the development, deployment and use of AI systems that pose high risks with low probability to human rights, democracy and the rule of law be:** | Regulated (binding law) |
| **17. What are the most important legal principles, rights and interests that need to be addressed and therefore justify regulating the development,** | Explainability;Transparency; Privacy and data protection; Non-discrimination;Respect for human dignity; |

deployment and use of AI systems?	
18. In your opinion, in what sectors/areas is a binding legal instrument needed to protect human rights, democracy and the rule of law? **18bis. Other**	Education;Welfare; Social networks/media, internet intermediaries ;
19. Self-regulation by companies is more efficient than government regulation to prevent and mitigate the risk of violations of human rights, democracy and the rule of law.	I completely disagree
20. Self-regulation by companies is sufficient to prevent and mitigate the risk of violations of human rights, democracy and the rule of law	I completely disagree
21. Which of the following instruments of self-regulation do you consider to be the most efficient? **21bis. Other**	Voluntary certification
22. Existing international, regional and/or national binding and/or non-binding legal instruments are sufficient to regulate AI systems in order to ensure the protection of human rights, democracy and the rule of law.	I completely disagree
23. Please provide examples of existing international, regional and/or national (binding and/or non-binding) instruments that in your view are effective in guiding and regulating the design, development and use of AI systems to ensure compatibility with the standards for human rights, democracy and the rule of law	UNCRC General comment No. 25 sets out how States parties should implement children's rights in the digital environment, with a range of specific provisions for AI systems and the obligations of States to ensure the responsibility of business in respect of children's rights. Provisions include: · Taking proactive measures to prevent exclusion and discrimination that can arise when automated processes that result in information filtering, profiling or decision-making are based on biased, partial or unfairly obtained data concerning a child (Para. 9-11, in ref. to UNCRC Art. 2). · Requiring businesses to undertake child rights due diligence, in particular child rights impact assessments, and holding them accountable for preventing their networks or services from being misused for purposes that threaten children's safety and well-being. (Para. 36-38, in ref to UNCRC Art. 4). · Prohibiting by law the profiling or targeting of children of any age for commercial purposes on the basis of a digital record of their actual or inferred characteristics, including group or collective data, targeting by association or affinity profiling (Para. 42 in ref. to UNCRC Art. 4). · Ensuring that automated systems or information filtering systems are not used to affect or influence children's behaviour or emotions or to limit their opportunities or development. (Para. 62 in

ref. to UNCRC Art. 13-14).

· Introducing or using data protection, privacy-by-design, safety-by-design and other regulatory measures to ensure that businesses do not target children using techniques designed to prioritise commercial interests over those of the child. An example is highly persuasive or gambling-like design features (Para. 110, in ref. to UNCRC Art. 31).

The EU's proposed Regulation subjects the understanding of children's rights in AI systems to the prescriptions of the UNCRC General comment No. 25 (Recital 28).

Article 5.6 prohibits "practices that have a significant potential to manipulate persons through subliminal techniques beyond their consciousness or exploit vulnerabilities of specific vulnerable groups such as children or persons with disabilities in order to materially distort their behaviour in a manner that is likely to cause them or another person psychological or physical harm."

Article 9 sets out the standard for risk management systems of high risk AI (assessment and management measures, including notably the "elimination or reduction of risks as far as possible through adequate design and development" (4.b). Point 8 of this article states that "When implementing the risk management system described in paragraphs 1 to 7, specific consideration shall be given to whether the high-risk AI system is likely to be accessed by or have an impact on children."

The UK's Age Appropriate Design Code is a statutory code of practice which sets out how services must safeguard children's personal data based on GDPR. It requires services "to switch any options which rely on profiling off by default, unless there a compelling reason why this should not be the case, taking account of the best interests of the child. In practice it is likely to mean that any non-essential features that rely on profiling and that are provided for commercial purposes are subject to a privacy setting which is switched off by default."

Other jurisdictions are following the example of the UK and the Code to provide specific protections for children and their data. Most recently, the Irish Data Protection Commission produced the Fundamentals for a Child-Oriented approach to Data Processing, which prohibits online service providers from profiling children and carrying out automated decision making in relation to children for marketing/advertising purposes, unless they can clearly demonstrate how and why it is in the best interests of the child to do so.

24. If you responded disagree/completely disagree to question 22, please indicate why existing international, regional and/or national (binding and/or non-binding) legal instruments are not sufficient to regulate AI systems (select all you agree with):	They provide a basis but fail to provide an effective substantive protection of human rights, democracy and the rule of law against the risks posed by AI systems; They lack specific principles for the design, development and application of AI systems; They do not provide enough guidance to the designers, developers and deployers of AI systems; They do not provide for specific rights (e.g. transparency requirements, redress mechanisms) for persons affected by AI;
25. Please indicate other specific legal gaps that in your view need to be addressed at the level of the Council of Europe	A Council of Europe Treaty on AI must recognise children's specific rights as enshrined in the UNCRC (and elaborated as regards the digital environment in UNCRC General Comment No. 25) and take into account children's vulnerabilities and the high risk that non-

	appropriate AI systems pose to children's wellbeing.
	All AI developers and providers should be subject to specific requirements aimed at providing reasonable assurances that any systems likely to be accessed by or impact on children fully respect their privacy rights and do not lead to harmful outcomes for children. In a risk-based categorisation, AI systems impacting upon children (and not only systems where children are the intended users) should be considered high risk by default and thus subject to a child impact assessment and follow-up measures if necessary. Child-centred design and good practices should be incentivised. When AI systems interact with and impact children, the way they are deployed and the data that powers them and the purposes for which they are used should be explained clearly in terms that are understandable to children and young people. Providers should also signpost easy to use and robust reporting tools, encourage reporting and offer age appropriate, swift and decisive responses. Systems where children are likely users should include children in data sets for testing in regulatory sandboxes. Ongoing monitoring should track the real usage of and impact of AI systems on children. The Treaty should have clear liability and strong enforcement provisions.
26. Individuals should always be informed when they interact with an AI system in any circumstances.	I fully agree
27. Individuals should always be informed when a decision which affects them personally is made by an AI system.	I fully agree
28. Individuals should always be informed when an AI system is used in a decision-making process which affects them personally.	I fully agree
29. Individuals should have a right to a meaningful explanation of algorithmic based decisions, in particular how the algorithm reached its output.	I fully agree
30. Individuals should always have the right that any decision taken by an AI system in the framework of judicial proceedings are reviewed by a "human" judge.	I fully agree
31. Individuals should have a right to demand the review of an algorithmic based decision by a human being.	I fully agree
32. There should always be a person responsible for reviewing algorithmic based decisions in the public sector and private companies.	I fully agree
33. Public institutions should not use AI systems to promote or discredit a particular way of life	I fully agree

or opinion (e.g. "social scoring").	
34. States should be obliged to design, develop and apply sustainable AI systems that respect applicable environmental protection standards.	I fully agree
35. The code behind AI systems used in the public and private sectors should always be accessible to the competent public authorities for the purposes of external audit.	I fully agree
36. There should be higher transparency standards for public entities using AI than for private entities.	I completely disagree
37. There should be higher standards for access to an effective remedy for individuals in relation to decisions informed and made by an AI system in the field of justice than in the field of consumer protection.	I rather disagree
38. Member States should establish public oversight mechanisms for AI systems that may breach legally binding norms in the sphere of human rights, democracy and the rule of law.	I fully agree
39. Errors and flaws discovered in AI systems which have led or could lead to the violation of human rights, democracy and the rule of law must be reported to the competent authorities.	I fully agree
40. The use of facial recognition in public spaces should be prohibited.	Indifferent/no opinion
41. The information obtained through the use of facial recognition systems should always be reviewed by a human being before being used for purposes that have an impact on individual freedom, such as in relation to a person boarding an airplane, upon police arrest or in the framework of judicial proceedings.	Indifferent/no opinion
42. The use of AI systems in democratic processes (e.g. elections) should be strictly regulated.	Indifferent/no opinion
43. Should a future legal framework at Council of Europe level include a specific liability	Yes

regime in relation to AI applications?	
44. If yes, what aspects should be covered?	
45. In your opinion, how useful would the following compliance mechanisms be in preventing and mitigating the risks to human rights, democracy and the rule of law arising from the design, development and application of AI? - **Human rights, democracy and rule of law impact assessments** - **Certification and quality labelling** - **Audits and intersectional audits** - **Regulatory sandboxes** - **Continuous automated monitoring**	Highly useful Highly useful Highly useful Highly useful Highly useful
46. Please indicate what combination of mechanisms should be preferred to efficiently protect human rights, democracy and the rule of law 46bis. Other	Human rights, democracy and rule of law impact assessments; Certification and quality labelling; Audits and intersectional audits
47. Please select which mechanism(s) should be part of either a binding instrument or a non-binding instrument to best protect human rights, democracy and the rule of law. - **Human rights, democracy and rule of law impact assessments** - **Certification and quality labelling** - **Audits and intersectional audits** - **Regulatory sandboxes** - **Continuous automated monitoring**	Binding instrument Non-binding instrument Binding instrument No opinion Non-binding instrument
47.bis. Other	
48. In your opinion, how useful would the following follow-up activities be if implemented by the Council of Europe? - **Monitoring of AI legislation and policies in member States**	Highly useful Highly useful Highly useful Highly useful

- **Capacity building on Council of Europe instruments, including assistance to facilitate ratification and implementation of relevant Council of Europe instruments** - **AI Observatory for sharing good practices and exchanging information on legal, policy and technological developments related to AI systems** - **Establishing a centre of expertise on AI and human rights**	
49. What other mechanisms, if any, should be considered?	
50. Are there any other issues with respect to the design, development and application of AI systems in the context of human rights, democracy and the rule of law that you wish to bring to the attention of the CAHAI?	When AI systems directly interact with or impact children, there is a higher level of risk, given the specific vulnerabilities of children. The most ubiquitous AI systems directed at children and young people today are however not risky by accident, but risky by design. Recommendation algorithms suggest to children the videos to watch next, the news to read, the music to listen to, the things to buy and who to be friends with. Powered by vast quantities of children's data, recommendation algorithms use persuasive design techniques to keep children engaged for as long as possible, generating more advertising opportunities to sell and more data to share. This commodification of childhood undermines a number of children's rights and can cause significant harm, the extent of which is only just becoming evident and is bound to increase as AI becomes ever more prevalent in children's lives. Among the many common "risky" applications of AI systems targeting children are: • Friend suggestion systems – These are algorithms which encourage children to connect with unknown people (through nudges to add friends, highlighting of "mutual" friends, people with whom the child supposedly shares interests or even people in the child's vicinity based on location-sharing). The routine use of AI to recommend children's profiles to stranger adults on social media platforms can be exploited by groomers and nefarious actors seeking to establish contact with child victims (e.g. for sexual abuse or for financial scams). 5Rights has found that in 2020, 75% of the 12 most popular social media platforms used globally used AI to recommend children's profiles to strangers. • Promotion of content via engagement metrics – Features including likes, shares or views drive the content social media platforms promote. This presents an enormous risk to children when engagement metrics determine what content is promoted and disseminated to users, particularly when content which is extreme or involving dangerous behaviour is promoted. Research has found that far-right misinformation receives 65% more engagement per follower on Facebook compared to other far-right information. Nearly half (48%) of children in the UK say they are exposed to online misinformation every day, while more than one in 10 see it more than six times a day.17 Earlier in 2021, a 10-year-old girl died in Italy after taking part in a self-asphyxiation challenge went viral on TikTok.

	Private or intimate content – e.g. sexualised content, difficult to fully remove, which can also be self-generated – can spread widely, at great speed, and be causing long-term distress to victims.
	• Recommendation loops – Recommendations personalise content based on user data, creating a narrowing cycle of similar posts to read, videos to watch or groups to join. Data from 2016 found that 64% of people who joined an extremist group on Facebook did so because the algorithm recommended it to them. Users describe becoming 'locked in an algorithmic echo chamber' where they are exposed to increasingly extreme content.
	• Autoplay – This feature plays videos without initiation by the user. Automatically playing recommended content is risky when this content becomes more extreme. On a platform used by three-quarters of 5-15-year-olds, 70% of videos are viewed as a direct result of the recommendation algorithm. Some services do not allow users to switch autoplay off.
	•Trending lists – Trending lists are determined by the number of posts on a topic and tailored by algorithms to the individual user. As popular hashtags are often misappropriated to promote inaccurate or harmful content, lists can give instant access to unverified, and potentially dangerous material.
	•Artificial scarcity and random rewards – Many games use algorithms deliberately designed to extract as much money from players as possible. Essential aspects of the game such as energy and experience appear as resources that deplete before the player's
Date of submission	4/28/21 13:11:00

Acli - Associazioni Cristiane Lavoratori Italiano

State (where your institution is based)	Italy
Institution: Name of the institution/body/company	Acli - Associazioni Cristiane Lavoratori Italiano
Personal capacity: Your socio-professional category	Higher occupations
Your stakeholder group	Civil society
2. In view of the elaboration of a legal framework on the design, development and application of AI, based on the standards of the Council of Europe on human rights, democracy and the rule of law, what kind of definition of artificial intelligence (AI) should be considered by the CAHAI	A technologically-neutral and simplified definition, such as "a set of sciences, theories and techniques whose purpose is to reproduce by a machine the cognitive abilities of a human being" (See the CAHAI feasibility study, §5)

2bis. If "other" please explain below	
3. What are the reasons for your preference?	The law must be neutral; the law must has to regulate general principles
4. Please select the areas in which AI systems offer the most promising opportunities for the protection of human rights, democracy and the rule of law	Banking, finance and insurance;Welfare;• Education;
4bis. If other, which areas and why?	
5. Please indicate which of the following AI system applications in your view have the greatest potential to enhance/protect human rights, democracy and the rule of law?	• Smart personal assistants (connected devices);• Medical applications for faster and more accurate diagnoses;• Automated fraud detection (banking, insurance);• AI applications to predict the possible evolution of climate change and/or natural disasters;• AI applications in the field of banking and insurance;
6. Please briefly explain how such applications would benefit human rights, democracy and the rule of law.	No Way
7. What other applications might contribute significantly to strengthening human rights, democracy and the rule of law?	No Way
8. Please select the areas in which the deployment of AI systems poses the highest risk of violating human rights, democracy and the rule of law 8bis. Other	• Law enforcement;• Justice;• Customs and border control;•
9. Please briefly explain how such applications might violate human rights, democracy and the rule of law.	AI could create BIASED contents
10. Please indicate the types of AI systems that represent the greatest risk to human rights, democracy and the rule of law	Facial recognition supporting law enforcement; Emotional analysis in the workplace to measure employees' level of engagement; Scoring / scoring of individuals by public entities; Deep fakes and cheap fakes; AI applications determining the allocation of social services;
11. Please briefly explain how such applications might violate human rights, democracy and the rule of law.	The applications could contribute to build a mass surveillance system
12. What other applications might represent a significant risk to human rights, democracy and the rule of law?	Any applications that has the power to threaten human rights will be used in this way

13. In your opinion, should the development, deployment and use of AI systems that have been proven to violate human rights or undermine democracy or the rule of law be **13bis. Other**	regulated
14. In your opinion, should the development, deployment and use of AI systems that pose high risks with high probability to human rights, democracy and the rule of law be:	Regulated (binding law)
15. In your opinion, should the development, deployment and use of AI systems that pose low risks with high probability to human rights, democracy and the rule of law be:	Regulated (binding law)
16. In your opinion, should the development, deployment and use of AI systems that pose high risks with low probability to human rights, democracy and the rule of law be:	Regulated (binding law)
17. What are the most important legal principles, rights and interests that need to be addressed and therefore justify regulating the development, deployment and use of AI systems?	Respect for human dignity;Freedom of expression, assembly and association;• Non-discrimination;Privacy and data protection;• Transparency;
18. In your opinion, in what sectors/areas is a binding legal instrument needed to protect human rights, democracy and the rule of law? **18bis. Other**	Law enforcement;Education;Welfare;
19. Self-regulation by companies is more efficient than government regulation to prevent and mitigate the risk of violations of human rights, democracy and the rule of law.	I rather agree
20. Self-regulation by companies is sufficient to prevent and mitigate the risk of violations of human rights, democracy and the rule of law	I completely disagree
21. Which of the following instruments of self-regulation do you consider to be the most efficient? **21bis. Other**	Ethics guidelines
22. Existing international, regional and/or national binding and/or non-binding legal instruments are sufficient to	I completely disagree

regulate AI systems in order to ensure the protection of human rights, democracy and the rule of law.	
23. **Please provide examples of existing international, regional and/or national (binding and/or non-binding) instruments that in your view are effective in guiding and regulating the design, development and use of AI systems to ensure compatibility with the standards for human rights, democracy and the rule of law**	No one at the moment
24. **If you responded disagree/completely disagree to question 22, please indicate why existing international, regional and/or national (binding and/or non-binding) legal instruments are not sufficient to regulate AI systems (select all you agree with):**	There are too many and they are difficult to interpret and apply in the context of AI;• They provide a basis but fail to provide an effective substantive protection of human rights, democracy and the rule of law against the risks posed by AI systems;• They lack specific principles for the design, development and application of AI systems;• They do not provide enough guidance to the designers, developers and deployers of AI systems;They do not provide for specific rights (e.g. transparency requirements, redress mechanisms) for persons affected by AI;
25. **Please indicate other specific legal gaps that in your view need to be addressed at the level of the Council of Europe**	The need for a Thrustworthy AI
26. **Individuals should always be informed when they interact with an AI system in any circumstances.**	I fully agree
27. **Individuals should always be informed when a decision which affects them personally is made by an AI system.**	I fully agree
28. **Individuals should always be informed when an AI system is used in a decision-making process which affects them personally.**	I fully agree
29. **Individuals should have a right to a meaningful explanation of algorithmic based decisions, in particular how the algorithm reached its output.**	I rather agree
30. **Individuals should always have the right that any decision taken by an AI system in the framework of judicial proceedings are reviewed by a "human" judge.**	I fully agree
31. **Individuals should have a right to demand the review of an algorithmic based decision by a human being.**	I fully agree

32. There should always be a person responsible for reviewing algorithmic based decisions in the public sector and private companies.	I fully agree
33. Public institutions should not use AI systems to promote or discredit a particular way of life or opinion (e.g. "social scoring").	I fully agree
34. States should be obliged to design, develop and apply sustainable AI systems that respect applicable environmental protection standards.	I fully agree
35. The code behind AI systems used in the public and private sectors should always be accessible to the competent public authorities for the purposes of external audit.	I fully agree
36. There should be higher transparency standards for public entities using AI than for private entities.	I rather disagree
37. There should be higher standards for access to an effective remedy for individuals in relation to decisions informed and made by an AI system in the field of justice than in the field of consumer protection.	I fully agree
38. Member States should establish public oversight mechanisms for AI systems that may breach legally binding norms in the sphere of human rights, democracy and the rule of law.	I fully agree
39. Errors and flaws discovered in AI systems which have led or could lead to the violation of human rights, democracy and the rule of law must be reported to the competent authorities.	I fully agree
40. The use of facial recognition in public spaces should be prohibited.	I fully agree
41. The information obtained through the use of facial recognition systems should always be reviewed by a human being before being used for purposes that have an impact on individual freedom, such as in relation to a person boarding an airplane, upon police arrest or in the framework of judicial proceedings.	I fully agree

42. The use of AI systems in democratic processes (e.g. elections) should be strictly regulated.	I fully agree
43. Should a future legal framework at Council of Europe level include a specific liability regime in relation to AI applications?	Yes
44. If yes, what aspects should be covered?	Every aspect regarding human being
45. In your opinion, how useful would the following compliance mechanisms be in preventing and mitigating the risks to human rights, democracy and the rule of law arising from the design, development and application of AI? - **Human rights, democracy and rule of law impact assessments** - **Certification and quality labelling** - **Audits and intersectional audits** - **Regulatory sandboxes** - **Continuous automated monitoring**	Highly useful Highly useful Highly useful Highly useful Highly useful
46. Please indicate what combination of mechanisms should be preferred to efficiently protect human rights, democracy and the rule of law **46bis. Other**	• Human rights, democracy and rule of law impact assessments;

47. Please select which mechanism(s) should be part of either a binding instrument or a non-binding instrument to best protect human rights, democracy and the rule of law. - **Human rights, democracy and rule of law impact assessments** - **Certification and quality labelling** - **Audits and intersectional audits** - **Regulatory sandboxes** - **Continuous automated monitoring**	Binding instrument Binding instrument Binding instrument Binding instrument Binding instrument
47.bis. Other	
48. In your opinion, how useful would the following follow-up activities be if implemented by the Council of Europe? - **Monitoring of AI legislation and policies in member States** - **Capacity building on Council of Europe instruments, including assistance to facilitate ratification and implementation of relevant Council of Europe instruments** - **AI Observatory for sharing good practices and exchanging information on legal, policy and technological developments related to AI systems** - **Establishing a centre of expertise on AI and human rights**	Highly useful Highly useful Highly useful Highly useful
49. What other mechanisms, if any, should be considered?	
50. Are there any other issues with respect to the design, development and application of AI systems in the context of human rights, democracy and the rule of law that you wish to bring to the attention of the CAHAI?	
Date of submission	03/05/2021 17:14:24

ACTINN

State (where your institution is based)	Andorra
Institution: Name of the institution/body/company	ACTINN
Personal capacity: Your socio-professional category	Higher occupations
Your stakeholder group	Civil society
2. In view of the elaboration of a legal framework on the design, development and application of AI, based on the standards of the Council of Europe on human rights, democracy and the rule of law, what kind of definition of artificial intelligence (AI) should be considered by the CAHAI	A definition focusing on machine learning systems
2bis. If "other" please explain below	
3. What are the reasons for your preference?	Machine learing use to create historical biases taht can be inequal and supose training data is accurate. Futhermore, main algorihtms are not linear, which means they are dificult to debug Those algorithm should have somre reverse engenirring tehcniques in order to prove that thier predictions are most accurate and generate no learing biases.
4. Please select the areas in which AI systems offer the most promising opportunities for the protection of human rights, democracy and the rule of law	• Education;• Public administration;Banking, finance and insurance;
4bis. If other, which areas and why?	
5. Please indicate which of the following AI system applications in your view have the greatest potential to enhance/protect human rights, democracy and the rule of law?	• Medical applications for faster and more accurate diagnoses;• Automated fraud detection (banking, insurance);• Deep fakes and cheap fakes;• AI applications to prevent the commission of a criminal offence (e.g. anti-money laundry AI appli-cations);• AI applications providing support to the healthcare system (triage, treatment delivery);
6. Please briefly explain how such applications would benefit human rights, democracy and the rule of law.	As AI is not always accurate, it should be use a tool to help humans to preselect o avoid discrimination, and protect humans rigths and democracy. All the algos used to enforce or predict human decisions should be avoided in my opinion, as i can create a hazard in human decision framework
7. What other applications might contribute significantly to strengthening human rights, democracy and the rule of law?	Reducing use of AI in order to predict future consumption can have its perills too, We must be carefull in betting satisfied by an expected prediction, as the history does mean evolcution. As in financial market , past performance does not implied fture performance Consumption are we enter a world of circular economy must be kept partially unautomated.

8. Please select the areas in which the deployment of AI systems poses the highest risk of violating human rights, democracy and the rule of law 8bis. Other	• Justice;• Law enforcement;• Welfare;•
9. Please briefly explain how such applications might violate human rights, democracy and the rule of law.	Machine algoritms are not perfect but are an excellent tool for prediting the past and assesintg the future Employment, social network, justice and security , must be managed by a final human decision, in my poinion
10. Please indicate the types of AI systems that represent the greatest risk to human rights, democracy and the rule of law	Facial recognition supporting law enforcement ;• Emotional analysis in the workplace to measure employees' level of engagement;Scoring / scoring of individuals by public entities;• Recruiting software/ AI applications used for assessing work performance ;• AI applications to prevent the commission of a criminal offence;
11. Please briefly explain how such applications might violate human rights, democracy and the rule of law.	Evaluating critical matters must be supervised by humans. Aknowledging an IA bias by non-valiant managed can discrimate or potencial a protytoe fo winner, loser, innocent or guilty person. We can manage having errors in assessment but not so menay errors oon decision making.
12. What other applications might represent a significant risk to human rights, democracy and the rule of law?	all scoring that preselect people on their abilities o behavior must be supervised, in ordrer to maintain non discimination policies.
13. In your opinion, should the development, deployment and use of AI systems that have been proven to violate human rights or undermine democracy or the rule of law be 13bis. Other	audited, approved and supervised . banned if misused
14. In your opinion, should the development, deployment and use of AI systems that pose high risks with high probability to human rights, democracy and the rule of law be:	Banned
15. In your opinion, should the development, deployment and use of AI systems that pose low risks with high probability to human rights, democracy and the rule of law be:	Regulated (binding law)
16. In your opinion, should the development, deployment and use of AI systems that pose high risks with low probability to human rights, democracy and the rule of law be:	Banned
17. What are the most important legal principles, rights and interests that need to be addressed and therefore justify regulating the development, deployment and use of AI systems?	Respect for human dignity;Political pluralism;Equality

18. In your opinion, in what sectors/areas is a binding legal instrument needed to protect human rights, democracy and the rule of law? **18bis. Other**	Justice;Law enforcement;Election monitoring;
19. Self-regulation by companies is more efficient than government regulation to prevent and mitigate the risk of violations of human rights, democracy and the rule of law.	I rather disagree
20. Self-regulation by companies is sufficient to prevent and mitigate the risk of violations of human rights, democracy and the rule of law	I rather disagree
21. Which of the following instruments of self-regulation do you consider to be the most efficient? **21bis. Other**	Voluntary certification
22. Existing international, regional and/or national binding and/or non-binding legal instruments are sufficient to regulate AI systems in order to ensure the protection of human rights, democracy and the rule of law.	I rather disagree
23. Please provide examples of existing international, regional and/or national (binding and/or non-binding) instruments that in your view are effective in guiding and regulating the design, development and use of AI systems to ensure compatibility with the standards for human rights, democracy and the rule of law	I'm not an expert, guiding the use and design is a step I think algoritms must eb accepted and verified Ans such implemntation should be monitotized and reviwed on order to assure its accuracy.
24. If you responded disagree/completely disagree to question 22, please indicate why existing international, regional and/or national (binding and/or non-binding) legal instruments are not sufficient to regulate AI systems (select all you agree with):	There are too many and they are difficult to interpret and apply in the context of AI;• They lack specific principles for the design, development and application of AI systems;They do not provide for specific rights (e.g. transparency requirements, redress mechanisms) for persons affected by AI;
25. Please indicate other specific legal gaps that in your view need to be addressed at the level of the Council of Europe	I' m not an expert on this legal matters.
26. Individuals should always be informed when they interact with an AI system in any circumstances.	I fully agree

27. Individuals should always be informed when a decision which affects them personally is made by an AI system.	I fully agree
28. Individuals should always be informed when an AI system is used in a decision-making process which affects them personally.	I fully agree
29. Individuals should have a right to a meaningful explanation of algorithmic based decisions, in particular how the algorithm reached its output.	I fully agree
30. Individuals should always have the right that any decision taken by an AI system in the framework of judicial proceedings are reviewed by a "human" judge.	I rather agree
31. Individuals should have a right to demand the review of an algorithmic based decision by a human being.	I rather agree
32. There should always be a person responsible for reviewing algorithmic based decisions in the public sector and private companies.	I fully agree
33. Public institutions should not use AI systems to promote or discredit a particular way of life or opinion (e.g. "social scoring").	I fully agree
34. States should be obliged to design, develop and apply sustainable AI systems that respect applicable environmental protection standards.	I fully agree
35. The code behind AI systems used in the public and private sectors should always be accessible to the competent public authorities for the purposes of external audit.	I fully agree
36. There should be higher transparency standards for public entities using AI than for private entities.	I completely disagree
37. There should be higher standards for access to an effective remedy for individuals in relation to decisions informed and made by an AI system in the field of justice than in the field of consumer protection.	I fully agree
38. Member States should establish public oversight mechanisms for AI systems that may breach legally binding	I fully agree

norms in the sphere of human rights, democracy and the rule of law.	
39. Errors and flaws discovered in AI systems which have led or could lead to the violation of human rights, democracy and the rule of law must be reported to the competent authorities.	Indifferent/no opinion
40. The use of facial recognition in public spaces should be prohibited.	I fully agree
41. The information obtained through the use of facial recognition systems should always be reviewed by a human being before being used for purposes that have an impact on individual freedom, such as in relation to a person boarding an airplane, upon police arrest or in the framework of judicial proceedings.	I fully agree
42. The use of AI systems in democratic processes (e.g. elections) should be strictly regulated.	I fully agree
43. Should a future legal framework at Council of Europe level include a specific liability regime in relation to AI applications?	Yes
44. If yes, what aspects should be covered?	Abuse of power or information, that exceed the objective, the presonal data has bben collected for.
45. In your opinion, how useful would the following compliance mechanisms be in preventing and mitigating the risks to human rights, democracy and the rule of law arising from the design, development and application of AI? - **Human rights, democracy and rule of law impact assessments** - **Certification and quality labelling** - **Audits and intersectional audits** - **Regulatory sandboxes** - **Continuous automated monitoring**	Highly useful Highly useful Highly useful Rather useful Rather not useful
46. Please indicate what combination of mechanisms should be preferred to efficiently	• Human rights, democracy and rule of law impact assessments ;• Certification and quality labelling;• Audits and intersectional audits;

protect human rights, democracy and the rule of law **46bis. Other**	
47. Please select which mechanism(s) should be part of either a binding instrument or a non-binding instrument to best protect human rights, democracy and the rule of law. - **Human rights, democracy and rule of law impact assessments** - **Certification and quality labelling** - **Audits and intersectional audits** - **Regulatory sandboxes** - **Continuous automated monitoring**	Binding instrument Binding instrument Binding instrument Non-binding instrument Non-binding instrument
47.bis. Other	no other instruments
48. In your opinion, how useful would the following follow-up activities be if implemented by the Council of Europe? - **Monitoring of AI legislation and policies in member States** - **Capacity building on Council of Europe instruments, including assistance to facilitate ratification and implementation of relevant Council of Europe instruments** - **AI Observatory for sharing good practices and exchanging information on legal, policy and technological developments related to AI systems** - **Establishing a centre of expertise on AI and human rights**	Highly useful Rather useful Rather not useful Highly useful
49. What other mechanisms, if any, should be considered?	ok for me
50. Are there any other issues with respect to the design, development and application of AI systems in the context of human rights, democracy and the rule of law that you wish to bring to the attention of the CAHAI?	ok for me

Date of submission	07/05/2021 17:47:06

Actualidad Deep Learning

State (where your institution is based)	Spain
Institution: Name of the institution/body/company	Actualidad Deep Learning
Personal capacity: Your socio-professional category	Higher occupations
Your stakeholder group	Academic and scientific community
2.　　In view of the elaboration of a legal framework on the design, development and application of AI, based on the standards of the Council of Europe on human rights, democracy and the rule of law, what kind of definition of artificial intelligence (AI) should be considered by the CAHAI	A technologically-neutral and simplified definition, such as "a set of sciences, theories and tech-niques whose purpose is to reproduce by a machine the cognitive abilities of a human being" (See the CAHAI feasibility study, §5)
2bis. If "other" please explain below	
3.　　What are the reasons for your preference?	It's a set of technologies
4.　　Please select the areas in which AI systems offer the most promising opportunities for the protection of human rights, democracy and the rule of law	• Healthcare;Banking, finance and insurance;Welfare;
4bis. If other, which areas and why?	
5.　　Please indicate which of the following AI system applications in your view have the greatest potential to enhance/protect human rights, democracy and the rule of law?	• Medical applications for faster and more accurate diagnoses;• AI applications to predict the possible evolution of climate change and/or natural disasters;• AI applications providing support to the healthcare system (triage, treatment delivery);
6.　　Please briefly explain how such applications would benefit human rights, democracy and the rule of law.	Provide greater decision support
7.　　What other applications might contribute significantly to strengthening human rights, democracy and the rule of law?	Difficult to say, AI maybe mainly a threat to human rights, democracy and the rule of law

8. Please select the areas in which the deployment of AI systems poses the highest risk of violating human rights, democracy and the rule of law 8bis. Other	• Law enforcement;• Social networks/media, internet intermediaries ;• Education;
9. Please briefly explain how such applications might violate human rights, democracy and the rule of law.	AI predictions usually miss too many context facts
10. Please indicate the types of AI systems that represent the greatest risk to human rights, democracy and the rule of law	Facial recognition supporting law enforcement ;• Emotional analysis in the workplace to measure employees' level of engagement;Scoring / scoring of individuals by public entities;AI applications aimed at predicting recidivism ;• AI applications determining the allocation of social services;
11. Please briefly explain how such applications might violate human rights, democracy and the rule of law.	The same as previous
12. What other applications might represent a significant risk to human rights, democracy and the rule of law?	Personalized ads
13. In your opinion, should the development, deployment and use of AI systems that have been proven to violate human rights or undermine democracy or the rule of law be 13bis. Other	Re-evaluated to select the right use
14. In your opinion, should the development, deployment and use of AI systems that pose high risks with high probability to human rights, democracy and the rule of law be:	Subject to moratorium
15. In your opinion, should the development, deployment and use of AI systems that pose low risks with high probability to human rights, democracy and the rule of law be:	Banned
16. In your opinion, should the development, deployment and use of AI systems that pose high risks with low probability to human rights, democracy and the rule of law be:	Self-regulated (ethics guidelines, voluntary certification)
17. What are the most important legal principles, rights and interests that need to be addressed and therefore justify regulating the development, deployment and use of AI systems?	Respect for human dignity;Freedom of expression, assembly and association;Privacy and data protection;• Possibility to challenge a decision made by an AI system and access to an effective remedy;• Legal certainty;
18. In your opinion, in what sectors/areas is a binding legal instrument needed to protect human rights, democracy and the rule of law?	Law enforcement;Justice;Welfare;

18bis. Other	
19. Self-regulation by companies is more efficient than government regulation to prevent and mitigate the risk of violations of human rights, democracy and the rule of law.	I completely disagree
20. Self-regulation by companies is sufficient to prevent and mitigate the risk of violations of human rights, democracy and the rule of law	I completely disagree
21. Which of the following instruments of self-regulation do you consider to be the most efficient? **21bis. Other**	Voluntary certification
22. Existing international, regional and/or national binding and/or non-binding legal instruments are sufficient to regulate AI systems in order to ensure the protection of human rights, democracy and the rule of law.	I completely disagree
23. Please provide examples of existing international, regional and/or national (binding and/or non-binding) instruments that in your view are effective in guiding and regulating the design, development and use of AI systems to ensure compatibility with the standards for human rights, democracy and the rule of law	No one
24. If you responded disagree/completely disagree to question 22, please indicate why existing international, regional and/or national (binding and/or non-binding) legal instruments are not sufficient to regulate AI systems (select all you agree with):	There are too many and they are difficult to interpret and apply in the context of AI;• They provide a basis but fail to provide an effective substantive protection of human rights, democracy and the rule of law against the risks posed by AI systems;• They do not provide enough guidance to the designers, developers and deployers of AI systems;• They lack specific principles for the design, development and application of AI systems;They do not provide for specific rights (e.g. transparency requirements, redress mechanisms) for persons affected by AI;
25. Please indicate other specific legal gaps that in your view need to be addressed at the level of the Council of Europe	Facial Recognition is insufficiently regulated and people may suffer harms
26. Individuals should always be informed when they interact with an AI system in any circumstances.	I fully agree
27. Individuals should always be informed when a decision which affects them personally is made by an AI system.	I fully agree

28. Individuals should always be informed when an AI system is used in a decision-making process which affects them personally.	I fully agree
29. Individuals should have a right to a meaningful explanation of algorithmic based decisions, in particular how the algorithm reached its output.	I fully agree
30. Individuals should always have the right that any decision taken by an AI system in the framework of judicial proceedings are reviewed by a "human" judge.	I fully agree
31. Individuals should have a right to demand the review of an algorithmic based decision by a human being.	I rather agree
32. There should always be a person responsible for reviewing algorithmic based decisions in the public sector and private companies.	I fully agree
33. Public institutions should not use AI systems to promote or discredit a particular way of life or opinion (e.g. "social scoring").	I fully agree
34. States should be obliged to design, develop and apply sustainable AI systems that respect applicable environmental protection standards.	I fully agree
35. The code behind AI systems used in the public and private sectors should always be accessible to the competent public authorities for the purposes of external audit.	I rather agree
36. There should be higher transparency standards for public entities using AI than for private entities.	I fully agree
37. There should be higher standards for access to an effective remedy for individuals in relation to decisions informed and made by an AI system in the field of justice than in the field of consumer protection.	Indifferent/no opinion
38. Member States should establish public oversight mechanisms for AI systems that may breach legally binding norms in the sphere of human rights, democracy and the rule of law.	I fully agree

39. Errors and flaws discovered in AI systems which have led or could lead to the violation of human rights, democracy and the rule of law must be reported to the competent authorities.	I fully agree
40. The use of facial recognition in public spaces should be prohibited.	I fully agree
41. The information obtained through the use of facial recognition systems should always be reviewed by a human being before being used for purposes that have an impact on individual freedom, such as in relation to a person boarding an airplane, upon police arrest or in the framework of judicial proceedings.	I fully agree
42. The use of AI systems in democratic processes (e.g. elections) should be strictly regulated.	I fully agree
43. Should a future legal framework at Council of Europe level include a specific liability regime in relation to AI applications?	Yes
44. If yes, what aspects should be covered?	
45. In your opinion, how useful would the following compliance mechanisms be in preventing and mitigating the risks to human rights, democracy and the rule of law arising from the design, development and application of AI? - **Human rights, democracy and rule of law impact assessments** - **Certification and quality labelling** - **Audits and intersectional audits** - **Regulatory sandboxes** - **Continuous automated monitoring**	Rather not useful Rather not useful Indifferent/no opinion Rather useful Highly useful
46. Please indicate what combination of mechanisms should be preferred to efficiently protect human rights, democracy and the rule of law **46bis. Other**	Continuous automated monitoring;• Audits and intersectional audits;• Human rights, democracy and rule of law impact assessments ;

47. Please select which mechanism(s) should be part of either a binding instrument or a non-binding instrument to best protect human rights, democracy and the rule of law. - **Human rights, democracy and rule of law impact assessments** - **Certification and quality labelling** - **Audits and intersectional audits** - **Regulatory sandboxes** - **Continuous automated monitoring**	Binding instrument Binding instrument Binding instrument Binding instrument Binding instrument
47.bis. Other	
48. In your opinion, how useful would the following follow-up activities be if implemented by the Council of Europe? - **Monitoring of AI legislation and policies in member States** - **Capacity building on Council of Europe instruments, including assistance to facilitate ratification and implementation of relevant Council of Europe instruments** - **AI Observatory for sharing good practices and exchanging information on legal, policy and technological developments related to AI systems** - **Establishing a centre of expertise on AI and human rights**	Rather useful Rather useful Highly useful Rather useful
49. What other mechanisms, if any, should be considered?	
50. Are there any other issues with respect to the design, development and application of AI systems in the context of human rights, democracy and the rule of law that you wish to bring to the attention of the CAHAI?	
Date of submission	3/30/21 11:15:25

Adana Alparslan Turkes Science and Technology University

State (where your institution is based)	**Turkey**
Institution: Name of the institution/body/company	Adana Alparslan Turkes Science and Technology University
Personal capacity: Your socio-professional category	Intermediate occupations
Your stakeholder group	Academic and scientific community
2. In view of the elaboration of a legal framework on the design, development and application of AI, based on the standards of the Council of Europe on human rights, democracy and the rule of law, what kind of definition of artificial intelligence (AI) should be considered by the CAHAI	A technologically-neutral and simplified definition, such as "a set of sciences, theories and tech-niques whose purpose is to reproduce by a machine the cognitive abilities of a human being" (See the CAHAI feasibility study, §5)
2bis. If "other" please explain below	
3. What are the reasons for your preference?	Forecasting the technological improvements that AI will bring to our daily lives is not an easy task. Therefore, the definition should be simple and neutral.
4. Please select the areas in which AI systems offer the most promising opportunities for the protection of human rights, democracy and the rule of law	• Public administration;• Education;Welfare;
4bis. If other, which areas and why?	
5. Please indicate which of the following AI system applications in your view have the greatest potential to enhance/protect human rights, democracy and the rule of law?	• AI applications determining the allocation of educational services;• AI applications determining the allocation of social services;• AI applications to promote gender equality (e.g. analytical tools);
6. Please briefly explain how such applications would benefit human rights, democracy and the rule of law.	The primary consideration was on providing equal rights to individuals in public administration - which by its nature should be indiscriminative. Carrying out data analytics using AI could ensure equal treatment for all.
7. What other applications might contribute significantly to strengthening human rights, democracy and the rule of law?	In many areas analysis of personal data is carried out by humans, especially in the services sector. Converting these process to AI-based automated systems would be a great leap towards protecting personal privacy, egalitarianism and therefore democracy.
8. Please select the areas in which the deployment of AI systems poses the highest risk of violating human rights, democracy and the rule of law 8bis. Other	• Healthcare;• Social networks/media, internet intermediaries ;• Welfare;

9. Please briefly explain how such applications might violate human rights, democracy and the rule of law.	These are the highest potential application areas where privacy of the individuals are at stake. People could be discriminated against because of their health condition, disease history etc. (being denied healthcare insurance). It is also important that welfare aids reach those that certainly need it without disclosing the identities of individuals in need.
10. Please indicate the types of AI systems that represent the greatest risk to human rights, democracy and the rule of law	Scoring / scoring of individuals by public entities;Facial recognition supporting law enforcement ;• AI applications for personalised media content (recommender systems);• AI applications providing support to the healthcare system (triage, treatment delivery);• AI applications determining the allocation of social services;
11. Please briefly explain how such applications might violate human rights, democracy and the rule of law.	Facial recognition could give way to tracking individuals that are not criminals. Scoring of individuals would require too much personal data to be input to the scoring algorithms. The same also holds for recommender systems. Privacy risks of healthcare and social service work were previously explained.
12. What other applications might represent a significant risk to human rights, democracy and the rule of law?	An important aspect of the problem is the private sector violating privacy as a basic human right. So all data collection and analysis efforts by private sector companies should be considered separately and in addition that of the public sector.
13. In your opinion, should the development, deployment and use of AI systems that have been proven to violate human rights or undermine democracy or the rule of law be **13bis. Other**	Banned
14. In your opinion, should the development, deployment and use of AI systems that pose high risks with high probability to human rights, democracy and the rule of law be:	Subject to moratorium
15. In your opinion, should the development, deployment and use of AI systems that pose low risks with high probability to human rights, democracy and the rule of law be:	Regulated (binding law)
16. In your opinion, should the development, deployment and use of AI systems that pose high risks with low probability to human rights, democracy and the rule of law be:	Self-regulated (ethics guidelines, voluntary certification)
17. What are the most important legal principles, rights and interests that need to be addressed and therefore justify regulating the development, deployment and use of AI systems?	Equality;Privacy and data protection;• Transparency;• Explainability;Respect for human dignity;
18. In your opinion, in what sectors/areas is a binding legal instrument needed to protect human rights, democracy and the rule of law? **18bis. Other**	Education;• Healthcare;Banking, finance and insurance;

19. Self-regulation by companies is more efficient than government regulation to prevent and mitigate the risk of violations of human rights, democracy and the rule of law.	I rather agree
20. Self-regulation by companies is sufficient to prevent and mitigate the risk of violations of human rights, democracy and the rule of law	I rather disagree
21. Which of the following instruments of self-regulation do you consider to be the most efficient? **21bis. Other**	Voluntary certification
22. Existing international, regional and/or national binding and/or non-binding legal instruments are sufficient to regulate AI systems in order to ensure the protection of human rights, democracy and the rule of law.	I rather disagree
23. Please provide examples of existing international, regional and/or national (binding and/or non-binding) instruments that in your view are effective in guiding and regulating the design, development and use of AI systems to ensure compatibility with the standards for human rights, democracy and the rule of law	The best example is the General Data Protection Regulation (GDPR) by the EU.
24. If you responded disagree/completely disagree to question 22, please indicate why existing international, regional and/or national (binding and/or non-binding) legal instruments are not sufficient to regulate AI systems (select all you agree with):	
25. Please indicate other specific legal gaps that in your view need to be addressed at the level of the Council of Europe	None.
26. Individuals should always be informed when they interact with an AI system in any circumstances.	I rather agree
27. Individuals should always be informed when a decision which affects them personally is made by an AI system.	I rather agree
28. Individuals should always be informed when an AI system is used in a decision-making	I rather agree

process which affects them personally.	
29. Individuals should have a right to a meaningful explanation of algorithmic based decisions, in particular how the algorithm reached its output.	I fully agree
30. Individuals should always have the right that any decision taken by an AI system in the framework of judicial proceedings are reviewed by a "human" judge.	I fully agree
31. Individuals should have a right to demand the review of an algorithmic based decision by a human being.	I fully agree
32. There should always be a person responsible for reviewing algorithmic based decisions in the public sector and private companies.	I rather disagree
33. Public institutions should not use AI systems to promote or discredit a particular way of life or opinion (e.g. "social scoring").	I fully agree
34. States should be obliged to design, develop and apply sustainable AI systems that respect applicable environmental protection standards.	I completely disagree
35. The code behind AI systems used in the public and private sectors should always be accessible to the competent public authorities for the purposes of external audit.	I fully agree
36. There should be higher transparency standards for public entities using AI than for private entities.	I fully agree
37. There should be higher standards for access to an effective remedy for individuals in relation to decisions informed and made by an AI system in the field of justice than in the field of consumer protection.	I fully agree
38. Member States should establish public oversight mechanisms for AI systems that may breach legally binding norms in the sphere of human rights, democracy and the rule of law.	I completely disagree
39. Errors and flaws discovered in AI systems which have led or could lead to the violation of human rights, democracy and the rule of law	I fully agree

must be reported to the competent authorities.	
40. The use of facial recognition in public spaces should be prohibited.	I rather agree
41. The information obtained through the use of facial recognition systems should always be reviewed by a human being before being used for purposes that have an impact on individual freedom, such as in relation to a person boarding an airplane, upon police arrest or in the framework of judicial proceedings.	I completely disagree
42. The use of AI systems in democratic processes (e.g. elections) should be strictly regulated.	I fully agree
43. Should a future legal framework at Council of Europe level include a specific liability regime in relation to AI applications?	No opinion
44. If yes, what aspects should be covered?	
45. In your opinion, how useful would the following compliance mechanisms be in preventing and mitigating the risks to human rights, democracy and the rule of law arising from the design, development and application of AI? - **Human rights, democracy and rule of law impact assessments** - **Certification and quality labelling** - **Audits and intersectional audits** - **Regulatory sandboxes** - **Continuous automated monitoring**	Highly useful Rather useful Rather useful Highly useful Highly useful
46. Please indicate what combination of mechanisms should be preferred to efficiently protect human rights, democracy and the rule of law **46bis. Other**	• Human rights, democracy and rule of law impact assessments ;• Regulatory sandboxes;Continuous automated monitoring;

47. Please select which mechanism(s) should be part of either a binding instrument or a non-binding instrument to best protect human rights, democracy and the rule of law. - **Human rights, democracy and rule of law impact assessments** - **Certification and quality labelling** - **Audits and intersectional audits** - **Regulatory sandboxes** - **Continuous automated monitoring**	Binding instrument Non-binding instrument Non-binding instrument Binding instrument Binding instrument
47.bis. Other	
48. In your opinion, how useful would the following follow-up activities be if implemented by the Council of Europe? - **Monitoring of AI legislation and policies in member States** - **Capacity building on Council of Europe instruments, including assistance to facilitate ratification and implementation of relevant Council of Europe instruments** - **AI Observatory for sharing good practices and exchanging information on legal, policy and technological developments related to AI systems** - **Establishing a centre of expertise on AI and human rights**	Rather useful Not useful Highly useful Highly useful
49. What other mechanisms, if any, should be considered?	
50. Are there any other issues with respect to the design, development and application of AI systems in the context of human rights, democracy and the rule of law that you wish to bring to the attention of the CAHAI?	
Date of submission	4/28/21 15:20:25

AEH

State (where your institution is based)	Austria
Institution: Name of the institution/body/company	AEH
Personal capacity: Your socio-professional category	Higher occupations
Your stakeholder group	Private business sector
2. In view of the elaboration of a legal framework on the design, development and application of AI, based on the standards of the Council of Europe on human rights, democracy and the rule of law, what kind of definition of artificial intelligence (AI) should be considered by the CAHAI	A technologically-neutral and simplified definition, such as "a set of sciences, theories and tech-niques whose purpose is to reproduce by a machine the cognitive abilities of a human being" (See the CAHAI feasibility study, §5)
2bis. If "other" please explain below	
3. What are the reasons for your preference?	A technologically-neutral and simplified definition of AI should be considered, because of its complex materia which includes all areas of human life.
4. Please select the areas in which AI systems offer the most promising opportunities for the protection of human rights, democracy and the rule of law	• Healthcare;Social networks/media, internet intermediaries ;Justice;
4bis. If other, which areas and why?	
5. Please indicate which of the following AI system applications in your view have the greatest potential to enhance/protect human rights, democracy and the rule of law?	Emotional analysis in the workplace to measure employees' level of engagement;• Medical applications for faster and more accurate diagnoses;• Recruiting software/ AI applications used for assessing work performance ;• AI applications providing support to the healthcare system (triage, treatment delivery);• AI applications determining the allocation of social services;
6. Please briefly explain how such applications would benefit human rights, democracy and the rule of law.	Disease prodedures can be detected faster, better distribution of financial aid for socially disadvantaged people, easier access to better paid jobs, better recognition of talents and abilities in young people
7. What other applications might contribute significantly to strengthening human rights, democracy and the rule of law?	Speech recognition systems that can translate conversations in real time ensure that people who do not speak the same language can also converse, public applications(blockchain) who owns the data
8. Please select the areas in which the deployment of AI systems poses the highest risk of violating human rights, democracy and the rule of law **8bis. Other**	• Justice;• Customs and border control;• National security and counter-terrorism;
9. Please briefly explain how such applications might violate human rights, democracy and the rule of law.	Assess predictive policing, in which socially disadvantaged groups are disproportionately more often searched by the police and sometimes marginalized than other population groups

10. Please indicate the types of AI systems that represent the greatest risk to human rights, democracy and the rule of law	Facial recognition supporting law enforcement ;Scoring / scoring of individuals by public entities;• AI applications to prevent the commission of a criminal offence;AI applications aimed at predicting recidivism ;• AI applications providing support to the healthcare system (triage, treatment delivery);
11. Please briefly explain how such applications might violate human rights, democracy and the rule of law.	should people be judged on the basis of vorrelations and probability calculations? Scoring/scoring of individuals by public entities leads to bondage and arbitrariness
12. What other applications might represent a significant risk to human rights, democracy and the rule of law?	Recruiting software / AI applications used for assessing work performance
13. In your opinion, should the development, deployment and use of AI systems that have been proven to violate human rights or undermine democracy or the rule of law be **13bis. Other**	Banned
14. In your opinion, should the development, deployment and use of AI systems that pose high risks with high probability to human rights, democracy and the rule of law be:	Regulated (binding law)
15. In your opinion, should the development, deployment and use of AI systems that pose low risks with high probability to human rights, democracy and the rule of law be:	Self-regulated (ethics guidelines, voluntary certification)
16. In your opinion, should the development, deployment and use of AI systems that pose high risks with low probability to human rights, democracy and the rule of law be:	Self-regulated (ethics guidelines, voluntary certification)
17. What are the most important legal principles, rights and interests that need to be addressed and therefore justify regulating the development, deployment and use of AI systems?	Respect for human dignity;Political pluralism;• Non-discrimination;Privacy and data protection;• Personal integrity ;
18. In your opinion, in what sectors/areas is a binding legal instrument needed to protect human rights, democracy and the rule of law? **18bis. Other**	Justice;Customs and border control;Law enforcement;
19. Self-regulation by companies is more efficient than government regulation to prevent and mitigate the risk of violations of human rights, democracy and the rule of law.	Indifferent/no opinion
20. Self-regulation by companies is sufficient to prevent and mitigate the risk of violations	I rather agree

of human rights, democracy and the rule of law	
21. Which of the following instruments of self-regulation do you consider to be the most efficient? **21bis. Other**	Ethics guidelines
22. Existing international, regional and/or national binding and/or non-binding legal instruments are sufficient to regulate AI systems in order to ensure the protection of human rights, democracy and the rule of law.	Indifferent/no opinion
23. Please provide examples of existing international, regional and/or national (binding and/or non-binding) instruments that in your view are effective in guiding and regulating the design, development and use of AI systems to ensure compatibility with the standards for human rights, democracy and the rule of law	Artificial Intelligence Mission Austria 2030; Die Zukunft der Künstlichen Intelligenz in Österreich gestalten"
24. If you responded disagree/completely disagree to question 22, please indicate why existing international, regional and/or national (binding and/or non-binding) legal instruments are not sufficient to regulate AI systems (select all you agree with):	
25. Please indicate other specific legal gaps that in your view need to be addressed at the level of the Council of Europe	Who will ultimately dictate the death algorithm? (Robot laws)
26. Individuals should always be informed when they interact with an AI system in any circumstances.	I rather agree
27. Individuals should always be informed when a decision which affects them personally is made by an AI system.	I fully agree
28. Individuals should always be informed when an AI system is used in a decision-making process which affects them personally.	I fully agree
29. Individuals should have a right to a meaningful explanation of algorithmic based decisions, in particular how the algorithm reached its output.	I rather agree

30. Individuals should always have the right that any decision taken by an AI system in the framework of judicial proceedings are reviewed by a "human" judge.	I rather agree
31. Individuals should have a right to demand the review of an algorithmic based decision by a human being.	Indifferent/no opinion
32. There should always be a person responsible for reviewing algorithmic based decisions in the public sector and private companies.	I rather agree
33. Public institutions should not use AI systems to promote or discredit a particular way of life or opinion (e.g. "social scoring").	I rather disagree
34. States should be obliged to design, develop and apply sustainable AI systems that respect applicable environmental protection standards.	I rather disagree
35. The code behind AI systems used in the public and private sectors should always be accessible to the competent public authorities for the purposes of external audit.	I rather agree
36. There should be higher transparency standards for public entities using AI than for private entities.	I rather agree
37. There should be higher standards for access to an effective remedy for individuals in relation to decisions informed and made by an AI system in the field of justice than in the field of consumer protection.	I rather agree
38. Member States should establish public oversight mechanisms for AI systems that may breach legally binding norms in the sphere of human rights, democracy and the rule of law.	I fully agree
39. Errors and flaws discovered in AI systems which have led or could lead to the violation of human rights, democracy and the rule of law must be reported to the competent authorities.	I rather agree
40. The use of facial recognition in public spaces should be prohibited.	I rather disagree
41. The information obtained through the use of facial recognition systems should	I rather disagree

always be reviewed by a human being before being used for purposes that have an impact on individual freedom, such as in relation to a person boarding an airplane, upon police arrest or in the framework of judicial proceedings.	
42. **The use of AI systems in democratic processes (e.g. elections) should be strictly regulated.**	I rather agree
43. **Should a future legal framework at Council of Europe level include a specific liability regime in relation to AI applications?**	No opinion
44. **If yes, what aspects should be covered?**	
45. **In your opinion, how useful would the following compliance mechanisms be in preventing and mitigating the risks to human rights, democracy and the rule of law arising from the design, development and application of AI?** - **Human rights, democracy and rule of law impact assessments** - **Certification and quality labelling** - **Audits and intersectional audits** - **Regulatory sandboxes** - **Continuous automated monitoring**	Rather useful Highly useful Highly useful Rather useful Rather useful
46. **Please indicate what combination of mechanisms should be preferred to efficiently protect human rights, democracy and the rule of law** **46bis. Other**	• Certification and quality labelling;• Audits and intersectional audits;Continuous automated monitoring;
47. **Please select which mechanism(s) should be part of either a binding instrument or a non-binding instrument to best protect human rights, democracy and the rule of law.** - **Human rights, democracy and rule of law impact assessments** - **Certification and quality labelling** - **Audits and intersectional audits** - **Regulatory sandboxes**	Binding instrument Binding instrument Non-binding instrument Non-binding instrument Binding instrument

- **Continuous automated monitoring**	52
47.bis. Other	-
48. In your opinion, how useful would the following follow-up activities be if implemented by the Council of Europe? - **Monitoring of AI legislation and policies in member States** - **Capacity building on Council of Europe instruments, including assistance to facilitate ratification and implementation of relevant Council of Europe instruments** - **AI Observatory for sharing good practices and exchanging information on legal, policy and technological developments related to AI systems** - **Establishing a centre of expertise on AI and human rights**	Rather useful Rather useful Highly useful Highly useful
49. What other mechanisms, if any, should be considered?	-
50. Are there any other issues with respect to the design, development and application of AI systems in the context of human rights, democracy and the rule of law that you wish to bring to the attention of the CAHAI?	-
Date of submission	5/7/21 9:46:09

Agència andorrana de Protecció de Dades

State (where your institution is based)	Andorra

Institution: Name of the institution/body/company	Agència andorrana de Protecció de Dades
Personal capacity: Your socio-professional category	Higher occupations
Your stakeholder group	Government & public administration
2. In view of the elaboration of a legal framework on the design, development and application of AI, based on the standards of the Council of Europe on human rights, democracy and the rule of law, what kind of definition of artificial intelligence (AI) should be considered by the CAHAI	A technologically-neutral and simplified definition, such as "a set of sciences, theories and tech-niques whose purpose is to reproduce by a machine the cognitive abilities of a human being" (See the CAHAI feasibility study, §5)
2bis. If "other" please explain below	
3. What are the reasons for your preference?	A definition is needed but one that can adapt and can change according to the changing nature of technology.
4. Please select the areas in which AI systems offer the most promising opportunities for the protection of human rights, democracy and the rule of law	Customs and border control;Law enforcement;Justice;
4bis. If other, which areas and why?	
5. Please indicate which of the following AI system applications in your view have the greatest potential to enhance/protect human rights, democracy and the rule of law?	• AI applications to promote gender equality (e.g. analytical tools);• AI applications providing support to the healthcare system (triage, treatment delivery);• AI applications to predict the possible evolution of climate change and/or natural disasters;• AI applications to prevent the commission of a criminal offence (e.g. anti-money laundry AI appli-cations);Facial recognition supporting law enforcement ;
6. Please briefly explain how such applications would benefit human rights, democracy and the rule of law.	Automated analysis tools can help in these fields of knowledge to anticipate problems and predict which solution is the most efficient to each of these problems. At the same time, implementation in the field of Law Enforcement will help a fair and effective application of the legislative framework.
7. What other applications might contribute significantly to strengthening human rights, democracy and the rule of law?	AI has the potential to help protect human rights as long as an appropriate balance is struck between technological development and their protection. Another course of action should be to increase people's AI training as the public needs to be made aware of the consequences and practices in AI so that their benefit does not involve uncontrolled use and everyone is aware of the risk. which entail. At the same time, new avenues of complaint should be designed for possible data protection breaches made through the use of AI; the limits of AI should be ethically analyzed, in order to avoid possible discrepancies.
8. Please select the areas in which the deployment of AI systems poses the highest risk of violating human rights, democracy and the rule of law	• Employment;• Election monitoring;• Social networks/media, internet intermediaries ;

8bis. Other	
9. Please briefly explain how such applications might violate human rights, democracy and the rule of law.	The lack of transparency around the content moderation raises concerns because it may be used to restrict legitimate free speech and to encroach on people's ability to express themselves. At the same time, the use of such automated decisions might mean new ways of discrimination. For example, in certain circumstances, the use of automated technologies for the dissemination of content can also have a significant impact on the right to freedom of expression and of privacy, when bots, troll armies, targeted spam or ads are used, in addition to algorithms defining the display of content.
10. Please indicate the types of AI systems that represent the greatest risk to human rights, democracy and the rule of law	• AI applications for personalised media content (recommender systems);• Recruiting software/ AI applications used for assessing work performance ;Smart personal assistants (connected devices);Facial recognition supporting law enforcement ;☐Emotional analysis in the workplace to measure employees' level of engagement;
11. Please briefly explain how such applications might violate human rights, democracy and the rule of law.	Machines function on the basis of what humans tell them. If a system is fed with human biases the result will inevitably be biased. The lack of diversity and inclusion in the design of AI systems is therefore a key concern: instead of making our decisions more objective, they could reinforce discrimination and prejudices by giving them an appearance of objectivity.
12. What other applications might represent a significant risk to human rights, democracy and the rule of law?	Access to social benefits, AI used to analyse the social behaviour of citizens, etc.
13. In your opinion, should the development, deployment and use of AI systems that have been proven to violate human rights or undermine democracy or the rule of law be **13bis. Other**	Banned
14. In your opinion, should the development, deployment and use of AI systems that pose high risks with high probability to human rights, democracy and the rule of law be:	Banned
15. In your opinion, should the development, deployment and use of AI systems that pose low risks with high probability to human rights, democracy and the rule of law be:	Regulated (binding law)
16. In your opinion, should the development, deployment and use of AI systems that pose high risks with low probability to human rights, democracy and the rule of law be:	Regulated (binding law)
17. What are the most important legal principles, rights and interests that need to be addressed and therefore justify regulating the development,	Privacy and data protection;• Non-discrimination;Freedom of expression, assembly and association;• Possibility to challenge a decision made by an AI system and access to an effective remedy;Respect for human dignity;

deployment and use of AI systems?	
18. In your opinion, in what sectors/areas is a binding legal instrument needed to protect human rights, democracy and the rule of law? **18bis. Other**	Public administration;Law enforcement;• Healthcare;
19. Self-regulation by companies is more efficient than government regulation to prevent and mitigate the risk of violations of human rights, democracy and the rule of law.	I rather agree
20. Self-regulation by companies is sufficient to prevent and mitigate the risk of violations of human rights, democracy and the rule of law	I rather disagree
21. Which of the following instruments of self-regulation do you consider to be the most efficient? **21bis. Other**	Ethics guidelines
22. Existing international, regional and/or national binding and/or non-binding legal instruments are sufficient to regulate AI systems in order to ensure the protection of human rights, democracy and the rule of law.	I rather disagree
23. Please provide examples of existing international, regional and/or national (binding and/or non-binding) instruments that in your view are effective in guiding and regulating the design, development and use of AI systems to ensure compatibility with the standards for human rights, democracy and the rule of law	Policy, recommendations, declarations, guidelines and other legal instruments issued by Council of Europe bodies or committees on artificial intelligence are really helpful and draws a framework in which both regulators and developers can check in order to asses their activity.
24. If you responded disagree/completely disagree to question 22, please indicate why existing international, regional and/or national (binding and/or non-binding) legal instruments are not sufficient to regulate AI systems (select all you agree with):	• They provide a basis but fail to provide an effective substantive protection of human rights, democracy and the rule of law against the risks posed by AI systems;• They do not provide enough guidance to the designers, developers and deployers of AI systems;
25. Please indicate other specific legal gaps that in your view need to be addressed at the level of the Council of Europe	
26. Individuals should always be informed when they interact	I fully agree

with an AI system in any circumstances.	
27. Individuals should always be informed when a decision which affects them personally is made by an AI system.	I fully agree
28. Individuals should always be informed when an AI system is used in a decision-making process which affects them personally.	I fully agree
29. Individuals should have a right to a meaningful explanation of algorithmic based decisions, in particular how the algorithm reached its output.	I fully agree
30. Individuals should always have the right that any decision taken by an AI system in the framework of judicial proceedings are reviewed by a "human" judge.	I fully agree
31. Individuals should have a right to demand the review of an algorithmic based decision by a human being.	I fully agree
32. There should always be a person responsible for reviewing algorithmic based decisions in the public sector and private companies.	I rather agree
33. Public institutions should not use AI systems to promote or discredit a particular way of life or opinion (e.g. "social scoring").	I fully agree
34. States should be obliged to design, develop and apply sustainable AI systems that respect applicable environmental protection standards.	I rather agree
35. The code behind AI systems used in the public and private sectors should always be accessible to the competent public authorities for the purposes of external audit.	I rather agree
36. There should be higher transparency standards for public entities using AI than for private entities.	I fully agree
37. There should be higher standards for access to an effective remedy for individuals in relation to decisions informed and made by an AI system in the field of justice than in the field of consumer protection.	Indifferent/no opinion

38. Member States should establish public oversight mechanisms for AI systems that may breach legally binding norms in the sphere of human rights, democracy and the rule of law.	I rather agree
39. Errors and flaws discovered in AI systems which have led or could lead to the violation of human rights, democracy and the rule of law must be reported to the competent authorities.	I fully agree
40. The use of facial recognition in public spaces should be prohibited.	Indifferent/no opinion
41. The information obtained through the use of facial recognition systems should always be reviewed by a human being before being used for purposes that have an impact on individual freedom, such as in relation to a person boarding an airplane, upon police arrest or in the framework of judicial proceedings.	I fully agree
42. The use of AI systems in democratic processes (e.g. elections) should be strictly regulated.	I fully agree
43. Should a future legal framework at Council of Europe level include a specific liability regime in relation to AI applications?	No opinion
44. If yes, what aspects should be covered?	
45. In your opinion, how useful would the following compliance mechanisms be in preventing and mitigating the risks to human rights, democracy and the rule of law arising from the design, development and application of AI? - **Human rights, democracy and rule of law impact assessments** - **Certification and quality labelling** - **Audits and intersectional audits** - **Regulatory sandboxes** **Continuous automated monitoring**	Highly useful Highly useful Rather useful Rather useful Rather useful
46. Please indicate what combination of mechanisms should be preferred to efficiently	• Human rights, democracy and rule of law impact assessments ;• Regulatory sandboxes;• Audits and intersectional audits;

protect human rights, democracy and the rule of law 46bis. Other	
47. Please select which mechanism(s) should be part of either a binding instrument or a non-binding instrument to best protect human rights, democracy and the rule of law. - Human rights, democracy and rule of law impact assessments - Certification and quality labelling - Audits and intersectional audits - Regulatory sandboxes - Continuous automated monitoring	Binding instrument No opinion Binding instrument Binding instrument Non-binding instrument
47.bis. Other	
48. In your opinion, how useful would the following follow-up activities be if implemented by the Council of Europe? - Monitoring of AI legislation and policies in member States - Capacity building on Council of Europe instruments, including assistance to facilitate ratification and implementation of relevant Council of Europe instruments - AI Observatory for sharing good practices and exchanging information on legal, policy and technological developments related to AI systems - Establishing a centre of expertise on AI and human rights	Highly useful Highly useful Rather useful Rather useful
49. What other mechanisms, if any, should be considered?	
50. Are there any other issues with respect to the design, development and application of AI systems in the context of human rights, democracy and the rule of law that you wish to bring to the attention of the CAHAI?	
Date of submission	07/05/2021 12:03:24

AIRecht.nl

State (where your institution is based)	The Netherlands
Institution: Name of the institution/body/company	AIRecht.nl
Personal capacity: Your socio-professional category	Higher occupations
Your stakeholder group	Academic and scientific community
2. In view of the elaboration of a legal framework on the design, development and application of AI, based on the standards of the Council of Europe on human rights, democracy and the rule of law, what kind of definition of artificial intelligence (AI) should be considered by the CAHAI	A technologically-neutral and simplified definition, such as "a set of sciences, theories and tech-niques whose purpose is to reproduce by a machine the cognitive abilities of a human being" (See the CAHAI feasibility study, §5)
2bis. If "other" please explain below	
3. What are the reasons for your preference?	The trick is to set as much technology-neutral rules as possible, without these being too abstract and ambiguous. Note that the definition should cover AI-Quantum (and other synergies of 4IR tech) hybrids as well. The final definition is not set in stone: it will need to evolve together with the evolution of AI, as regulating exponential tech is a dynamic instead of a static process. Compare your definition to the non-technologically neutral definition of 'text and data mining' in the CDSM Directive is "any automated analytical technique aimed at analysing text and data in digital form in order to generate information which includes but is not limited to patterns, trends and correlations." See Directive (EU) 2019/790 of the European Parliament and of the Council of 17 April 2019 on copyright and related rights in the Digital Single Market and amending Directives 96/9/EC and 2001/29/EC (CDSM Directive), https://eur-lex.europa.eu/eli/dir/2019/790/oj.
4. Please select the areas in which AI systems offer the most promising opportunities for the protection of human rights, democracy and the rule of law	• Environment and climate;• Healthcare;• Employment;
4bis. If other, which areas and why?	In case AI succeeds in helping humanity, as a third hand, to answer the big questions we face, the additional economic and political stability will create more room for safeguarding human rights, democracy and the rule of law.
5. Please indicate which of the following AI system applications in your view have the greatest potential to enhance/protect human rights, democracy and the rule of law?	• AI applications to predict the possible evolution of climate change and/or natural disasters;• AI applications providing support to the healthcare system (triage, treatment delivery);• AI applications determining the allocation of educational services;• AI applications determining the allocation of social services;• AI applications to promote gender equality (e.g. analytical tools);

6. Please briefly explain how such applications would benefit human rights, democracy and the rule of law.	These AI for Good applications benefit society and overal prosperity, and - in case they have a Trustworthy values based design, i.e. an architecture in line with EU standards of technological, ethical and legal excellence, - have a positive effect on human rights, democracy and the rule of law
7. What other applications might contribute significantly to strengthening human rights, democracy and the rule of law?	Technology impact assessments audited by multi-disciplinary teams, that promote our European digital DNA. Sector-specific AIIA's can help monitor and validate that real world AI, data & quantum infused implementations remain legal, ethical, social and technically robust during their life cycle. AIIA's should form an integral part of building, testing and market authorization of any AI-system (also low risk at bottom of pyramid of criticality), from the first line of code.
8. Please select the areas in which the deployment of AI systems poses the highest risk of violating human rights, democracy and the rule of law **8bis. Other**	• Election monitoring;• Social networks/media, internet intermediaries ;Social credit systems;
9. Please briefly explain how such applications might violate human rights, democracy and the rule of law.	The values articulated by these applications are exported into our society.
10. Please indicate the types of AI systems that represent the greatest risk to human rights, democracy and the rule of law	Facial recognition supporting law enforcement ;Scoring / scoring of individuals by public entities;• Emotional analysis in the workplace to measure employees' level of engagement;• Deep fakes and cheap fakes;
11. Please briefly explain how such applications might violate human rights, democracy and the rule of law.	Technology is shaping our everyday lives. The way in which we design and use our technology is influencing nearly every aspect of the society we live in. The opposite is also true: the type of society we live in, its norms and standards, shapes the architecture of technology. Technology is never neutral: our society's norms and values are reflected in the technology we produce. As society shapes technology, technology shapes society. For example, privacy preserving techniques used in machine learning algorithms help to safeguard privacy: a fundamental, constitutional freedom. Protecting privacy features high on the list of priorities in a society that cherishes human rights. On the other end of the spectrum are facial and voice recognition techniques used for a social crediting system. These have no place in a democracy. Read for more examples here: https://law.stanford.edu/publications/democratic-countries-should-form-a-strategic-tech-alliance/
12. What other applications might represent a significant risk to human rights, democracy and the rule of law?	Dual use, social credit, state surveillance and military applications.
13. In your opinion, should the development, deployment and use of AI systems that have been proven to violate human rights or undermine democracy or the rule of law be **13bis. Other**	Banned
14. In your opinion, should the development, deployment and use of AI systems that pose high risks	Banned

with high probability to human rights, democracy and the rule of law be:	
15. In your opinion, should the development, deployment and use of AI systems that pose low risks with high probability to human rights, democracy and the rule of law be:	Regulated (binding law)
16. In your opinion, should the development, deployment and use of AI systems that pose high risks with low probability to human rights, democracy and the rule of law be:	Regulated (binding law)
17. What are the most important legal principles, rights and interests that need to be addressed and therefore justify regulating the development, deployment and use of AI systems?	• Transparency;Freedom of expression, assembly and association;Equality;Respect for human dignity;• Legal certainty;
18. In your opinion, in what sectors/areas is a binding legal instrument needed to protect human rights, democracy and the rule of law? **18bis. Other**	The horizontal, overarching core rules apply to all sectors. ;
19. Self-regulation by companies is more efficient than government regulation to prevent and mitigate the risk of violations of human rights, democracy and the rule of law.	I rather disagree
20. Self-regulation by companies is sufficient to prevent and mitigate the risk of violations of human rights, democracy and the rule of law	I rather disagree
21. Which of the following instruments of self-regulation do you consider to be the most efficient? **21bis. Other**	Technology Impact Assessments (ELSA-approach) + Benchmarking, Standardization and Certification
22. Existing international, regional and/or national binding and/or non-binding legal instruments are sufficient to regulate AI systems in order to ensure the protection of human rights, democracy and the rule of law.	I completely disagree
23. Please provide examples of existing international, regional and/or national (binding and/or non-binding) instruments that in your view are effective in guiding and regulating the design, development and use of AI systems to ensure compatibility	Human Rights Treaties. GDPR (after clarification ML-data by EC). Existing quality management systems (QMS) for verticals such as Healthcare/Pharma, Food, Energy, Chemistry, Finance. CE-markings for apps and services that originates from outside EU

with the standards for human rights, democracy and the rule of law	territory. Impact assessments, ex ante and during life-cycle to keep conformity up to date (depending on sector and risk).
24. If you responded disagree/completely disagree to question 22, please indicate why existing international, regional and/or national (binding and/or non-binding) legal instruments are not sufficient to regulate AI systems (select all you agree with):	• They provide a basis but fail to provide an effective substantive protection of human rights, democracy and the rule of law against the risks posed by AI systems;• They lack specific principles for the design, development and application of AI systems;• They do not provide enough guidance to the designers, developers and deployers of AI systems;They do not provide for specific rights (e.g. transparency requirements, redress mechanisms) for persons affected by AI;• They create barriers to the design, development and application of AI systems;
25. Please indicate other specific legal gaps that in your view need to be addressed at the level of the Council of Europe	I advice to establish a horizontal-vertical legal-ethical regulatory framework for AI. In addition to universal, overarching guiding principles of Trustworthy & Responsible AI that apply accross all industries and domains, I advocate a vertical, differentiated industry-specific legislative approach regarding innovation incentives (based on the innovation policy pluralism toolkit), externalities and risks (based on the pyramid of criticality, which should include a definition of high-risk AI applications). Please read more here: https://law.stanford.edu/publications/no-65-shaping-the-law-of-ai-transatlantic-perspectives/
26. Individuals should always be informed when they interact with an AI system in any circumstances.	I fully agree
27. Individuals should always be informed when a decision which affects them personally is made by an AI system.	I fully agree
28. Individuals should always be informed when an AI system is used in a decision-making process which affects them personally.	I fully agree
29. Individuals should have a right to a meaningful explanation of algorithmic based decisions, in particular how the algorithm reached its output.	I fully agree
30. Individuals should always have the right that any decision taken by an AI system in the framework of judicial proceedings are reviewed by a "human" judge.	I fully agree
31. Individuals should have a right to demand the review of an algorithmic based decision by a human being.	I rather agree
32. There should always be a person responsible for reviewing algorithmic based decisions in the public sector and private companies.	I fully agree

33. **Public institutions should not use AI systems to promote or discredit a particular way of life or opinion (e.g. "social scoring").**	I fully agree
34. **States should be obliged to design, develop and apply sustainable AI systems that respect applicable environmental protection standards.**	I fully agree
35. **The code behind AI systems used in the public and private sectors should always be accessible to the competent public authorities for the purposes of external audit.**	I fully agree
36. **There should be higher transparency standards for public entities using AI than for private entities.**	I rather agree
37. **There should be higher standards for access to an effective remedy for individuals in relation to decisions informed and made by an AI system in the field of justice than in the field of consumer protection.**	I rather agree
38. **Member States should establish public oversight mechanisms for AI systems that may breach legally binding norms in the sphere of human rights, democracy and the rule of law.**	I fully agree
39. **Errors and flaws discovered in AI systems which have led or could lead to the violation of human rights, democracy and the rule of law must be reported to the competent authorities.**	I fully agree
40. **The use of facial recognition in public spaces should be prohibited.**	I rather agree
41. **The information obtained through the use of facial recognition systems should always be reviewed by a human being before being used for purposes that have an impact on individual freedom, such as in relation to a person boarding an airplane, upon police arrest or in the framework of judicial proceedings.**	I fully agree
42. **The use of AI systems in democratic processes (e.g. elections) should be strictly regulated.**	I fully agree

43. **Should a future legal framework at Council of Europe level include a specific liability regime in relation to AI applications?**	Yes
44. **If yes, what aspects should be covered?**	Inter alia legal agenthood for autonomous systems, finding the legal subject upstream or dowstream in the chain. AI currently qualifies as legal object, which can be problematic in liability cases. Liability regimes have to evolve to keep up with these technological advancements.
45. **In your opinion, how useful would the following compliance mechanisms be in preventing and mitigating the risks to human rights, democracy and the rule of law arising from the design, development and application of AI?** - **Human rights, democracy and rule of law impact assessments** - **Certification and quality labelling** - **Audits and intersectional audits** - **Regulatory sandboxes** - **Continuous automated monitoring**	Highly useful Highly useful Highly useful Rather useful Indifferent/no opinion
46. **Please indicate what combination of mechanisms should be preferred to efficiently protect human rights, democracy and the rule of law** **46bis. Other**	• Human rights, democracy and rule of law impact assessments ;• Certification and quality labelling;• Audits and intersectional audits;
47. **Please select which mechanism(s) should be part of either a binding instrument or a non-binding instrument to best protect human rights, democracy and the rule of law.** - **Human rights, democracy and rule of law impact assessments** - **Certification and quality labelling** - **Audits and intersectional audits** - **Regulatory sandboxes** - **Continuous automated monitoring**	Binding instrument Binding instrument Non-binding instrument Non-binding instrument Non-binding instrument
47.bis. Other	We probably means the same thing, but I am a strong believer in monitoring and validation through technology impact assessments. See on this subject here at Yale (building on AI): https://yjolt.org/blog/establishing-legal-ethical-framework-quantum-technology

48. In your opinion, how useful would the following follow-up activities be if implemented by the Council of Europe? - **Monitoring of AI legislation and policies in member States** - **Capacity building on Council of Europe instruments, including assistance to facilitate ratification and implementation of relevant Council of Europe instruments** - **AI Observatory for sharing good practices and exchanging information on legal, policy and technological developments related to AI systems** - **Establishing a centre of expertise on AI and human rights**	Highly useful Indifferent/no opinion Highly useful Rather useful
49. What other mechanisms, if any, should be considered?	In general, we are on the same page. It's probably a matter of jargon, but please don't forget to use the word "social" in an ELSA approach to technology governance that is legal, ethical and technically robust. Encouraging standardization and interoperability according to Humanism inspired EU standards, norms, principles and values. Further, facilitating data sharing in a Trustworthy manner that doesn't stifle, but encourages innovation, legal certainty and trust should be an important focus whithin the context of machine learning. See at Harvard: https://jolt.law.harvard.edu/digest/the-right-to-process-data-for-machine-learning-purposes-in-the-eu
50. Are there any other issues with respect to the design, development and application of AI systems in the context of human rights, democracy and the rule of law that you wish to bring to the attention of the CAHAI?	Self-regulation alone should never be enough: industries simply do not have the same incentives to promote public good as governments do. Coordinated, risk-based assessments and codes of conduct enhance awareness and stimulate forging responsible tech in a proactive manner, in an ongoing effort to balance the effects of disruptive, exponential innovation within and beyond the Digital Single Market. See more here: https://futurium.ec.europa.eu/en/european-ai-alliance/best-practices/ai-impact-assessment-code-conduct
Date of submission	05/05/2021 21:03:35

AISlovakIA

State (where your institution is based)	Slovakia
Institution: Name of the institution/body/company	AISlovakIA

Personal capacity: Your socio-professional category	Higher occupations
Your stakeholder group	Academic and scientific community
2. In view of the elaboration of a legal framework on the design, development and application of AI, based on the standards of the Council of Europe on human rights, democracy and the rule of law, what kind of definition of artificial intelligence (AI) should be considered by the CAHAI	A technologically-neutral and simplified definition, such as "a set of sciences, theories and tech-niques whose purpose is to reproduce by a machine the cognitive abilities of a human being" (See the CAHAI feasibility study, §5)
2bis. If "other" please explain below	
3. What are the reasons for your preference?	The reason for my preference is the possibilities of using artificial intelligence in different areas. Therefore, its definition should be as to involve in general most areas where it can be used. In specific areas such as civil rights, the definition should be narrower.
4. Please select the areas in which AI systems offer the most promising opportunities for the protection of human rights, democracy and the rule of law	• Healthcare;• Environment and climate;• Education;
4bis. If other, which areas and why?	
5. Please indicate which of the following AI system applications in your view have the greatest potential to enhance/protect human rights, democracy and the rule of law?	• Smart personal assistants (connected devices);• Medical applications for faster and more accurate diagnoses;• Automated fraud detection (banking, insurance);• AI applications to predict the possible evolution of climate change and/or natural disasters;• AI applications determining the allocation of social services;
6. Please briefly explain how such applications would benefit human rights, democracy and the rule of law.	These applications could help increase people's quality of life. In case of assistance, they could help seniors orientate in the virtual world. In case of medical care could help more efficiently diagnose possible diseases or health problems. In banking could notify fraud in the event of implementing viral software. In areas where the possibility of the occurrence of natural disasters could be at the prediction level of natural disasters and could help to seek solutions or prevent losses on life with early warning. In terms of social services, the prediction of the needs of the higher number of social workers, social facilities could help in time to prepare the conditions for the enforcement of the allocation.
7. What other applications might contribute significantly to strengthening human rights, democracy and the rule of law?	They could be applications that would balance gender inequality.
8. Please select the areas in which the deployment of AI systems poses the highest risk of violating human rights, democracy and the rule of law **8bis. Other**	• Justice;• Election monitoring;• Education;

9. Please briefly explain how such applications might violate human rights, democracy and the rule of law.	In terms of justice, these systems do not have to take into account all human rights or differences in thinking or understanding of freedom. In education they could prefer children with higher intelligence. In terms of choice monitoring, they could manipulate people's views through profiles and preferences created through social networks.
10. Please indicate the types of AI systems that represent the greatest risk to human rights, democracy and the rule of law	Facial recognition supporting law enforcement ;• Emotional analysis in the workplace to measure employees' level of engagement;Scoring / scoring of individuals by public entities;• AI applications to prevent the commission of a criminal offence;• AI applications used for analysing the performance of pupils/students in educational institutions such as schools and universities;
11. Please briefly explain how such applications might violate human rights, democracy and the rule of law.	In view of the face recognition, these systems could distort the right to intimacy or for freedom of movement. Emotional analysis could be changed to bullying employees and limit the right to emotional freedom, the right to breaks, the right to rest and the like. Scoring could disrupt deciding freedom. Application to prevent a crime could jeopardize the right to self-defense if the situation was wrongly evaluated. Pupil performance analysis could set up a learning system according to the results of above-average intelligent students, thereby seeing the right to education and lower intelligence students, but higher motivation.
12. What other applications might represent a significant risk to human rights, democracy and the rule of law?	For example, the application to promote gender equality could be disadvantaged by the opposite sex, for example, on the basis of a mandatory number of women and men, for example, in parliament not based on their ability, but only on sex.
13. In your opinion, should the development, deployment and use of AI systems that have been proven to violate human rights or undermine democracy or the rule of law be **13bis. Other**	Such research should be under very strict supervision and those parts that would be directed to any violation of rights and freedoms should be excluded from research, development and implementation in its beginnings.
14. In your opinion, should the development, deployment and use of AI systems that pose high risks with high probability to human rights, democracy and the rule of law be:	Regulated (binding law)
15. In your opinion, should the development, deployment and use of AI systems that pose low risks with high probability to human rights, democracy and the rule of law be:	Regulated (binding law)
16. In your opinion, should the development, deployment and use of AI systems that pose high risks with low probability to human rights, democracy and the rule of law be:	Self-regulated (ethics guidelines, voluntary certification)
17. What are the most important legal principles, rights and interests that need to be addressed and therefore justify regulating the development, deployment and use of AI systems?	Respect for human dignity;Equality;• Personal integrity ;• Explainability;Privacy and data protection;

18. In your opinion, in what sectors/areas is a binding legal instrument needed to protect human rights, democracy and the rule of law? **18bis. Other**	Justice;Education;Law enforcement;
19. Self-regulation by companies is more efficient than government regulation to prevent and mitigate the risk of violations of human rights, democracy and the rule of law.	I completely disagree
20. Self-regulation by companies is sufficient to prevent and mitigate the risk of violations of human rights, democracy and the rule of law	I completely disagree
21. Which of the following instruments of self-regulation do you consider to be the most efficient? **21bis. Other**	Ethics guidelines
22. Existing international, regional and/or national binding and/or non-binding legal instruments are sufficient to regulate AI systems in order to ensure the protection of human rights, democracy and the rule of law.	I rather disagree
23. Please provide examples of existing international, regional and/or national (binding and/or non-binding) instruments that in your view are effective in guiding and regulating the design, development and use of AI systems to ensure compatibility with the standards for human rights, democracy and the rule of law	The explanation and final decision should always do, only a person.
24. If you responded disagree/completely disagree to question 22, please indicate why existing international, regional and/or national (binding and/or non-binding) legal instruments are not sufficient to regulate AI systems (select all you agree with):	• They provide a basis but fail to provide an effective substantive protection of human rights, democracy and the rule of law against the risks posed by AI systems;
25. Please indicate other specific legal gaps that in your view need to be addressed at the level of the Council of Europe	Avoiding the so-called. Gray zones and thus prevent unauthorized trading with these systems.
26. Individuals should always be informed when they interact with an AI system in any circumstances.	I fully agree

27. **Individuals should always be informed when a decision which affects them personally is made by an AI system.**	I fully agree
28. **Individuals should always be informed when an AI system is used in a decision-making process which affects them personally.**	I fully agree
29. **Individuals should have a right to a meaningful explanation of algorithmic based decisions, in particular how the algorithm reached its output.**	I fully agree
30. **Individuals should always have the right that any decision taken by an AI system in the framework of judicial proceedings are reviewed by a "human" judge.**	I fully agree
31. **Individuals should have a right to demand the review of an algorithmic based decision by a human being.**	I fully agree
32. **There should always be a person responsible for reviewing algorithmic based decisions in the public sector and private companies.**	I fully agree
33. **Public institutions should not use AI systems to promote or discredit a particular way of life or opinion (e.g. "social scoring").**	I fully agree
34. **States should be obliged to design, develop and apply sustainable AI systems that respect applicable environmental protection standards.**	I fully agree
35. **The code behind AI systems used in the public and private sectors should always be accessible to the competent public authorities for the purposes of external audit.**	I fully agree
36. **There should be higher transparency standards for public entities using AI than for private entities.**	I fully agree
37. **There should be higher standards for access to an effective remedy for individuals in relation to decisions informed and made by an AI system in the field of justice than in the field of consumer protection.**	I fully agree
38. **Member States should establish public oversight mechanisms for AI systems that may breach legally binding norms**	I fully agree

in the sphere of human rights, democracy and the rule of law.	
39. Errors and flaws discovered in AI systems which have led or could lead to the violation of human rights, democracy and the rule of law must be reported to the competent authorities.	I fully agree
40. The use of facial recognition in public spaces should be prohibited.	I fully agree
41. The information obtained through the use of facial recognition systems should always be reviewed by a human being before being used for purposes that have an impact on individual freedom, such as in relation to a person boarding an airplane, upon police arrest or in the framework of judicial proceedings.	I fully agree
42. The use of AI systems in democratic processes (e.g. elections) should be strictly regulated.	I fully agree
43. Should a future legal framework at Council of Europe level include a specific liability regime in relation to AI applications?	Yes
44. If yes, what aspects should be covered?	For the entire development process and also to operate and use by users. All stakeholders should know their responsibility.
45. In your opinion, how useful would the following compliance mechanisms be in preventing and mitigating the risks to human rights, democracy and the rule of law arising from the design, development and application of AI? - **Human rights, democracy and rule of law impact assessments** - **Certification and quality labelling** - **Audits and intersectional audits** - **Regulatory sandboxes** - **Continuous automated monitoring**	Rather useful Highly useful Rather useful Rather useful Rather useful
46. Please indicate what combination of mechanisms should be preferred to efficiently protect human rights, democracy and the rule of law **46bis. Other**	• Human rights, democracy and rule of law impact assessments ;• Certification and quality labelling;• Audits and intersectional audits;

47. Please select which mechanism(s) should be part of either a binding instrument or a non-binding instrument to best protect human rights, democracy and the rule of law. - **Human rights, democracy and rule of law impact assessments** - **Certification and quality labelling** - **Audits and intersectional audits** - **Regulatory sandboxes** - **Continuous automated monitoring**	Binding instrument Non-binding instrument Binding instrument Binding instrument Non-binding instrument
47.bis. Other	
48. In your opinion, how useful would the following follow-up activities be if implemented by the Council of Europe? - **Monitoring of AI legislation and policies in member States** - **Capacity building on Council of Europe instruments, including assistance to facilitate ratification and implementation of relevant Council of Europe instruments** - **AI Observatory for sharing good practices and exchanging information on legal, policy and technological developments related to AI systems** - **Establishing a centre of expertise on AI and human rights**	Highly useful Highly useful Highly useful Highly useful
49. What other mechanisms, if any, should be considered?	
50. Are there any other issues with respect to the design, development and application of AI systems in the context of human rights, democracy and the rule of law that you wish to bring to the attention of the CAHAI?	
Date of submission	05/05/2021 21:03:35

AIxIA (Associazione Italiana per l'Intelligenza Artificiale)

State (where your institution is based)	Italy
Institution: Name of the institution/body/company	AIxIA (Associazione Italiana per l'Intelligenza Artificiale)
Personal capacity: Your socio-professional category	Higher occupations
Your stakeholder group	Academic and scientific community
2. In view of the elaboration of a legal framework on the design, development and application of AI, based on the standards of the Council of Europe on human rights, democracy and the rule of law, what kind of definition of artificial intelligence (AI) should be considered by the CAHAI	A technologically-neutral and simplified definition, such as "a set of sciences, theories and tech-niques whose purpose is to reproduce by a machine the cognitive abilities of a human being" (See the CAHAI feasibility study, §5)
2bis. If "other" please explain below	
3. What are the reasons for your preference?	Because AI is a scientific discipline with many different paradigms and tecnologies.
4. Please select the areas in which AI systems offer the most promising opportunities for the protection of human rights, democracy and the rule of law	• Healthcare;• Environment and climate;• Public administration;
4bis. If other, which areas and why?	We think that to protect human right we have to undestand the contest around us. The first value we have to protect is Biodiversity. Otherwise we risk to destroy environment and we will not survive.
5. Please indicate which of the following AI system applications in your view have the greatest potential to enhance/protect human rights, democracy and the rule of law?	• AI applications to predict the possible evolution of climate change and/or natural disasters;• AI applications providing support to the healthcare system (triage, treatment delivery);• AI applications determining the allocation of social services;
6. Please briefly explain how such applications would benefit human rights, democracy and the rule of law.	We believe that AI can bring vast benefits in healthcare, climate change and social services. The utilisation of AI systems in healthcare must increase the accessibility to healthcare globally. This would reinforce the right to health and the democracy. AI system will be more and more integrated in operational theatres for the accuracy of certain predictions and inspections on data they can performs. Ai system can also support decision making in a mixed-initiative style integrated with human ability. Potentially very important is the role in assistance at home for fragile people. It is difficult to offer continuous human assistance in all the needed situations and humans can interleave with machines but the role of intelligent system could be very relevant in both the interactions, the monitoring, the continuity of intervention. Climate change AI systems can help us measuring, monitoring and predicting the

	climate change and can provide relevant input to policy makers to better manage or prevent the disasters related to climate change or pandemic. We have to implement model of the planet (es. Destination Earth) and to understand the impact of human activities on biodiversity. Social Services The goal is to reduce the gender inequality and all discrimination globally. An important role is played by the choice of increase social service and to decrease inequalities AC: Here we need to add a more general comment like for example … comments on other areas
7. What other applications might contribute significantly to strengthening human rights, democracy and the rule of law?	Using AI system to avoid biodiversity loss is the primary goal we have to suggest. If we destroy the earth spaceship we will not survive.
8. Please select the areas in which the deployment of AI systems poses the highest risk of violating human rights, democracy and the rule of law **8bis. Other**	• Law enforcement;• Education;• Election monitoring;
9. Please briefly explain how such applications might violate human rights, democracy and the rule of law.	If we increase law and regulations to contrast risk we are not understanding the real problem: human intelligence is no more able to approach the new environment around us. Our intelligence can understand local and short time effect of our behavior on environment. We are not able to understand global effect. So we have to increase human culture to understand such effects. Only law will not be sufficient for this goal. We observe the same problem for democracy. Democracy need people with the capacity to analize the word and understand effect of policy. Very often people use only fast thinking in election. This is the real problem. AI can contribute to solve or increase this problem. This new industrial revolution will decrease jobs. So is for any new technologies. Grow can't increase without limit in a limited world. We have to optimize work, work less, work better, othervise we will increase unemployment.
10. Please indicate the types of AI systems that represent the greatest risk to human rights, democracy and the rule of law	• AI applications used for analysing the performance of pupils/students in educational institutions such as schools and universities;
11. Please briefly explain how such applications might violate human rights, democracy and the rule of law.	No one. The real danger is about human intelligence. AI is a declarative tecnologies. So we have to understand very well contest, wishes, constraint and tools. If we declare wrong wishes we will obtain disruptive result.
12. What other applications might represent a significant risk to human rights, democracy and the rule of law?	autonomous weapons.
13. In your opinion, should the development, deployment and use of AI systems that have been proven to violate human rights or undermine democracy or the rule of law be **13bis. Other**	we have to improve human culture. The problem is not AI, but Human Intelligence.

14. In your opinion, should the development, deployment and use of AI systems that pose high risks with high probability to human rights, democracy and the rule of law be:	None of the above
15. In your opinion, should the development, deployment and use of AI systems that pose low risks with high probability to human rights, democracy and the rule of law be:	None of the above
16. In your opinion, should the development, deployment and use of AI systems that pose high risks with low probability to human rights, democracy and the rule of law be:	None of the above
17. What are the most important legal principles, rights and interests that need to be addressed and therefore justify regulating the development, deployment and use of AI systems?	• Possibility to challenge a decision made by an AI system and access to an effective remedy;
18. In your opinion, in what sectors/areas is a binding legal instrument needed to protect human rights, democracy and the rule of law? **18bis. Other**	Banking, finance and insurance;Justice;Law enforcement;
19. Self-regulation by companies is more efficient than government regulation to prevent and mitigate the risk of violations of human rights, democracy and the rule of law.	I completely disagree
20. Self-regulation by companies is sufficient to prevent and mitigate the risk of violations of human rights, democracy and the rule of law	I completely disagree
21. Which of the following instruments of self-regulation do you consider to be the most efficient? **21bis. Other**	Education
22. Existing international, regional and/or national binding and/or non-binding legal instruments are sufficient to regulate AI systems in order to ensure the protection of human rights, democracy and the rule of law.	I completely disagree
23. Please provide examples of existing international, regional and/or national (binding and/or non-binding) instruments that in your view are effective in guiding	Not only laws and regulations

and regulating the design, development and use of AI systems to ensure compatibility with the standards for human rights, democracy and the rule of law	
24. If you responded disagree/completely disagree to question 22, please indicate why existing international, regional and/or national (binding and/or non-binding) legal instruments are not sufficient to regulate AI systems (select all you agree with):	There are too many and they are difficult to interpret and apply in the context of AI;• They create barriers to the design, development and application of AI systems;
25. Please indicate other specific legal gaps that in your view need to be addressed at the level of the Council of Europe	Autonomous weapon We have to approach biodiversity, change the economic systems goals and to provide new goals. probabli the SDG can be the right models to start.
26. Individuals should always be informed when they interact with an AI system in any circumstances.	I fully agree
27. Individuals should always be informed when a decision which affects them personally is made by an AI system.	I rather disagree
28. Individuals should always be informed when an AI system is used in a decision-making process which affects them personally.	I fully agree
29. Individuals should have a right to a meaningful explanation of algorithmic based decisions, in particular how the algorithm reached its output.	I completely disagree
30. Individuals should always have the right that any decision taken by an AI system in the framework of judicial proceedings are reviewed by a "human" judge.	I fully agree
31. Individuals should have a right to demand the review of an algorithmic based decision by a human being.	I fully agree
32. There should always be a person responsible for reviewing algorithmic based decisions in the public sector and private companies.	I completely disagree
33. Public institutions should not use AI systems to promote or discredit a particular way of life or opinion (e.g. "social scoring").	I fully agree
34. States should be obliged to design, develop and apply sustainable AI systems that	I fully agree

respect applicable environmental protection standards.	
35. The code behind AI systems used in the public and private sectors should always be accessible to the competent public authorities for the purposes of external audit.	I fully agree
36. There should be higher transparency standards for public entities using AI than for private entities.	I completely disagree
37. There should be higher standards for access to an effective remedy for individuals in relation to decisions informed and made by an AI system in the field of justice than in the field of consumer protection.	Indifferent/no opinion
38. Member States should establish public oversight mechanisms for AI systems that may breach legally binding norms in the sphere of human rights, democracy and the rule of law.	Indifferent/no opinion
39. Errors and flaws discovered in AI systems which have led or could lead to the violation of human rights, democracy and the rule of law must be reported to the competent authorities.	I fully agree
40. The use of facial recognition in public spaces should be prohibited.	Indifferent/no opinion
41. The information obtained through the use of facial recognition systems should always be reviewed by a human being before being used for purposes that have an impact on individual freedom, such as in relation to a person boarding an airplane, upon police arrest or in the framework of judicial proceedings.	I fully agree
42. The use of AI systems in democratic processes (e.g. elections) should be strictly regulated.	I fully agree
43. Should a future legal framework at Council of Europe level include a specific liability regime in relation to AI applications?	No
44. If yes, what aspects should be covered?	

45. In your opinion, how useful would the following compliance mechanisms be in preventing and mitigating the risks to human rights, democracy and the rule of law arising from the design, development and application of AI? - **Human rights, democracy and rule of law impact assessments** - **Certification and quality labelling** - **Audits and intersectional audits** - **Regulatory sandboxes** - **Continuous automated monitoring**	Highly useful Rather useful Rather not useful Rather not useful Rather useful
46. Please indicate what combination of mechanisms should be preferred to efficiently protect human rights, democracy and the rule of law 46bis. Other	Humans education We don't think the problem is AI. We think the problem is Human Intelligence. Ai amplifies the problem;
47. Please select which mechanism(s) should be part of either a binding instrument or a non-binding instrument to best protect human rights, democracy and the rule of law. - **Human rights, democracy and rule of law impact assessments** - **Certification and quality labelling** - **Audits and intersectional audits** - **Regulatory sandboxes** - **Continuous automated monitoring**	Binding instrument Binding instrument Binding instrument Binding instrument No opinion
47.bis. Other	education e a new economic culture of scarce resources
48. In your opinion, how useful would the following follow-up activities be if implemented by the Council of Europe? - **Monitoring of AI legislation and policies in member States** - **Capacity building on Council of Europe instruments, including assistance to facilitate ratification and implementation of relevant Council of Europe instruments** - **AI Observatory for sharing good practices and**	Rather useful Rather useful Highly useful Highly useful

- exchanging information on legal, policy and technological developments related to AI systems - **Establishing a centre of expertise on AI and human rights**	
49. What other mechanisms, if any, should be considered?	Develop a platform (such as AI Alliance) to engage all the stakeholders in the definition of AI governance.
50. Are there any other issues with respect to the design, development and application of AI systems in the context of human rights, democracy and the rule of law that you wish to bring to the attention of the CAHAI?	We have to understand that AI is not the problem. The real problem is our culture and the socio/economic system that is no more able to increase wellness. We have to undesìrstand that we live inside a planet. We have to stop to put the human being in the upper position in the universe, we are part of the whole. We can't destroy the planet for our advantage. It's stupid. AI will amplify our bias and our wrong decisions. This is not an AI problem. it's a humanity problem.
Date of submission	23/04/2021 10:58:42

Alfréd Rényi Institute of Mathematics

State (where your institution is based)	Hungary
Institution: Name of the institution/body/company	Alfréd Rényi Institute of Mathematics
Personal capacity: Your socio-professional category	Higher occupations
Your stakeholder group	Academic and scientific community
2. In view of the elaboration of a legal framework on the design, development and application of AI, based on the standards of the Council of Europe on human rights, democracy and the rule of law, what kind of definition of artificial intelligence (AI) should be considered by the CAHAI	A technologically-neutral and simplified definition, such as "a set of sciences, theories and tech-niques whose purpose is to reproduce by a machine the cognitive abilities of a human being" (See the CAHAI feasibility study, §5)
2bis. If "other" please explain below	
3. What are the reasons for your preference?	The answer I have chosen sounds better than the other ones.
4. Please select the areas in which AI systems offer the most promising opportunities for the	National security and counter-terrorism;• Healthcare;Justice;

protection of human rights, democracy and the rule of law	
4bis. If other, which areas and why?	
5. Please indicate which of the following AI system applications in your view have the greatest potential to enhance/protect human rights, democracy and the rule of law?	• Deep fakes and cheap fakes;Facial recognition supporting law enforcement ;• AI applications in the field of banking and insurance;
6. Please briefly explain how such applications would benefit human rights, democracy and the rule of law.	I don't know.
7. What other applications might contribute significantly to strengthening human rights, democracy and the rule of law?	I don't know.
8. Please select the areas in which the deployment of AI systems poses the highest risk of violating human rights, democracy and the rule of law **8bis. Other**	• Social networks/media, internet intermediaries ;Deep fake videos.;
9. Please briefly explain how such applications might violate human rights, democracy and the rule of law.	For example, deep fake videos can be used to acquire influence on a mass of people or even trigger panic or war.
10. Please indicate the types of AI systems that represent the greatest risk to human rights, democracy and the rule of law	• Deep fakes and cheap fakes;• AI applications for personalised media content (recommender systems);
11. Please briefly explain how such applications might violate human rights, democracy and the rule of law.	I prefer not to answer.
12. What other applications might represent a significant risk to human rights, democracy and the rule of law?	I prefer not to answer.
13. In your opinion, should the development, deployment and use of AI systems that have been proven to violate human rights or undermine democracy or the rule of law be **13bis. Other**	Banned
14. In your opinion, should the development, deployment and use of AI systems that pose high risks with high probability to human rights, democracy and the rule of law be:	Banned
15. In your opinion, should the development, deployment and use of AI systems that pose low risks with high probability to human	Banned

rights, democracy and the rule of law be:	
16. In your opinion, should the development, deployment and use of AI systems that pose high risks with low probability to human rights, democracy and the rule of law be:	Banned
17. What are the most important legal principles, rights and interests that need to be addressed and therefore justify regulating the development, deployment and use of AI systems?	Privacy and data protection;
18. In your opinion, in what sectors/areas is a binding legal instrument needed to protect human rights, democracy and the rule of law? **18bis. Other**	Banking, finance and insurance;• Healthcare;• Social networks/media, internet intermediaries ;
19. Self-regulation by companies is more efficient than government regulation to prevent and mitigate the risk of violations of human rights, democracy and the rule of law.	I completely disagree
20. Self-regulation by companies is sufficient to prevent and mitigate the risk of violations of human rights, democracy and the rule of law	I completely disagree
21. Which of the following instruments of self-regulation do you consider to be the most efficient? **21bis. Other**	No opinion
22. Existing international, regional and/or national binding and/or non-binding legal instruments are sufficient to regulate AI systems in order to ensure the protection of human rights, democracy and the rule of law.	I completely disagree
23. Please provide examples of existing international, regional and/or national (binding and/or non-binding) instruments that in your view are effective in guiding and regulating the design, development and use of AI systems to ensure compatibility with the standards for human rights, democracy and the rule of law	I don't know such instruments.
24. If you responded disagree/completely disagree to question 22, please indicate why	They do not provide for specific rights (e.g. transparency requirements, redress mechanisms) for persons affected by

existing international, regional and/or national (binding and/or non-binding) legal instruments are not sufficient to regulate AI systems (select all you agree with):	AI;• They create barriers to the design, development and application of AI systems;
25. Please indicate other specific legal gaps that in your view need to be addressed at the level of the Council of Europe	Privacy and data security should be handled at the hardware level as well. So, the EU should buy neither chinese nor US microchips, and also it shouldn't allow using of foreign software. Data of EU citizens should be stored on servers physically located in the EU, etc.
26. Individuals should always be informed when they interact with an AI system in any circumstances.	I fully agree
27. Individuals should always be informed when a decision which affects them personally is made by an AI system.	I fully agree
28. Individuals should always be informed when an AI system is used in a decision-making process which affects them personally.	I fully agree
29. Individuals should have a right to a meaningful explanation of algorithmic based decisions, in particular how the algorithm reached its output.	I fully agree
30. Individuals should always have the right that any decision taken by an AI system in the framework of judicial proceedings are reviewed by a "human" judge.	I fully agree
31. Individuals should have a right to demand the review of an algorithmic based decision by a human being.	I fully agree
32. There should always be a person responsible for reviewing algorithmic based decisions in the public sector and private companies.	I fully agree
33. Public institutions should not use AI systems to promote or discredit a particular way of life or opinion (e.g. "social scoring").	I rather disagree
34. States should be obliged to design, develop and apply sustainable AI systems that respect applicable environmental protection standards.	I completely disagree
35. The code behind AI systems used in the public and private sectors should always be accessible to the competent public authorities for the purposes of external audit.	I fully agree

36. **There should be higher transparency standards for public entities using AI than for private entities.**	I completely disagree
37. **There should be higher standards for access to an effective remedy for individuals in relation to decisions informed and made by an AI system in the field of justice than in the field of consumer protection.**	I rather disagree
38. **Member States should establish public oversight mechanisms for AI systems that may breach legally binding norms in the sphere of human rights, democracy and the rule of law.**	I fully agree
39. **Errors and flaws discovered in AI systems which have led or could lead to the violation of human rights, democracy and the rule of law must be reported to the competent authorities.**	I fully agree
40. **The use of facial recognition in public spaces should be prohibited.**	I fully agree
41. **The information obtained through the use of facial recognition systems should always be reviewed by a human being before being used for purposes that have an impact on individual freedom, such as in relation to a person boarding an airplane, upon police arrest or in the framework of judicial proceedings.**	I fully agree
42. **The use of AI systems in democratic processes (e.g. elections) should be strictly regulated.**	I fully agree
43. **Should a future legal framework at Council of Europe level include a specific liability regime in relation to AI applications?**	No opinion
44. **If yes, what aspects should be covered?**	

45. In your opinion, how useful would the following compliance mechanisms be in preventing and mitigating the risks to human rights, democracy and the rule of law arising from the design, development and application of AI? - **Human rights, democracy and rule of law impact assessments** - **Certification and quality labelling** - **Audits and intersectional audits** - **Regulatory sandboxes** - **Continuous automated monitoring**	Indifferent/no opinion Indifferent/no opinion Indifferent/no opinion Indifferent/no opinion Indifferent/no opinion
46. Please indicate what combination of mechanisms should be preferred to efficiently protect human rights, democracy and the rule of law **46bis. Other**	• Human rights, democracy and rule of law impact assessments ;
47. Please select which mechanism(s) should be part of either a binding instrument or a non-binding instrument to best protect human rights, democracy and the rule of law. - **Human rights, democracy and rule of law impact assessments** - **Certification and quality labelling** - **Audits and intersectional audits** - **Regulatory sandboxes** - **Continuous automated monitoring**	No opinion No opinion No opinion No opinion No opinion
47.bis. Other	no opinion
48. In your opinion, how useful would the following follow-up activities be if implemented by the Council of Europe? - **Monitoring of AI legislation and policies in member States** - **Capacity building on Council of Europe instruments, including assistance to facilitate ratification and implementation of relevant Council of Europe instruments** - **AI Observatory for sharing good practices and**	Indifferent/no opinion Indifferent/no opinion Indifferent/no opinion Indifferent/no opinion

exchanging information on legal, policy and technological developments related to AI systems - **Establishing a centre of expertise on AI and human rights**	
49. **What other mechanisms, if any, should be considered?**	no opinion
50. **Are there any other issues with respect to the design, development and application of AI systems in the context of human rights, democracy and the rule of law that you wish to bring to the attention of the CAHAI?**	no opinion
Date of submission	19/04/2021 15:22:16

AlmavivA S.p.A.

State (where your institution is based)	**Italy**
Institution: Name of the institution/body/company	AlmavivA S.p.A.
Personal capacity: Your socio-professional category	Higher occupations
Your stakeholder group	Government & public administration
2. **In view of the elaboration of a legal framework on the design, development and application of AI, based on the standards of the Council of Europe on human rights, democracy and the rule of law, what kind of definition of artificial intelligence (AI) should be considered by the CAHAI**	A technologically-neutral and simplified definition, such as "a set of sciences, theories and tech-niques whose purpose is to reproduce by a machine the cognitive abilities of a human being" (See the CAHAI feasibility study, §5)
2bis. If "other" please explain below	
3. **What are the reasons for your preference?**	Having a simplified approach with a focus on the technology, we can control it better. The effect of the systems may not be known and therefore we cannot decide them a priori. Using a different definition will create boundaries that will limit the potential of the concept that is represented by the terms "artificial intelligence". Furthermore, by giving a definition related to the effects, the creation of regulations is also limited and circumscribed to it, while we need a broad and neutral approach that can cover

	every need, focusing on them, tackling and solving the potential perspective problems that humanity can face using artificial intelligence.
	That said, we need to give guidance to the approach everyone must take about the topic to guarantee that human rights and the act of the democracy are taken into consideration, developing solutions that use artificial intelligence.
	If we will approach this topic holistically and openly, we can also focus on how the perception of it is taken.
	On the other side we need a specific and precise framework helping companies addressing the problems and guiding developers with a proper flow of actions, so not only as guidance with best practices but as a specific and precise set of activities, KPIs, KRAs, processes.
	All things considered companies, entities, people need to develop in a proper way their governance, oversighting and planning their approach while addressing such problems.
	Moreover it is interesting the definition focused on the automated decision-making while it could help on guiding the decisional process of every entities that is interested in developing an approach to the tool that is artificial intelligence.
4. Please select the areas in which AI systems offer the most promising opportunities for the protection of human rights, democracy and the rule of law	Banking, finance and insurance;• Healthcare;• Public administration;
4bis. If other, which areas and why?	
5. Please indicate which of the following AI system applications in your view have the greatest potential to enhance/protect human rights, democracy and the rule of law?	Facial recognition supporting law enforcement ;• Medical applications for faster and more accurate diagnoses;• Automated fraud detection (banking, insurance);• Deep fakes and cheap fakes;• AI applications to prevent the commission of a criminal offence (e.g. anti-money laundry AI appli-cations);
6. Please briefly explain how such applications would benefit human rights, democracy and the rule of law.	The development of medical applications for faster and more accurate diagnoses can improve the effectiveness of cures, shortening the process to be cured, and reducing the time spent by the personnel in diagnosing helping them in focusing on other important activities. Freeing doctors and nurses from the diagnoses part of their jobs, the healthcare personnel can help more people. At the same time, having an artificial intelligence working on diagnoses it can open opportunities for poor people to be cured too. With such a usage, it will benefit human rights and democracy. Indirectly the rule of law.
	With automation of fraud detection (banking, insurance) there could be a faster and more thorough check on unlawful conducts, helping finding fraudsters and applying the law, simplifying the work for law enforcement and the justice system that can focus their activities on taking actions with other problems and issues.
	It will have a positive impact on human rights, democracy and the rule of law while it could be more effectful and neutral, if well applied. It will remove biases from law enforcement, being implemented following ethical rules.
	The usage of artificial intelligence on deep fakes and cheap fakes can help in addressing false belief reducing, for example ideas that can spread racism and ignorance in the community about, for example, immigration, vaccines etc.
	Having these effects, it will benefit human rights, democracy and the rule of law.

	AI applications to prevent the commission of a criminal offence (e.g. anti-money laundry AI applications) has the same effects of the case about fraud detection.
7. What other applications might contribute significantly to strengthening human rights, democracy and the rule of law?	The overall usage of artificial intelligence can help on these topics using it in social studies to analyse faster data, finding evidence about causes and effects of the human behaviour.
8. Please select the areas in which the deployment of AI systems poses the highest risk of violating human rights, democracy and the rule of law **8bis. Other**	• Law enforcement;• Justice;• National security and counter-terrorism;
9. Please briefly explain how such applications might violate human rights, democracy and the rule of law.	The presence of biases from the design and the implementation of each of them can lead to the violation of such topics while if they are managed by humans that thinks about how to implement them (having biases) and selecting data from which the systems will learn (in machine learning). Selecting data could be affected by biases in the people or needs to be updated constantly to adapt to the different kind of populations. Having biases artificial intelligence can be used to select certain people creating different layers of justice and enforcing the law in different ways as well as in the national security and counterterrorism causing something that could be similar to the racial laws and implementation of them during the worst period of our history.
10. Please indicate the types of AI systems that represent the greatest risk to human rights, democracy and the rule of law	Facial recognition supporting law enforcement ;• Medical applications for faster and more accurate diagnoses;
11. Please briefly explain how such applications might violate human rights, democracy and the rule of law.	As explained in the answer number 15, they can be used in an unproper way, limiting human rights, democracy and the rule of law or going directly against them.
12. What other applications might represent a significant risk to human rights, democracy and the rule of law?	Every application has its pros and cons that we need to address. Shortening the list we can think about what is already creating issues in the way they are developed.
13. In your opinion, should the development, deployment and use of AI systems that have been proven to violate human rights or undermine democracy or the rule of law be **13bis. Other**	Banned
14. In your opinion, should the development, deployment and use of AI systems that pose high risks with high probability to human rights, democracy and the rule of law be:	Regulated (binding law)
15. In your opinion, should the development, deployment and use of AI systems that pose low risks with high probability to human rights, democracy and the rule of law be:	Self-regulated (ethics guidelines, voluntary certification)

16. In your opinion, should the development, deployment and use of AI systems that pose high risks with low probability to human rights, democracy and the rule of law be:	Self-regulated (ethics guidelines, voluntary certification)
17. What are the most important legal principles, rights and interests that need to be addressed and therefore justify regulating the development, deployment and use of AI systems?	Privacy and data protection;• Explainability;• Possibility to challenge a decision made by an AI system and access to an effective remedy;• Non-discrimination;
18. In your opinion, in what sectors/areas is a binding legal instrument needed to protect human rights, democracy and the rule of law? **18bis. Other**	Justice;Law enforcement;
19. Self-regulation by companies is more efficient than government regulation to prevent and mitigate the risk of violations of human rights, democracy and the rule of law.	I rather disagree
20. Self-regulation by companies is sufficient to prevent and mitigate the risk of violations of human rights, democracy and the rule of law	I rather disagree
21. Which of the following instruments of self-regulation do you consider to be the most efficient? **21bis. Other**	Ethics guidelines
22. Existing international, regional and/or national binding and/or non-binding legal instruments are sufficient to regulate AI systems in order to ensure the protection of human rights, democracy and the rule of law.	I rather agree
23. Please provide examples of existing international, regional and/or national (binding and/or non-binding) instruments that in your view are effective in guiding and regulating the design, development and use of AI systems to ensure compatibility with the standards for human rights, democracy and the rule of law	There are no such instruments currently. Entities are currently trying to address the problem working on best practices and frameworks but couldn't find anithing already regulating this issues by law. To be more detailed, assessing them we noticed that there are many best practices and a couple of frameworks designed about this specific topic. We focused more on two of them, one from Digital Catapult in the UK and one that is mainly developed in Europe but that has an international network of researchers, lawyers and mangers from different companies. This one is the Z-Inspection® and it seems to be the most complete and detailed one. There is a detailed process in which every variable is taken into consideration and it is also well described in peer reviewed articles. It can help companies and developers to better approach the topic developing a trustworthy artificial intelligence.

24. If you responded disagree/completely disagree to question 22, please indicate why existing international, regional and/or national (binding and/or non-binding) legal instruments are not sufficient to regulate AI systems (select all you agree with):	
25. Please indicate other specific legal gaps that in your view need to be addressed at the level of the Council of Europe	The overall system in wich we live is a complex network of subsystems related to data and their usage. Regulations should be linked to the GDPR while the issues from both of them are strictly correlated.
26. Individuals should always be informed when they interact with an AI system in any circumstances.	I fully agree
27. Individuals should always be informed when a decision which affects them personally is made by an AI system.	I fully agree
28. Individuals should always be informed when an AI system is used in a decision-making process which affects them personally.	I fully agree
29. Individuals should have a right to a meaningful explanation of algorithmic based decisions, in particular how the algorithm reached its output.	I fully agree
30. Individuals should always have the right that any decision taken by an AI system in the framework of judicial proceedings are reviewed by a "human" judge.	I rather agree
31. Individuals should have a right to demand the review of an algorithmic based decision by a human being.	I rather agree
32. There should always be a person responsible for reviewing algorithmic based decisions in the public sector and private companies.	Indifferent/no opinion
33. Public institutions should not use AI systems to promote or discredit a particular way of life or opinion (e.g. "social scoring").	I rather agree
34. States should be obliged to design, develop and apply sustainable AI systems that respect applicable environmental protection standards.	I fully agree
35. The code behind AI systems used in the public and private sectors should always be accessible to the competent	I rather agree

public authorities for the purposes of external audit.	
36. There should be higher transparency standards for public entities using AI than for private entities.	I rather disagree
37. There should be higher standards for access to an effective remedy for individuals in relation to decisions informed and made by an AI system in the field of justice than in the field of consumer protection.	Indifferent/no opinion
38. Member States should establish public oversight mechanisms for AI systems that may breach legally binding norms in the sphere of human rights, democracy and the rule of law.	Indifferent/no opinion
39. Errors and flaws discovered in AI systems which have led or could lead to the violation of human rights, democracy and the rule of law must be reported to the competent authorities.	I fully agree
40. The use of facial recognition in public spaces should be prohibited.	I completely disagree
41. The information obtained through the use of facial recognition systems should always be reviewed by a human being before being used for purposes that have an impact on individual freedom, such as in relation to a person boarding an airplane, upon police arrest or in the framework of judicial proceedings.	I rather agree
42. The use of AI systems in democratic processes (e.g. elections) should be strictly regulated.	I fully agree
43. Should a future legal framework at Council of Europe level include a specific liability regime in relation to AI applications?	Yes
44. If yes, what aspects should be covered?	It should make clear the responsabilities to simplify the overall process.

45. In your opinion, how useful would the following compliance mechanisms be in preventing and mitigating the risks to human rights, democracy and the rule of law arising from the design, development and application of AI? - **Human rights, democracy and rule of law impact assessments** - **Certification and quality labelling** - **Audits and intersectional audits** - **Regulatory sandboxes** - **Continuous automated monitoring**	Highly useful Highly useful Rather useful Rather useful Rather useful
46. Please indicate what combination of mechanisms should be preferred to efficiently protect human rights, democracy and the rule of law **46bis. Other**	• Human rights, democracy and rule of law impact assessments ;
47. Please select which mechanism(s) should be part of either a binding instrument or a non-binding instrument to best protect human rights, democracy and the rule of law. - **Human rights, democracy and rule of law impact assessments** - **Certification and quality labelling** - **Audits and intersectional audits** - **Regulatory sandboxes** - **Continuous automated monitoring**	Binding instrument Binding instrument Non-binding instrument Binding instrument Non-binding instrument
47.bis. Other	
48. In your opinion, how useful would the following follow-up activities be if implemented by the Council of Europe? - **Monitoring of AI legislation and policies in member States** - **Capacity building on Council of Europe instruments, including assistance to facilitate ratification and implementation of relevant Council of Europe instruments** - **AI Observatory for sharing good practices and**	Rather useful Rather useful Rather useful Rather useful

exchanging information on legal, policy and technological developments related to AI systems - **Establishing a centre of expertise on AI and human rights**	
49. What other mechanisms, if any, should be considered?	
50. Are there any other issues with respect to the design, development and application of AI systems in the context of human rights, democracy and the rule of law that you wish to bring to the attention of the CAHAI?	
Date of submission	29/04/2021 16:04:15

Amasya University

State (where your institution is based)	Turkey
Institution: Name of the institution/body/company	Amasya University
Personal capacity: Your socio-professional category	Higher occupations
Your stakeholder group	Academic and scientific community
2. In view of the elaboration of a legal framework on the design, development and application of AI, based on the standards of the Council of Europe on human rights, democracy and the rule of law, what kind of definition of artificial intelligence (AI) should be considered by the CAHAI	A technologically-neutral and simplified definition, such as "a set of sciences, theories and tech-niques whose purpose is to reproduce by a machine the cognitive abilities of a human being" (See the CAHAI feasibility study, §5)
2bis. If "other" please explain below	
3. What are the reasons for your preference?	In order to be easily understood and accepted by people, it should be a simple definition and have the necessary technological infrastructure.
4. Please select the areas in which AI systems offer the most promising opportunities for the	Banking, finance and insurance;• Healthcare;• Environment and climate;

protection of human rights, democracy and the rule of law	
4bis. If other, which areas and why?	
5. Please indicate which of the following AI system applications in your view have the greatest potential to enhance/protect human rights, democracy and the rule of law?	• Medical applications for faster and more accurate diagnoses;• AI applications to predict the possible evolution of climate change and/or natural disasters;• AI applications providing support to the healthcare system (triage, treatment delivery);• AI applications in the field of banking and insurance;• AI applications to promote gender equality (e.g. analytical tools);
6. Please briefly explain how such applications would benefit human rights, democracy and the rule of law.	I think that by reducing the inequality between countries, especially in the field of health, health services can be accessed more equitably and equally.
7. What other applications might contribute significantly to strengthening human rights, democracy and the rule of law?	applications in the field of agriculture
8. Please select the areas in which the deployment of AI systems poses the highest risk of violating human rights, democracy and the rule of law **8bis. Other**	• Election monitoring;• Public administration;• National security and counter-terrorism;
9. Please briefly explain how such applications might violate human rights, democracy and the rule of law.	In particular, biased decisions made by artificial intelligence in the areas mentioned above can lead to irreversible problems.
10. Please indicate the types of AI systems that represent the greatest risk to human rights, democracy and the rule of law	Facial recognition supporting law enforcement ;Scoring / scoring of individuals by public entities;Smart personal assistants (connected devices);• Deep fakes and cheap fakes;
11. Please briefly explain how such applications might violate human rights, democracy and the rule of law.	Situations that may reveal the personal privacy
12. What other applications might represent a significant risk to human rights, democracy and the rule of law?	health - decision support system
13. In your opinion, should the development, deployment and use of AI systems that have been proven to violate human rights or undermine democracy or the rule of law be **13bis. Other**	Banned
14. In your opinion, should the development, deployment and use of AI systems that pose high risks with high probability to human rights, democracy and the rule of law be:	Regulated (binding law)
15. In your opinion, should the development, deployment and use of AI systems that pose low risks with high probability to human	Self-regulated (ethics guidelines, voluntary certification)

rights, democracy and the rule of law be:	
16. In your opinion, should the development, deployment and use of AI systems that pose high risks with low probability to human rights, democracy and the rule of law be:	Regulated (binding law)
17. What are the most important legal principles, rights and interests that need to be addressed and therefore justify regulating the development, deployment and use of AI systems?	Respect for human dignity;Equality;Privacy and data protection;• Transparency;• Explainability;
18. In your opinion, in what sectors/areas is a binding legal instrument needed to protect human rights, democracy and the rule of law? **18bis. Other**	Election monitoring;Justice;Law enforcement;
19. Self-regulation by companies is more efficient than government regulation to prevent and mitigate the risk of violations of human rights, democracy and the rule of law.	I rather disagree
20. Self-regulation by companies is sufficient to prevent and mitigate the risk of violations of human rights, democracy and the rule of law	I completely disagree
21. Which of the following instruments of self-regulation do you consider to be the most efficient? **21bis. Other**	Ethics guidelines
22. Existing international, regional and/or national binding and/or non-binding legal instruments are sufficient to regulate AI systems in order to ensure the protection of human rights, democracy and the rule of law.	I rather disagree
23. Please provide examples of existing international, regional and/or national (binding and/or non-binding) instruments that in your view are effective in guiding and regulating the design, development and use of AI systems to ensure compatibility with the standards for human rights, democracy and the rule of law	commission, institute, ministry
24. If you responded disagree/completely disagree to question 22, please indicate why	• They lack specific principles for the design, development and application of AI systems;

existing international, regional and/or national (binding and/or non-binding) legal instruments are not sufficient to regulate AI systems (select all you agree with):	
25. Please indicate other specific legal gaps that in your view need to be addressed at the level of the Council of Europe	
26. Individuals should always be informed when they interact with an AI system in any circumstances.	I fully agree
27. Individuals should always be informed when a decision which affects them personally is made by an AI system.	I fully agree
28. Individuals should always be informed when an AI system is used in a decision-making process which affects them personally.	I fully agree
29. Individuals should have a right to a meaningful explanation of algorithmic based decisions, in particular how the algorithm reached its output.	I fully agree
30. Individuals should always have the right that any decision taken by an AI system in the framework of judicial proceedings are reviewed by a "human" judge.	I fully agree
31. Individuals should have a right to demand the review of an algorithmic based decision by a human being.	I fully agree
32. There should always be a person responsible for reviewing algorithmic based decisions in the public sector and private companies.	I rather agree
33. Public institutions should not use AI systems to promote or discredit a particular way of life or opinion (e.g. "social scoring").	I fully agree
34. States should be obliged to design, develop and apply sustainable AI systems that respect applicable environmental protection standards.	I rather disagree
35. The code behind AI systems used in the public and private sectors should always be accessible to the competent public authorities for the purposes of external audit.	I rather agree

36. There should be higher transparency standards for public entities using AI than for private entities.	I rather disagree
37. There should be higher standards for access to an effective remedy for individuals in relation to decisions informed and made by an AI system in the field of justice than in the field of consumer protection.	I fully agree
38. Member States should establish public oversight mechanisms for AI systems that may breach legally binding norms in the sphere of human rights, democracy and the rule of law.	I fully agree
39. Errors and flaws discovered in AI systems which have led or could lead to the violation of human rights, democracy and the rule of law must be reported to the competent authorities.	I fully agree
40. The use of facial recognition in public spaces should be prohibited.	I rather agree
41. The information obtained through the use of facial recognition systems should always be reviewed by a human being before being used for purposes that have an impact on individual freedom, such as in relation to a person boarding an airplane, upon police arrest or in the framework of judicial proceedings.	I fully agree
42. The use of AI systems in democratic processes (e.g. elections) should be strictly regulated.	I fully agree
43. Should a future legal framework at Council of Europe level include a specific liability regime in relation to AI applications?	No opinion
44. If yes, what aspects should be covered?	

45. In your opinion, how useful would the following compliance mechanisms be in preventing and mitigating the risks to human rights, democracy and the rule of law arising from the design, development and application of AI? - Human rights, democracy and rule of law impact assessments - Certification and quality labelling - Audits and intersectional audits - Regulatory sandboxes - Continuous automated monitoring	Highly useful Highly useful Highly useful Highly useful Highly useful
46. Please indicate what combination of mechanisms should be preferred to efficiently protect human rights, democracy and the rule of law 46bis. Other	• Human rights, democracy and rule of law impact assessments ;Continuous automated monitoring;• Certification and quality labelling;
47. Please select which mechanism(s) should be part of either a binding instrument or a non-binding instrument to best protect human rights, democracy and the rule of law. - Human rights, democracy and rule of law impact assessments - Certification and quality labelling - Audits and intersectional audits - Regulatory sandboxes - Continuous automated monitoring	Binding instrument Binding instrument Binding instrument Binding instrument Binding instrument
47.bis. Other	
48. In your opinion, how useful would the following follow-up activities be if implemented by the Council of Europe? - Monitoring of AI legislation and policies in member States - Capacity building on Council of Europe instruments, including assistance to facilitate ratification and implementation of relevant Council of Europe instruments - AI Observatory for sharing good practices and	Rather useful Rather useful Highly useful Highly useful

exchanging information on legal, policy and technological developments related to AI systems - **Establishing a centre of expertise on AI and human rights**	
49. **What other mechanisms, if any, should be considered?**	
50. **Are there any other issues with respect to the design, development and application of AI systems in the context of human rights, democracy and the rule of law that you wish to bring to the attention of the CAHAI?**	
Date of submission	30/04/2021 15:53:51

AmCham Turkey

State (where your institution is based)	Turkey
Institution: Name of the institution/body/company	AmCham Turkey
Personal capacity: Your socio-professional category	Intermediate occupations
Your stakeholder group	Civil society
2. **In view of the elaboration of a legal framework on the design, development and application of AI, based on the standards of the Council of Europe on human rights, democracy and the rule of law, what kind of definition of artificial intelligence (AI) should be considered by the CAHAI**	A technologically-neutral and simplified definition, such as "a set of sciences, theories and tech-niques whose purpose is to reproduce by a machine the cognitive abilities of a human being" (See the CAHAI feasibility study, §5)
2bis. If "other" please explain below	
3. **What are the reasons for your preference?**	Not in specific
4. **Please select the areas in which AI systems offer the most promising opportunities for the protection of human rights, democracy and the rule of law**	• Education;Justice;Law enforcement;

4bis. If other, which areas and why?	
5. Please indicate which of the following AI system applications in your view have the greatest potential to enhance/protect human rights, democracy and the rule of law?	• Deep fakes and cheap fakes;Emotional analysis in the workplace to measure employees' level of engagement;Facial recognition supporting law enforcement ;• AI applications to promote gender equality (e.g. analytical tools);• AI applications determining the allocation of educational services;
6. Please briefly explain how such applications would benefit human rights, democracy and the rule of law.	Applications can gather big data to have a wider range of opportunity to process the legal cases as well as verification of information.
7. What other applications might contribute significantly to strengthening human rights, democracy and the rule of law?	No idea
8. Please select the areas in which the deployment of AI systems poses the highest risk of violating human rights, democracy and the rule of law **8bis. Other**	No opinion;
9. Please briefly explain how such applications might violate human rights, democracy and the rule of law.	No idea
10. Please indicate the types of AI systems that represent the greatest risk to human rights, democracy and the rule of law	Scoring / scoring of individuals by public entities;
11. Please briefly explain how such applications might violate human rights, democracy and the rule of law.	No comment
12. What other applications might represent a significant risk to human rights, democracy and the rule of law?	No idea
13. In your opinion, should the development, deployment and use of AI systems that have been proven to violate human rights or undermine democracy or the rule of law be **13bis. Other**	Not banned
14. In your opinion, should the development, deployment and use of AI systems that pose high risks with high probability to human rights, democracy and the rule of law be:	Regulated (binding law)
15. In your opinion, should the development, deployment and use of AI systems that pose low risks with high probability to human rights, democracy and the rule of law be:	Self-regulated (ethics guidelines, voluntary certification)

16. **In your opinion, should the development, deployment and use of AI systems that pose high risks with low probability to human rights, democracy and the rule of law be:**	Regulated (binding law)
17. **What are the most important legal principles, rights and interests that need to be addressed and therefore justify regulating the development, deployment and use of AI systems?**	Respect for human dignity;Political pluralism;Freedom of expression, assembly and association;
18. **In your opinion, in what sectors/areas is a binding legal instrument needed to protect human rights, democracy and the rule of law?** **18bis. Other**	No opinion;
19. **Self-regulation by companies is more efficient than government regulation to prevent and mitigate the risk of violations of human rights, democracy and the rule of law.**	I rather agree
20. **Self-regulation by companies is sufficient to prevent and mitigate the risk of violations of human rights, democracy and the rule of law**	I rather agree
21. **Which of the following instruments of self-regulation do you consider to be the most efficient?** **21bis. Other**	Ethics guidelines
22. **Existing international, regional and/or national binding and/or non-binding legal instruments are sufficient to regulate AI systems in order to ensure the protection of human rights, democracy and the rule of law.**	Indifferent/no opinion
23. **Please provide examples of existing international, regional and/or national (binding and/or non-binding) instruments that in your view are effective in guiding and regulating the design, development and use of AI systems to ensure compatibility with the standards for human rights, democracy and the rule of law**	No opinion
24. **If you responded disagree/completely disagree to question 22, please indicate why existing international, regional and/or national (binding and/or non-binding) legal instruments are**	

not sufficient to regulate AI systems (select all you agree with):	
25. Please indicate other specific legal gaps that in your view need to be addressed at the level of the Council of Europe	No addition
26. Individuals should always be informed when they interact with an AI system in any circumstances.	I rather agree
27. Individuals should always be informed when a decision which affects them personally is made by an AI system.	I rather agree
28. Individuals should always be informed when an AI system is used in a decision-making process which affects them personally.	I rather agree
29. Individuals should have a right to a meaningful explanation of algorithmic based decisions, in particular how the algorithm reached its output.	I rather agree
30. Individuals should always have the right that any decision taken by an AI system in the framework of judicial proceedings are reviewed by a "human" judge.	I rather agree
31. Individuals should have a right to demand the review of an algorithmic based decision by a human being.	Indifferent/no opinion
32. There should always be a person responsible for reviewing algorithmic based decisions in the public sector and private companies.	Indifferent/no opinion
33. Public institutions should not use AI systems to promote or discredit a particular way of life or opinion (e.g. "social scoring").	I fully agree
34. States should be obliged to design, develop and apply sustainable AI systems that respect applicable environmental protection standards.	I rather agree
35. The code behind AI systems used in the public and private sectors should always be accessible to the competent public authorities for the purposes of external audit.	I rather agree
36. There should be higher transparency standards for public entities using AI than for private entities.	I rather agree

37. There should be higher standards for access to an effective remedy for individuals in relation to decisions informed and made by an AI system in the field of justice than in the field of consumer protection.	I rather agree
38. Member States should establish public oversight mechanisms for AI systems that may breach legally binding norms in the sphere of human rights, democracy and the rule of law.	Indifferent/no opinion
39. Errors and flaws discovered in AI systems which have led or could lead to the violation of human rights, democracy and the rule of law must be reported to the competent authorities.	Indifferent/no opinion
40. The use of facial recognition in public spaces should be prohibited.	I rather agree
41. The information obtained through the use of facial recognition systems should always be reviewed by a human being before being used for purposes that have an impact on individual freedom, such as in relation to a person boarding an airplane, upon police arrest or in the framework of judicial proceedings.	I rather agree
42. The use of AI systems in democratic processes (e.g. elections) should be strictly regulated.	I rather agree
43. Should a future legal framework at Council of Europe level include a specific liability regime in relation to AI applications?	No opinion
44. If yes, what aspects should be covered?	
45. In your opinion, how useful would the following compliance mechanisms be in preventing and mitigating the risks to human rights, democracy and the rule of law arising from the design, development and application of AI? - **Human rights, democracy and rule of law impact assessments** - **Certification and quality labelling**	Rather useful Indifferent/no opinion Indifferent/no opinion Indifferent/no opinion Indifferent/no opinion

- **Audits and intersectional audits** - **Regulatory sandboxes** - **Continuous automated monitoring**	
46. Please indicate what combination of mechanisms should be preferred to efficiently protect human rights, democracy and the rule of law **46bis. Other**	Human rights, democracy and rule of law impact assessments ;
47. Please select which mechanism(s) should be part of either a binding instrument or a non-binding instrument to best protect human rights, democracy and the rule of law. - **Human rights, democracy and rule of law impact assessments** - **Certification and quality labelling** - **Audits and intersectional audits** - **Regulatory sandboxes** - **Continuous automated monitoring**	Binding instrument No opinion No opinion No opinion No opinion
47.bis. Other	
48. In your opinion, how useful would the following follow-up activities be if implemented by the Council of Europe? - **Monitoring of AI legislation and policies in member States** - **Capacity building on Council of Europe instruments, including assistance to facilitate ratification and implementation of relevant Council of Europe instruments** - **AI Observatory for sharing good practices and exchanging information on legal, policy and technological developments related to AI systems**	Rather useful Rather useful Rather useful Rather useful

- **Establishing a centre of expertise on AI and human rights**	
49. What other mechanisms, if any, should be considered?	
50. Are there any other issues with respect to the design, development and application of AI systems in the context of human rights, democracy and the rule of law that you wish to bring to the attention of the CAHAI?	
Date of submission	30/03/2021 19:04:15

Analytical Center for the Government of the Russian Federation

State (where your institution is based)	**Russia**
Institution: Name of the institution/body/company	Analytical Center for the Government of the Russian Federation
Personal capacity: Your socio-professional category	Higher occupations
Your stakeholder group	Government & public administration
2. In view of the elaboration of a legal framework on the design, development and application of AI, based on the standards of the Council of Europe on human rights, democracy and the rule of law, what kind of definition of artificial intelligence (AI) should be considered by the CAHAI	A definition focusing on automated decision-making
2bis. If "other" please explain below	
3. What are the reasons for your preference?	due to the highest significance of the risks of erroneous decision-making
4. Please select the areas in which AI systems offer the most promising opportunities for the protection of human rights, democracy and the rule of law	Justice;Law enforcement;• Education;

4bis. If other, which areas and why?	
5. Please indicate which of the following AI system applications in your view have the greatest potential to enhance/protect human rights, democracy and the rule of law?	Facial recognition supporting law enforcement ;• Automated fraud detection (banking, insurance);• Deep fakes and cheap fakes;
6. Please briefly explain how such applications would benefit human rights, democracy and the rule of law.	due to the reduction in the number of fraud cases
7. What other applications might contribute significantly to strengthening human rights, democracy and the rule of law?	everything is taken into account
8. Please select the areas in which the deployment of AI systems poses the highest risk of violating human rights, democracy and the rule of law **8bis. Other**	• Employment;
9. Please briefly explain how such applications might violate human rights, democracy and the rule of law.	robotization reduces jobs
10. Please indicate the types of AI systems that represent the greatest risk to human rights, democracy and the rule of law	Facial recognition supporting law enforcement ;
11. Please briefly explain how such applications might violate human rights, democracy and the rule of law.	video control reduces privacy
12. What other applications might represent a significant risk to human rights, democracy and the rule of law?	no ideas
13. In your opinion, should the development, deployment and use of AI systems that have been proven to violate human rights or undermine democracy or the rule of law be **13bis. Other**	Banned
14. In your opinion, should the development, deployment and use of AI systems that pose high risks with high probability to human rights, democracy and the rule of law be:	Regulated (binding law)
15. In your opinion, should the development, deployment and use of AI systems that pose low risks with high probability to human rights, democracy and the rule of law be:	Regulated (binding law)

16. In your opinion, should the development, deployment and use of AI systems that pose high risks with low probability to human rights, democracy and the rule of law be:	Self-regulated (ethics guidelines, voluntary certification)
17. What are the most important legal principles, rights and interests that need to be addressed and therefore justify regulating the development, deployment and use of AI systems?	Equality;
18. In your opinion, in what sectors/areas is a binding legal instrument needed to protect human rights, democracy and the rule of law? **18bis. Other**	• Healthcare;
19. Self-regulation by companies is more efficient than government regulation to prevent and mitigate the risk of violations of human rights, democracy and the rule of law.	Indifferent/no opinion
20. Self-regulation by companies is sufficient to prevent and mitigate the risk of violations of human rights, democracy and the rule of law	Indifferent/no opinion
21. Which of the following instruments of self-regulation do you consider to be the most efficient? **21bis. Other**	Ethics guidelines
22. Existing international, regional and/or national binding and/or non-binding legal instruments are sufficient to regulate AI systems in order to ensure the protection of human rights, democracy and the rule of law.	Indifferent/no opinion
23. Please provide examples of existing international, regional and/or national (binding and/or non-binding) instruments that in your view are effective in guiding and regulating the design, development and use of AI systems to ensure compatibility with the standards for human rights, democracy and the rule of law	I find it difficult to answer
24. If you responded disagree/completely disagree to question 22, please indicate why existing international, regional and/or national (binding and/or non-binding) legal instruments are	• They lack specific principles for the design, development and application of AI systems;

not sufficient to regulate AI systems (select all you agree with):	
25. Please indicate other specific legal gaps that in your view need to be addressed at the level of the Council of Europe	no ideas
26. Individuals should always be informed when they interact with an AI system in any circumstances.	I fully agree
27. Individuals should always be informed when a decision which affects them personally is made by an AI system.	I fully agree
28. Individuals should always be informed when an AI system is used in a decision-making process which affects them personally.	I fully agree
29. Individuals should have a right to a meaningful explanation of algorithmic based decisions, in particular how the algorithm reached its output.	I fully agree
30. Individuals should always have the right that any decision taken by an AI system in the framework of judicial proceedings are reviewed by a "human" judge.	I fully agree
31. Individuals should have a right to demand the review of an algorithmic based decision by a human being.	I fully agree
32. There should always be a person responsible for reviewing algorithmic based decisions in the public sector and private companies.	I fully agree
33. Public institutions should not use AI systems to promote or discredit a particular way of life or opinion (e.g. "social scoring").	I fully agree
34. States should be obliged to design, develop and apply sustainable AI systems that respect applicable environmental protection standards.	I fully agree
35. The code behind AI systems used in the public and private sectors should always be accessible to the competent public authorities for the purposes of external audit.	I fully agree
36. There should be higher transparency standards for public entities using AI than for private entities.	I fully agree

37. **There should be higher standards for access to an effective remedy for individuals in relation to decisions informed and made by an AI system in the field of justice than in the field of consumer protection.**	I fully agree
38. **Member States should establish public oversight mechanisms for AI systems that may breach legally binding norms in the sphere of human rights, democracy and the rule of law.**	I fully agree
39. **Errors and flaws discovered in AI systems which have led or could lead to the violation of human rights, democracy and the rule of law must be reported to the competent authorities.**	I fully agree
40. **The use of facial recognition in public spaces should be prohibited.**	I fully agree
41. **The information obtained through the use of facial recognition systems should always be reviewed by a human being before being used for purposes that have an impact on individual freedom, such as in relation to a person boarding an airplane, upon police arrest or in the framework of judicial proceedings.**	I fully agree
42. **The use of AI systems in democratic processes (e.g. elections) should be strictly regulated.**	I fully agree
43. **Should a future legal framework at Council of Europe level include a specific liability regime in relation to AI applications?**	Yes
44. **If yes, what aspects should be covered?**	
45. **In your opinion, how useful would the following compliance mechanisms be in preventing and mitigating the risks to human rights, democracy and the rule of law arising from the design, development and application of AI?** - **Human rights, democracy and rule of law impact assessments** - **Certification and quality labelling**	Highly useful Highly useful Indifferent/no opinion Indifferent/no opinion Indifferent/no opinion

- **Audits and intersectional audits** - **Regulatory sandboxes** - **Continuous automated monitoring**	
46. **Please indicate what combination of mechanisms should be preferred to efficiently protect human rights, democracy and the rule of law** **46bis. Other**	• Human rights, democracy and rule of law impact assessments ;
47. **Please select which mechanism(s) should be part of either a binding instrument or a non-binding instrument to best protect human rights, democracy and the rule of law.** - **Human rights, democracy and rule of law impact assessments** - **Certification and quality labelling** - **Audits and intersectional audits** - **Regulatory sandboxes** - **Continuous automated monitoring**	Binding instrument Binding instrument Binding instrument Binding instrument Binding instrument
47.bis. Other	
48. **In your opinion, how useful would the following follow-up activities be if implemented by the Council of Europe?** - **Monitoring of AI legislation and policies in member States** - **Capacity building on Council of Europe instruments, including assistance to facilitate ratification and implementation of relevant Council of Europe instruments** - **AI Observatory for sharing good practices and exchanging information on legal, policy and technological developments related to AI systems**	Highly useful Highly useful Highly useful Highly useful

- **Establishing a centre of expertise on AI and human rights**	
49. What other mechanisms, if any, should be considered?	
50. Are there any other issues with respect to the design, development and application of AI systems in the context of human rights, democracy and the rule of law that you wish to bring to the attention of the CAHAI?	
Date of submission	30/04/2021 15:10:30

Andorra Telecom

State (where your institution is based)	Andorra
Institution: Name of the institution/body/company	Andorra Telecom
Personal capacity: Your socio-professional category	Higher occupations
Your stakeholder group	Government & public administration
2. In view of the elaboration of a legal framework on the design, development and application of AI, based on the standards of the Council of Europe on human rights, democracy and the rule of law, what kind of definition of artificial intelligence (AI) should be considered by the CAHAI	A technologically-neutral and simplified definition, such as "a set of sciences, theories and tech-niques whose purpose is to reproduce by a machine the cognitive abilities of a human being" (See the CAHAI feasibility study, §5)
2bis. If "other" please explain below	
3. What are the reasons for your preference?	On one hand I think that a definition is necessary. On the other, IA is much more than an automated decision-making or machine learning, so the second option (or kind of) suits to me.
4. Please select the areas in which AI systems offer the most promising opportunities for the protection of human rights, democracy and the rule of law	Banking, finance and insurance;Customs and border control;• Education;
4bis. If other, which areas and why?	

5. Please indicate which of the following AI system applications in your view have the greatest potential to enhance/protect human rights, democracy and the rule of law?	Facial recognition supporting law enforcement ;• Automated fraud detection (banking, insurance);• Medical applications for faster and more accurate diagnoses;• AI applications for personalised media content (recommender systems);• AI applications providing support to the healthcare system (triage, treatment delivery);•
6. Please briefly explain how such applications would benefit human rights, democracy and the rule of law.	I think that IA will make some processes much cheaper so available to more people (i.e. Health Care System).
7. What other applications might contribute significantly to strengthening human rights, democracy and the rule of law?	If one day humans stop driving themselves, maybe the laws would be easier to be applied.
8. Please select the areas in which the deployment of AI systems poses the highest risk of violating human rights, democracy and the rule of law 8bis. Other	• Justice;• Healthcare;• National security and counter-terrorism;
9. Please briefly explain how such applications might violate human rights, democracy and the rule of law.	When programmed, justice can be not applied with "equality". And the usage of IA by the health insurances can discriminate the humans (for example not giving the insurance to somebody with a weak health).
10. Please indicate the types of AI systems that represent the greatest risk to human rights, democracy and the rule of law	• AI applications providing support to the healthcare system (triage, treatment delivery);• AI applications in the field of banking and insurance;Scoring / scoring of individuals by public entities;
11. Please briefly explain how such applications might violate human rights, democracy and the rule of law.	Again, if the AI is not properly programmed there can be abuses or miss-usages of the technology
12. What other applications might represent a significant risk to human rights, democracy and the rule of law?	I do not know what to add.
13. In your opinion, should the development, deployment and use of AI systems that have been proven to violate human rights or undermine democracy or the rule of law be 13bis. Other	Not banned
14. In your opinion, should the development, deployment and use of AI systems that pose high risks with high probability to human rights, democracy and the rule of law be:	Regulated (binding law)
15. In your opinion, should the development, deployment and use of AI systems that pose low risks with high probability to human rights, democracy and the rule of law be:	Self-regulated (ethics guidelines, voluntary certification)
16. In your opinion, should the development, deployment and use of AI systems that pose high risks with low probability to human	Regulated (binding law)

rights, democracy and the rule of law be:	
17. What are the most important legal principles, rights and interests that need to be addressed and therefore justify regulating the development, deployment and use of AI systems?	• Non-discrimination;Respect for human dignity;
18. In your opinion, in what sectors/areas is a binding legal instrument needed to protect human rights, democracy and the rule of law? **18bis. Other**	Justice;
19. Self-regulation by companies is more efficient than government regulation to prevent and mitigate the risk of violations of human rights, democracy and the rule of law.	I rather agree
20. Self-regulation by companies is sufficient to prevent and mitigate the risk of violations of human rights, democracy and the rule of law	I rather disagree
21. Which of the following instruments of self-regulation do you consider to be the most efficient? **21bis. Other**	Ethics guidelines
22. Existing international, regional and/or national binding and/or non-binding legal instruments are sufficient to regulate AI systems in order to ensure the protection of human rights, democracy and the rule of law.	I rather disagree
23. Please provide examples of existing international, regional and/or national (binding and/or non-binding) instruments that in your view are effective in guiding and regulating the design, development and use of AI systems to ensure compatibility with the standards for human rights, democracy and the rule of law	I am sorry. I do not know any example.
24. If you responded disagree/completely disagree to question 22, please indicate why existing international, regional and/or national (binding and/or non-binding) legal instruments are not sufficient to regulate AI systems (select all you agree with):	They do not provide for specific rights (e.g. transparency requirements, redress mechanisms) for persons affected by AI;• They do not provide enough guidance to the designers, developers and deployers of AI systems;
25. Please indicate other specific legal gaps that in your view	Not able to answer.

need to be addressed at the level of the Council of Europe	
26. Individuals should always be informed when they interact with an AI system in any circumstances.	I rather disagree
27. Individuals should always be informed when a decision which affects them personally is made by an AI system.	I rather disagree
28. Individuals should always be informed when an AI system is used in a decision-making process which affects them personally.	I rather disagree
29. Individuals should have a right to a meaningful explanation of algorithmic based decisions, in particular how the algorithm reached its output.	I rather agree
30. Individuals should always have the right that any decision taken by an AI system in the framework of judicial proceedings are reviewed by a "human" judge.	Indifferent/no opinion
31. Individuals should have a right to demand the review of an algorithmic based decision by a human being.	I rather disagree
32. There should always be a person responsible for reviewing algorithmic based decisions in the public sector and private companies.	I rather agree
33. Public institutions should not use AI systems to promote or discredit a particular way of life or opinion (e.g. "social scoring").	Indifferent/no opinion
34. States should be obliged to design, develop and apply sustainable AI systems that respect applicable environmental protection standards.	I rather agree
35. The code behind AI systems used in the public and private sectors should always be accessible to the competent public authorities for the purposes of external audit.	I rather agree
36. There should be higher transparency standards for public entities using AI than for private entities.	I rather agree
37. There should be higher standards for access to an effective remedy for individuals in relation to decisions informed and made by an AI system in the field of justice than	I rather agree

in the field of consumer protection.	
38. Member States should establish public oversight mechanisms for AI systems that may breach legally binding norms in the sphere of human rights, democracy and the rule of law.	I rather agree
39. Errors and flaws discovered in AI systems which have led or could lead to the violation of human rights, democracy and the rule of law must be reported to the competent authorities.	I fully agree
40. The use of facial recognition in public spaces should be prohibited.	I completely disagree
41. The information obtained through the use of facial recognition systems should always be reviewed by a human being before being used for purposes that have an impact on individual freedom, such as in relation to a person boarding an airplane, upon police arrest or in the framework of judicial proceedings.	I rather disagree
42. The use of AI systems in democratic processes (e.g. elections) should be strictly regulated.	I rather agree
43. Should a future legal framework at Council of Europe level include a specific liability regime in relation to AI applications?	No opinion
44. If yes, what aspects should be covered?	
45. In your opinion, how useful would the following compliance mechanisms be in preventing and mitigating the risks to human rights, democracy and the rule of law arising from the design, development and application of AI? - **Human rights, democracy and rule of law impact assessments** - **Certification and quality labelling** - **Audits and intersectional audits** - **Regulatory sandboxes** - **Continuous automated monitoring**	Rather useful Rather not useful Rather useful Indifferent/no opinion Rather useful
46. Please indicate what combination of mechanisms should be preferred to efficiently protect	• Audits and intersectional audits;• Human rights, democracy and rule of law impact assessments ;

human rights, democracy and the rule of law **46bis. Other**	
47. Please select which mechanism(s) should be part of either a binding instrument or a non-binding instrument to best protect human rights, democracy and the rule of law. - **Human rights, democracy and rule of law impact assessments** - **Certification and quality labelling** - **Audits and intersectional audits** - **Regulatory sandboxes** - **Continuous automated monitoring**	No opinion No opinion No opinion No opinion No opinion
47.bis. Other	
48. In your opinion, how useful would the following follow-up activities be if implemented by the Council of Europe? - **Monitoring of AI legislation and policies in member States** - **Capacity building on Council of Europe instruments, including assistance to facilitate ratification and implementation of relevant Council of Europe instruments** - **AI Observatory for sharing good practices and exchanging information on legal, policy and technological developments related to AI systems** - **Establishing a centre of expertise on AI and human rights**	Rather useful Indifferent/no opinion Rather useful Indifferent/no opinion
49. What other mechanisms, if any, should be considered?	
50. Are there any other issues with respect to the design, development and application of AI systems in the context of human rights, democracy and the rule of law that you wish to bring to the attention of the CAHAI?	
Date of submission	06/05/2021 22:00:36

ARIJ (Arab Reporters for Investigative Journalism)

State (where your institution is based)	Amman, Jordan
Institution: Name of the institution/body/company	ARIJ (Arab Reporters for Investigative Journalism)
Personal capacity: Your socio-professional category	Intermediate occupations
Your stakeholder group	Civil society
2. In view of the elaboration of a legal framework on the design, development and application of AI, based on the standards of the Council of Europe on human rights, democracy and the rule of law, what kind of definition of artificial intelligence (AI) should be considered by the CAHAI	A technologically-neutral and simplified definition, such as "a set of sciences, theories and tech-niques whose purpose is to reproduce by a machine the cognitive abilities of a human being" (See the CAHAI feasibility study, §5)
2bis. If "other" please explain below	
3. What are the reasons for your preference?	Technologies do adapt with time, so we should choose a technology neutral definition to suit both the present and the future. The notion of "decision-making" is also not suitable as AI can be used for other purposes.
4. Please select the areas in which AI systems offer the most promising opportunities for the protection of human rights, democracy and the rule of law	Banking, finance and insurance;Justice;Law enforcement;
4bis. If other, which areas and why?	
5. Please indicate which of the following AI system applications in your view have the greatest potential to enhance/protect human rights, democracy and the rule of law?	• Smart personal assistants (connected devices);• Medical applications for faster and more accurate diagnoses;• Automated fraud detection (banking, insurance);• AI applications to predict the possible evolution of climate change and/or natural disasters;
6. Please briefly explain how such applications would benefit human rights, democracy and the rule of law.	Accurate healthcare delivery would enhance both human rights and democracy. Fraud detection would enhance both human rights and the rule or law.
7. What other applications might contribute significantly to strengthening human rights, democracy and the rule of law?	Automatic analysis of governmental data, for investigative journalism and accountability.
8. Please select the areas in which the deployment of AI systems poses the highest risk of violating human rights, democracy and the rule of law **8bis. Other**	• Election monitoring;• Employment;• Social networks/media, internet intermediaries ;
9. Please briefly explain how such applications might violate human rights, democracy and the rule of law.	There are high risks of automating election monitoring, as this is the way for humans to feed their input into the system. Hiring/firing/monitoring employers using AI can have a high risk on human right violations, equality and diversity in the workforce. As social networks control human communications, blocking or

	accessing these human communications poses a high risk to democracy and freedom of speech, organisation and mobilisation.
10. Please indicate the types of AI systems that represent the greatest risk to human rights, democracy and the rule of law	• AI applications for personalised media content (recommender systems);• Recruiting software/ AI applications used for assessing work performance ;• AI applications determining the allocation of social services;
11. Please briefly explain how such applications might violate human rights, democracy and the rule of law.	Matches the above answer
12. What other applications might represent a significant risk to human rights, democracy and the rule of law?	Monitoring or assessing children or youth, in an attempt that might influence their future.
13. In your opinion, should the development, deployment and use of AI systems that have been proven to violate human rights or undermine democracy or the rule of law be **13bis. Other**	It is difficult to "prove" violation, which might be due to errors or bugs in the system that can be fixed. Monitoring rather than banning would be preferred.
14. In your opinion, should the development, deployment and use of AI systems that pose high risks with high probability to human rights, democracy and the rule of law be:	Regulated (binding law)
15. In your opinion, should the development, deployment and use of AI systems that pose low risks with high probability to human rights, democracy and the rule of law be:	Self-regulated (ethics guidelines, voluntary certification)
16. In your opinion, should the development, deployment and use of AI systems that pose high risks with low probability to human rights, democracy and the rule of law be:	Regulated (binding law)
17. What are the most important legal principles, rights and interests that need to be addressed and therefore justify regulating the development, deployment and use of AI systems?	Equality;Freedom of expression, assembly and association;• Non-discrimination;Privacy and data protection;• Social security;
18. In your opinion, in what sectors/areas is a binding legal instrument needed to protect human rights, democracy and the rule of law? **18bis. Other**	Banking, finance and insurance;Law enforcement;• Social networks/media, internet intermediaries ;
19. Self-regulation by companies is more efficient than government regulation to prevent and mitigate the risk of violations of human rights, democracy and the rule of law.	I completely disagree

20. Self-regulation by companies is sufficient to prevent and mitigate the risk of violations of human rights, democracy and the rule of law	I completely disagree
21. Which of the following instruments of self-regulation do you consider to be the most efficient? **21bis. Other**	Voluntary certification
22. Existing international, regional and/or national binding and/or non-binding legal instruments are sufficient to regulate AI systems in order to ensure the protection of human rights, democracy and the rule of law.	I completely disagree
23. Please provide examples of existing international, regional and/or national (binding and/or non-binding) instruments that in your view are effective in guiding and regulating the design, development and use of AI systems to ensure compatibility with the standards for human rights, democracy and the rule of law	GDPR rules are effective in regulating data protection for example.
24. If you responded disagree/completely disagree to question 22, please indicate why existing international, regional and/or national (binding and/or non-binding) legal instruments are not sufficient to regulate AI systems (select all you agree with):	There are too many and they are difficult to interpret and apply in the context of AI;• They do not provide enough guidance to the designers, developers and deployers of AI systems;They do not provide for specific rights (e.g. transparency requirements, redress mechanisms) for persons affected by AI;
25. Please indicate other specific legal gaps that in your view need to be addressed at the level of the Council of Europe	
26. Individuals should always be informed when they interact with an AI system in any circumstances.	I rather agree
27. Individuals should always be informed when a decision which affects them personally is made by an AI system.	I rather agree
28. Individuals should always be informed when an AI system is used in a decision-making process which affects them personally.	I rather agree
29. Individuals should have a right to a meaningful explanation of algorithmic based decisions, in particular how the algorithm reached its output.	I completely disagree
30. Individuals should always have the right that any decision taken by an AI system in the	Indifferent/no opinion

framework of judicial proceedings are reviewed by a "human" judge.	
31. **Individuals should have a right to demand the review of an algorithmic based decision by a human being.**	Indifferent/no opinion
32. **There should always be a person responsible for reviewing algorithmic based decisions in the public sector and private companies.**	I completely disagree
33. **Public institutions should not use AI systems to promote or discredit a particular way of life or opinion (e.g. "social scoring").**	Indifferent/no opinion
34. **States should be obliged to design, develop and apply sustainable AI systems that respect applicable environmental protection standards.**	I completely disagree
35. **The code behind AI systems used in the public and private sectors should always be accessible to the competent public authorities for the purposes of external audit.**	I completely disagree
36. **There should be higher transparency standards for public entities using AI than for private entities.**	I rather disagree
37. **There should be higher standards for access to an effective remedy for individuals in relation to decisions informed and made by an AI system in the field of justice than in the field of consumer protection.**	I rather disagree
38. **Member States should establish public oversight mechanisms for AI systems that may breach legally binding norms in the sphere of human rights, democracy and the rule of law.**	I rather agree
39. **Errors and flaws discovered in AI systems which have led or could lead to the violation of human rights, democracy and the rule of law must be reported to the competent authorities.**	I fully agree
40. **The use of facial recognition in public spaces should be prohibited.**	Indifferent/no opinion
41. **The information obtained through the use of facial recognition systems should always be reviewed by a human being before being used for purposes that have an impact on individual**	I rather disagree

freedom, such as in relation to a person boarding an airplane, upon police arrest or in the framework of judicial proceedings.	
42. The use of AI systems in democratic processes (e.g. elections) should be strictly regulated.	I fully agree
43. Should a future legal framework at Council of Europe level include a specific liability regime in relation to AI applications?	Yes
44. If yes, what aspects should be covered?	If a decision impacts a human in a way that requires compensation, the system should be liable to such compensation.
45. In your opinion, how useful would the following compliance mechanisms be in preventing and mitigating the risks to human rights, democracy and the rule of law arising from the design, development and application of AI? - Human rights, democracy and rule of law impact assessments - Certification and quality labelling - Audits and intersectional audits - Regulatory sandboxes - Continuous automated monitoring	Indifferent/no opinion Indifferent/no opinion Indifferent/no opinion Indifferent/no opinion Indifferent/no opinion
46. Please indicate what combination of mechanisms should be preferred to efficiently protect human rights, democracy and the rule of law 46bis. Other	I am not familiar with these mechanisms;
47. Please select which mechanism(s) should be part of either a binding instrument or a non-binding instrument to best protect human rights, democracy and the rule of law. - Human rights, democracy and rule of law impact assessments - Certification and quality labelling - Audits and intersectional audits - Regulatory sandboxes - Continuous automated monitoring	No opinion No opinion No opinion No opinion No opinion
47.bis. Other	

48. In your opinion, how useful would the following follow-up activities be if implemented by the Council of Europe? - **Monitoring of AI legislation and policies in member States** - **Capacity building on Council of Europe instruments, including assistance to facilitate ratification and implementation of relevant Council of Europe instruments** - **AI Observatory for sharing good practices and exchanging information on legal, policy and technological developments related to AI systems** - **Establishing a centre of expertise on AI and human rights**	Rather not useful Indifferent/no opinion Rather useful Highly useful
49. What other mechanisms, if any, should be considered?	
50. Are there any other issues with respect to the design, development and application of AI systems in the context of human rights, democracy and the rule of law that you wish to bring to the attention of the CAHAI?	Raising awareness on the impact of different AI systems on human rights, that is approachable and understandable by all individuals regardless of their age, education or mental abilities is needed, and can be led by the Council of Europe.
Date of submission	30/04/2021 19:09:13

ArkéoTopia

State (where your institution is based)	France
Institution: Name of the institution/body/company	ArkéoTopia
Personal capacity: Your socio-professional category	Higher occupations
Your stakeholder group	Academic and scientific community
2. In view of the elaboration of a legal framework on the design, development and application of AI, based on the standards of the Council of Europe on human rights, democracy and the rule of law, what kind of definition of artificial intelligence (AI) should be considered by the CAHAI	No definition, with a legal instrument focused on the effect of AI systems on human rights, de-mocracy and the rule of law

2bis. If "other" please explain below	
3. What are the reasons for your preference?	Il convient d'éviter de rajouter des cadres juridiques où il en existe déjà. Les nouvelles technologies ne sont pas forcément foncièrement différentes des questions liées à la médecine, l'éthique, etc.
4. Please select the areas in which AI systems offer the most promising opportunities for the protection of human rights, democracy and the rule of law	Justice;Customs and border control;National security and counter-terrorism;
4bis. If other, which areas and why?	
5. Please indicate which of the following AI system applications in your view have the greatest potential to enhance/protect human rights, democracy and the rule of law?	• Medical applications for faster and more accurate diagnoses;• AI applications providing support to the healthcare system (triage, treatment delivery);• AI applications determining the allocation of educational services;• AI applications used for analysing the performance of pupils/students in educational institutions such as schools and universities;Facial recognition supporting law enforcement ;
6. Please briefly explain how such applications would benefit human rights, democracy and the rule of law.	1. Accélérer l'intervention des forces publiques afin de limiter le terrorisme et les débordements 2. Accélérer l'intervention en santé afin de pouvoir se concentrer sur des cas particuliers nécessitant l'intervention humaine 3. Faciliter les conditions d'apprentissages pour améliorer les conditions d'apprentissage et assurer de meilleurs résultats permettant ainsi un accès à l'éducation plein et réel en limitant l'échec scolaire, notamment en identifiant plus rapidement les causes pour qu'une réponse plus adéquate soit mise en œuvre.
7. What other applications might contribute significantly to strengthening human rights, democracy and the rule of law?	Partage de données avec l'identification des données propriétaires et des données libres afin d'assurer une meilleure diffusion des connaissances et compétences.
8. Please select the areas in which the deployment of AI systems poses the highest risk of violating human rights, democracy and the rule of law **8bis. Other**	• Banking, finance and insurance;• Healthcare;• National security and counter-terrorism;
9. Please briefly explain how such applications might violate human rights, democracy and the rule of law.	Pour les mêmes raisons qu'un déploiement de l'IA apporterait des bénéfices, le détournement de ces données pourraient être malveillant et créer l'effet inverse à celui escompté.
10. Please indicate the types of AI systems that represent the greatest risk to human rights, democracy and the rule of law	Facial recognition supporting law enforcement ;• Emotional analysis in the workplace to measure employees' level of engagement;Scoring / scoring of individuals by public entities;• Recruiting software/ AI applications used for assessing work performance ;• AI applications to promote gender equality (e.g. analytical tools);
11. Please briefly explain how such applications might violate human rights, democracy and the rule of law.	Pour les mêmes raisons qu'un déploiement de l'IA apporterait des bénéfices, le détournement de ces données pourraient être malveillant et créer l'effet inverse à celui escompté.
12. What other applications might represent a significant risk to human rights, democracy and the rule of law?	Pas d'idée

13. **In your opinion, should the development, deployment and use of AI systems that have been proven to violate human rights or undermine democracy or the rule of law be** **13bis. Other**	Banned
14. **In your opinion, should the development, deployment and use of AI systems that pose high risks with high probability to human rights, democracy and the rule of law be:**	Regulated (binding law)
15. **In your opinion, should the development, deployment and use of AI systems that pose low risks with high probability to human rights, democracy and the rule of law be:**	Self-regulated (ethics guidelines, voluntary certification)
16. **In your opinion, should the development, deployment and use of AI systems that pose high risks with low probability to human rights, democracy and the rule of law be:**	Self-regulated (ethics guidelines, voluntary certification)
17. **What are the most important legal principles, rights and interests that need to be addressed and therefore justify regulating the development, deployment and use of AI systems?**	• Non-discrimination;Respect for human dignity;Privacy and data protection;• Possibility to challenge a decision made by an AI system and access to an effective remedy;Freedom of expression, assembly and association;
18. **In your opinion, in what sectors/areas is a binding legal instrument needed to protect human rights, democracy and the rule of law?** **18bis. Other**	Law enforcement;• Healthcare;Banking, finance and insurance;
19. **Self-regulation by companies is more efficient than government regulation to prevent and mitigate the risk of violations of human rights, democracy and the rule of law.**	Indifferent/no opinion
20. **Self-regulation by companies is sufficient to prevent and mitigate the risk of violations of human rights, democracy and the rule of law**	I completely disagree
21. **Which of the following instruments of self-regulation do you consider to be the most efficient?** **21bis. Other**	Voluntary certification
22. **Existing international, regional and/or national binding and/or non-binding legal instruments are sufficient to regulate AI systems in order to ensure the protection of human**	I rather disagree

rights, democracy and the rule of law.	
23. Please provide examples of existing international, regional and/or national (binding and/or non-binding) instruments that in your view are effective in guiding and regulating the design, development and use of AI systems to ensure compatibility with the standards for human rights, democracy and the rule of law	https://www.coe.int/fr/web/conventions/full-list/-/conventions/treaty/005
24. If you responded disagree/completely disagree to question 22, please indicate why existing international, regional and/or national (binding and/or non-binding) legal instruments are not sufficient to regulate AI systems (select all you agree with):	• They provide a basis but fail to provide an effective substantive protection of human rights, democracy and the rule of law against the risks posed by AI systems;
25. Please indicate other specific legal gaps that in your view need to be addressed at the level of the Council of Europe	
26. Individuals should always be informed when they interact with an AI system in any circumstances.	I completely disagree
27. Individuals should always be informed when a decision which affects them personally is made by an AI system.	I fully agree
28. Individuals should always be informed when an AI system is used in a decision-making process which affects them personally.	I fully agree
29. Individuals should have a right to a meaningful explanation of algorithmic based decisions, in particular how the algorithm reached its output.	Indifferent/no opinion
30. Individuals should always have the right that any decision taken by an AI system in the framework of judicial proceedings are reviewed by a "human" judge.	I rather agree
31. Individuals should have a right to demand the review of an algorithmic based decision by a human being.	I fully agree
32. There should always be a person responsible for reviewing algorithmic based decisions in the public sector and private companies.	I fully agree
33. Public institutions should not use AI systems to promote or discredit a particular way of life or	Indifferent/no opinion

opinion (e.g. "social scoring").	
34. States should be obliged to design, develop and apply sustainable AI systems that respect applicable environmental protection standards.	I fully agree
35. The code behind AI systems used in the public and private sectors should always be accessible to the competent public authorities for the purposes of external audit.	I fully agree
36. There should be higher transparency standards for public entities using AI than for private entities.	I fully agree
37. There should be higher standards for access to an effective remedy for individuals in relation to decisions informed and made by an AI system in the field of justice than in the field of consumer protection.	Indifferent/no opinion
38. Member States should establish public oversight mechanisms for AI systems that may breach legally binding norms in the sphere of human rights, democracy and the rule of law.	Indifferent/no opinion
39. Errors and flaws discovered in AI systems which have led or could lead to the violation of human rights, democracy and the rule of law must be reported to the competent authorities.	I fully agree
40. The use of facial recognition in public spaces should be prohibited.	Indifferent/no opinion
41. The information obtained through the use of facial recognition systems should always be reviewed by a human being before being used for purposes that have an impact on individual freedom, such as in relation to a person boarding an airplane, upon police arrest or in the framework of judicial proceedings.	I rather disagree
42. The use of AI systems in democratic processes (e.g. elections) should be strictly regulated.	I fully agree
43. Should a future legal framework at Council of Europe level include a specific liability regime in relation to AI applications?	No

44. If yes, what aspects should be covered?	
45. In your opinion, how useful would the following compliance mechanisms be in preventing and mitigating the risks to human rights, democracy and the rule of law arising from the design, development and application of AI? - **Human rights, democracy and rule of law impact assessments** - **Certification and quality labelling** - **Audits and intersectional audits** - **Regulatory sandboxes** - **Continuous automated monitoring**	Highly useful Indifferent/no opinion Highly useful Highly useful Indifferent/no opinion
46. Please indicate what combination of mechanisms should be preferred to efficiently protect human rights, democracy and the rule of law **46bis. Other**	• Human rights, democracy and rule of law impact assessments ;• Audits and intersectional audits;• Regulatory sandboxes;
47. Please select which mechanism(s) should be part of either a binding instrument or a non-binding instrument to best protect human rights, democracy and the rule of law. - **Human rights, democracy and rule of law impact assessments** - **Certification and quality labelling** - **Audits and intersectional audits** - **Regulatory sandboxes** - **Continuous automated monitoring**	Binding instrument Non-binding instrument Binding instrument Non-binding instrument No opinion
47.bis. Other	
48. In your opinion, how useful would the following follow-up activities be if implemented by the Council of Europe? - **Monitoring of AI legislation and policies in member States** - **Capacity building on Council of Europe instruments, including assistance to facilitate ratification and implementation of relevant Council of Europe instruments** - **AI Observatory for sharing good practices and exchanging information on legal, policy and**	Highly useful Highly useful Not useful Not useful

technological developments related to AI systems - **Establishing a centre of expertise on AI and human rights**	
49. What other mechanisms, if any, should be considered?	
50. Are there any other issues with respect to the design, development and application of AI systems in the context of human rights, democracy and the rule of law that you wish to bring to the attention of the CAHAI?	
Date of submission	03/05/2021 21:31:43

Artificial Intelligence 4 Development Agency

State (where your institution is based)	Austria
Institution: Name of the institution/body/company	Artificial Intelligence 4 Development Agency
Personal capacity: Your socio-professional category	Higher occupations
Your stakeholder group	Civil society
2. In view of the elaboration of a legal framework on the design, development and application of AI, based on the standards of the Council of Europe on human rights, democracy and the rule of law, what kind of definition of artificial intelligence (AI) should be considered by the CAHAI	A technologically-neutral and simplified definition, such as "a set of sciences, theories and tech-niques whose purpose is to reproduce by a machine the cognitive abilities of a human being" (See the CAHAI feasibility study, §5)
2bis. If "other" please explain below	
3. What are the reasons for your preference?	Among the options named, this definition seems to be the most comprehensive one.
4. Please select the areas in which AI systems offer the most promising opportunities for the protection of human rights, democracy and the rule of law	• Education;Law enforcement;• Public administration;
4bis. If other, which areas and why?	

5. Please indicate which of the following AI system applications in your view have the greatest potential to enhance/protect human rights, democracy and the rule of law?	• Medical applications for faster and more accurate diagnoses;• Automated fraud detection (banking, insurance);• Deep fakes and cheap fakes;• AI applications to prevent the commission of a criminal offence (e.g. anti-money laundry AI appli-cations);• AI applications used for analysing the performance of pupils/students in educational institutions such as schools and universities;
6. Please briefly explain how such applications would benefit human rights, democracy and the rule of law.	In all cases selected above scientists and researchers are struggling with accessing and understanding huge amounts of data. When it comes to the healthcare industry alone, AI has proven to be of tremendous benefit by accessing and processing key information accurately and timely. AI is able to give us back something we lack very often and that is time. With AI linkages and decisions can be made in seconds, compared to weeks sometimes if we were not to have these technologies. However, AI models are trained on data sets, and it has already been often proved, that data sets are bias. To fully unleash the potential of such applications, we would first need to make sure that our data sets are clean.
7. What other applications might contribute significantly to strengthening human rights, democracy and the rule of law?	community-based applications, in particular, engaging youth text mining
8. Please select the areas in which the deployment of AI systems poses the highest risk of violating human rights, democracy and the rule of law **8bis. Other**	• Education;• Welfare;• Justice;
9. Please briefly explain how such applications might violate human rights, democracy and the rule of law.	Insisting on my previous point, we need clean data sets to secure a bias-free AI application. For now, we are very far from reaching that point. We also see a risk in leaving people behind in the Era of AI, in particular, vulnerable groups and underserved populations.
10. Please indicate the types of AI systems that represent the greatest risk to human rights, democracy and the rule of law	Facial recognition supporting law enforcement ;• Emotional analysis in the workplace to measure employees' level of engagement;Scoring / scoring of individuals by public entities;• AI applications to predict the possible evolution of climate change and/or natural disasters;;• AI applications determining the allocation of social services;
11. Please briefly explain how such applications might violate human rights, democracy and the rule of law.	We will name two reasons but there are much more. 1/ lack of transparency. For now, we still do not know exactly these applications are designed and developed, how our data is processed and the ultimate impact it has on citizens. 2/ Linked to the first point, we notice that regulators still do not fully understand how AI impacts our lives in the short and long term. And neither do citizens who are exposed to these applications daily. Unless we are able to inform and explain these aspects, our citizens risk making informed decisions in relation to AI applications
12. What other applications might represent a significant risk to human rights, democracy and the rule of law?	facial recognition
13. In your opinion, should the development, deployment and use of AI systems that have been proven to violate human rights or undermine democracy or the rule of law be **13bis. Other**	Banned

14. In your opinion, should the development, deployment and use of AI systems that pose high risks with high probability to human rights, democracy and the rule of law be:	Banned
15. In your opinion, should the development, deployment and use of AI systems that pose low risks with high probability to human rights, democracy and the rule of law be:	Regulated (binding law)
16. In your opinion, should the development, deployment and use of AI systems that pose high risks with low probability to human rights, democracy and the rule of law be:	Subject to moratorium
17. What are the most important legal principles, rights and interests that need to be addressed and therefore justify regulating the development, deployment and use of AI systems?	Political pluralism;Equality;Privacy and data protection;• Transparency;Respect for human dignity;
18. In your opinion, in what sectors/areas is a binding legal instrument needed to protect human rights, democracy and the rule of law? **18bis. Other**	Justice;Education;• Social networks/media, internet intermediaries ;
19. Self-regulation by companies is more efficient than government regulation to prevent and mitigate the risk of violations of human rights, democracy and the rule of law.	Indifferent/no opinion
20. Self-regulation by companies is sufficient to prevent and mitigate the risk of violations of human rights, democracy and the rule of law	I completely disagree
21. Which of the following instruments of self-regulation do you consider to be the most efficient? **21bis. Other**	Ethics guidelines
22. Existing international, regional and/or national binding and/or non-binding legal instruments are sufficient to regulate AI systems in order to ensure the protection of human rights, democracy and the rule of law.	I completely disagree
23. Please provide examples of existing international, regional and/or national (binding and/or non-binding) instruments that in your view are effective in guiding	GDPR (partially)

and regulating the design, development and use of AI systems to ensure compatibility with the standards for human rights, democracy and the rule of law	
24. If you responded disagree/completely disagree to question 22, please indicate why existing international, regional and/or national (binding and/or non-binding) legal instruments are not sufficient to regulate AI systems (select all you agree with):	• They provide a basis but fail to provide an effective substantive protection of human rights, democracy and the rule of law against the risks posed by AI systems;• They lack specific principles for the design, development and application of AI systems;• They do not provide enough guidance to the designers, developers and deployers of AI systems;They do not provide for specific rights (e.g. transparency requirements, redress mechanisms) for persons affected by AI;
25. Please indicate other specific legal gaps that in your view need to be addressed at the level of the Council of Europe	community and civil society empowerment and engagement in the AI debate
26. Individuals should always be informed when they interact with an AI system in any circumstances.	I fully agree
27. Individuals should always be informed when a decision which affects them personally is made by an AI system.	I fully agree
28. Individuals should always be informed when an AI system is used in a decision-making process which affects them personally.	I fully agree
29. Individuals should have a right to a meaningful explanation of algorithmic based decisions, in particular how the algorithm reached its output.	I fully agree
30. Individuals should always have the right that any decision taken by an AI system in the framework of judicial proceedings are reviewed by a "human" judge.	I fully agree
31. Individuals should have a right to demand the review of an algorithmic based decision by a human being.	I fully agree
32. There should always be a person responsible for reviewing algorithmic based decisions in the public sector and private companies.	I fully agree
33. Public institutions should not use AI systems to promote or discredit a particular way of life or opinion (e.g. "social scoring").	I fully agree
34. States should be obliged to design, develop and apply sustainable AI systems that	I fully agree

respect applicable environmental protection standards.	
35. The code behind AI systems used in the public and private sectors should always be accessible to the competent public authorities for the purposes of external audit.	I fully agree
36. There should be higher transparency standards for public entities using AI than for private entities.	I fully agree
37. There should be higher standards for access to an effective remedy for individuals in relation to decisions informed and made by an AI system in the field of justice than in the field of consumer protection.	I fully agree
38. Member States should establish public oversight mechanisms for AI systems that may breach legally binding norms in the sphere of human rights, democracy and the rule of law.	I fully agree
39. Errors and flaws discovered in AI systems which have led or could lead to the violation of human rights, democracy and the rule of law must be reported to the competent authorities.	I fully agree
40. The use of facial recognition in public spaces should be prohibited.	I rather disagree
41. The information obtained through the use of facial recognition systems should always be reviewed by a human being before being used for purposes that have an impact on individual freedom, such as in relation to a person boarding an airplane, upon police arrest or in the framework of judicial proceedings.	Indifferent/no opinion
42. The use of AI systems in democratic processes (e.g. elections) should be strictly regulated.	I fully agree
43. Should a future legal framework at Council of Europe level include a specific liability regime in relation to AI applications?	Yes
44. If yes, what aspects should be covered?	

45. In your opinion, how useful would the following compliance mechanisms be in preventing and mitigating the risks to human rights, democracy and the rule of law arising from the design, development and application of AI? - **Human rights, democracy and rule of law impact assessments** - **Certification and quality labelling** - **Audits and intersectional audits** - **Regulatory sandboxes** - **Continuous automated monitoring**	Highly useful Highly useful Highly useful Highly useful Highly useful
46. Please indicate what combination of mechanisms should be preferred to efficiently protect human rights, democracy and the rule of law **46bis. Other**	Audits and intersectional audits;• Certification and quality labelling;• Human rights, democracy and rule of law impact assessments ;
47. Please select which mechanism(s) should be part of either a binding instrument or a non-binding instrument to best protect human rights, democracy and the rule of law. - **Human rights, democracy and rule of law impact assessments** - **Certification and quality labelling** - **Audits and intersectional audits** - **Regulatory sandboxes** - **Continuous automated monitoring**	Binding instrument Binding instrument Binding instrument Non-binding instrument Binding instrument
47.bis. Other	
48. In your opinion, how useful would the following follow-up activities be if implemented by the Council of Europe? - **Monitoring of AI legislation and policies in member States** - **Capacity building on Council of Europe instruments, including assistance to facilitate ratification and implementation of relevant Council of Europe instruments** - **AI Observatory for sharing good practices and**	Highly useful Highly useful Highly useful Highly useful

- exchanging information on legal, policy and technological developments related to AI systems - **Establishing a centre of expertise on AI and human rights**	
49. What other mechanisms, if any, should be considered?	
50. Are there any other issues with respect to the design, development and application of AI systems in the context of human rights, democracy and the rule of law that you wish to bring to the attention of the CAHAI?	
Date of submission	22/04/2021 16:40:09

Assembly of Pro-Democratic NGOs of Belarus

State (where your institution is based)	**Belarus and Lithuania**
Institution: Name of the institution/body/company	Assembly of Pro-Democratic NGOs of Belarus
Personal capacity: Your socio-professional category	Intermediate occupations
Your stakeholder group	Civil society
2. In view of the elaboration of a legal framework on the design, development and application of AI, based on the standards of the Council of Europe on human rights, democracy and the rule of law, what kind of definition of artificial intelligence (AI) should be considered by the CAHAI	A technologically-neutral and simplified definition, such as "a set of sciences, theories and tech-niques whose purpose is to reproduce by a machine the cognitive abilities of a human being" (See the CAHAI feasibility study, §5)
2bis. If "other" please explain below	
3. What are the reasons for your preference?	The definition should be simple, comprehensive, and not related to the current level of technology development. It is desirable that it can thus embrace different levels of technology, including more advanced ones that may arise or be developed in the future.
4. Please select the areas in which AI systems offer the most promising opportunities for the protection of human rights, democracy and the rule of law	Banking, finance and insurance;Law enforcement;Customs and border control;

4bis. If other, which areas and why?	In particular, AI can be used in areas related to the processing of big data at the level of international transactions. For exemple, at the intersection of banking and the CTF and AML mesures.
5. Please indicate which of the following AI system applications in your view have the greatest potential to enhance/protect human rights, democracy and the rule of law?	• Automated fraud detection (banking, insurance);• Deep fakes and cheap fakes;• AI applications to promote gender equality (e.g. analytical tools);• AI applications in the field of banking and insurance;Facial recognition supporting law enforcement ;
6. Please briefly explain how such applications would benefit human rights, democracy and the rule of law.	The well-regulated use of algorithms and AI can help prevent crime in different areas, thereby increasing the level of security. However, in general, the regulation of AI as a tool should be more about preventing abuse by state and non-state actors.
7. What other applications might contribute significantly to strengthening human rights, democracy and the rule of law?	big data applications for AML/CTF
8. Please select the areas in which the deployment of AI systems poses the highest risk of violating human rights, democracy and the rule of law **8bis. Other**	• Customs and border control;• Law enforcement;• Banking, finance and insurance;•
9. Please briefly explain how such applications might violate human rights, democracy and the rule of law.	First of all it is about the use of AI in areas that are traditionally considered anonymous - as a threat to maintain this anonymity (use of the Internet, anonymous donations to CSOs). Secondly, we are talking about errors of interpretation, when legitimate actions can be misinterpreted by the AI as related to illicit intentions and crime (including in the field of AML/CTF).
10. Please indicate the types of AI systems that represent the greatest risk to human rights, democracy and the rule of law	Facial recognition supporting law enforcement ;• Emotional analysis in the workplace to measure employees' level of engagement;• Deep fakes and cheap fakes;• AI applications in the field of banking and insurance;
11. Please briefly explain how such applications might violate human rights, democracy and the rule of law.	First of all, threats to anonymity in areas where anonymity is considered to be generally accepted.
12. What other applications might represent a significant risk to human rights, democracy and the rule of law?	Programs and applications that process personal data and big data, especially when the cost of error or misinterpretation increases. For example, legitimate activities of humanitarian initiatives in areas of armed conflict can be interpreted as CSOs being linked to terrorist financing.
13. In your opinion, should the development, deployment and use of AI systems that have been proven to violate human rights or undermine democracy or the rule of law be **13bis. Other**	Not banned
14. In your opinion, should the development, deployment and use of AI systems that pose high risks with high probability to human rights, democracy and the rule of law be:	Regulated (binding law)
15. In your opinion, should the development, deployment and use of AI systems that pose low risks with high probability to human	Self-regulated (ethics guidelines, voluntary certification)

rights, democracy and the rule of law be:	
16. In your opinion, should the development, deployment and use of AI systems that pose high risks with low probability to human rights, democracy and the rule of law be:	Regulated (binding law)
17. What are the most important legal principles, rights and interests that need to be addressed and therefore justify regulating the development, deployment and use of AI systems?	Respect for human dignity;Political pluralism;Freedom of expression, assembly and association;Privacy and data protection;• Legal certainty;
18. In your opinion, in what sectors/areas is a binding legal instrument needed to protect human rights, democracy and the rule of law? **18bis. Other**	Banking, finance and insurance;Justice;Law enforcement;
19. Self-regulation by companies is more efficient than government regulation to prevent and mitigate the risk of violations of human rights, democracy and the rule of law.	I rather disagree
20. Self-regulation by companies is sufficient to prevent and mitigate the risk of violations of human rights, democracy and the rule of law	Indifferent/no opinion
21. Which of the following instruments of self-regulation do you consider to be the most efficient? **21bis. Other**	Voluntary certification
22. Existing international, regional and/or national binding and/or non-binding legal instruments are sufficient to regulate AI systems in order to ensure the protection of human rights, democracy and the rule of law.	Indifferent/no opinion
23. Please provide examples of existing international, regional and/or national (binding and/or non-binding) instruments that in your view are effective in guiding and regulating the design, development and use of AI systems to ensure compatibility with the standards for human rights, democracy and the rule of law	no data
24. If you responded disagree/completely disagree to question 22, please indicate why	

existing international, regional and/or national (binding and/or non-binding) legal instruments are not sufficient to regulate AI systems (select all you agree with):	
25. Please indicate other specific legal gaps that in your view need to be addressed at the level of the Council of Europe	Create a platform or forum providing the opportunity to effectively engage external stakeholders, especially civil society organisations and marginalised groups. Importantly, provide them with the tools, training, resources, and information necessary to meaningfully participate in AI governance and AI accountability.
26. Individuals should always be informed when they interact with an AI system in any circumstances.	I fully agree
27. Individuals should always be informed when a decision which affects them personally is made by an AI system.	I fully agree
28. Individuals should always be informed when an AI system is used in a decision-making process which affects them personally.	I fully agree
29. Individuals should have a right to a meaningful explanation of algorithmic based decisions, in particular how the algorithm reached its output.	I fully agree
30. Individuals should always have the right that any decision taken by an AI system in the framework of judicial proceedings are reviewed by a "human" judge.	I fully agree
31. Individuals should have a right to demand the review of an algorithmic based decision by a human being.	I fully agree
32. There should always be a person responsible for reviewing algorithmic based decisions in the public sector and private companies.	I fully agree
33. Public institutions should not use AI systems to promote or discredit a particular way of life or opinion (e.g. "social scoring").	I fully agree
34. States should be obliged to design, develop and apply sustainable AI systems that respect applicable environmental protection standards.	I fully agree
35. The code behind AI systems used in the public and private sectors should always be accessible to the competent public authorities for the purposes of external audit.	I fully agree

36. There should be higher transparency standards for public entities using AI than for private entities.	I fully agree
37. There should be higher standards for access to an effective remedy for individuals in relation to decisions informed and made by an AI system in the field of justice than in the field of consumer protection.	I fully agree
38. Member States should establish public oversight mechanisms for AI systems that may breach legally binding norms in the sphere of human rights, democracy and the rule of law.	I fully agree
39. Errors and flaws discovered in AI systems which have led or could lead to the violation of human rights, democracy and the rule of law must be reported to the competent authorities.	I fully agree
40. The use of facial recognition in public spaces should be prohibited.	I fully agree
41. The information obtained through the use of facial recognition systems should always be reviewed by a human being before being used for purposes that have an impact on individual freedom, such as in relation to a person boarding an airplane, upon police arrest or in the framework of judicial proceedings.	I fully agree
42. The use of AI systems in democratic processes (e.g. elections) should be strictly regulated.	I fully agree
43. Should a future legal framework at Council of Europe level include a specific liability regime in relation to AI applications?	Yes
44. If yes, what aspects should be covered?	a) To the extent possible, restore the victim's situation to the situation preceding any intervention of/by an AI system. b)Provide monetary compensation to victims harmed by AI systems. c)Establish sanctions of AI designers/developers/deployers for the harm caused by using the AI system. Sanctions should include the prohibition of further deploying the AI system unless significant changes are made to ensure that the design and/or use of the AI system is rights-respecting. d)Establish sanctions of AI designers/developers/deployers for the failure to conduct thorough human rights due diligence before and during the use of an AI system, or for failure to effectively monitor the use of the AI system.

	e)Sanctions of AI designers/developers/deployers for deploying an AI system that has been banned.
45. In your opinion, how useful would the following compliance mechanisms be in preventing and mitigating the risks to human rights, democracy and the rule of law arising from the design, development and application of AI? - **Human rights, democracy and rule of law impact assessments** - **Certification and quality labelling** - **Audits and intersectional audits** - **Regulatory sandboxes** - **Continuous automated monitoring**	Highly useful Rather useful Highly useful Highly useful Highly useful
46. Please indicate what combination of mechanisms should be preferred to efficiently protect human rights, democracy and the rule of law **46bis. Other**	• Human rights, democracy and rule of law impact assessments ;• Audits and intersectional audits;Continuous automated monitoring;
47. Please select which mechanism(s) should be part of either a binding instrument or a non-binding instrument to best protect human rights, democracy and the rule of law. - **Human rights, democracy and rule of law impact assessments** - **Certification and quality labelling** - **Audits and intersectional audits** - **Regulatory sandboxes** - **Continuous automated monitoring**	Binding instrument No opinion Binding instrument Binding instrument Binding instrument
47.bis. Other	no
48. In your opinion, how useful would the following follow-up activities be if implemented by the Council of Europe? - **Monitoring of AI legislation and policies in member States** - **Capacity building on Council of Europe instruments, including assistance to facilitate ratification and implementation of relevant Council of Europe instruments**	Highly useful Highly useful Rather useful Highly useful

- **AI Observatory for sharing good practices and exchanging information on legal, policy and technological developments related to AI systems** - **Establishing a centre of expertise on AI and human rights**	
49. What other mechanisms, if any, should be considered?	
50. Are there any other issues with respect to the design, development and application of AI systems in the context of human rights, democracy and the rule of law that you wish to bring to the attention of the CAHAI?	Create a platform or forum providing the opportunity to effectively engage external stakeholders, especially civil society organisations and marginalised groups. Importantly, provide them with the tools, training, resources, and information necessary to meaningfully participate in AI governance and AI accountability.
Date of submission	29/04/2021 16:29:39

Association pour le Développement de PeerStorage

State (where your institution is based)	France
Institution: Name of the institution/body/company	Association pour le Développement de PeerStorage
Personal capacity: Your socio-professional category	Higher occupations
Your stakeholder group	Civil society
2. In view of the elaboration of a legal framework on the design, development and application of AI, based on the standards of the Council of Europe on human rights, democracy and the rule of law, what kind of definition of artificial intelligence (AI) should be considered by the CAHAI	A technologically-neutral and simplified definition, such as "a set of sciences, theories and tech-niques whose purpose is to reproduce by a machine the cognitive abilities of a human being" (See the CAHAI feasibility study, §5)
2bis. If "other" please explain below	
3. What are the reasons for your preference?	Because it's the broader definition, and I home this framework to apply to a broader set of technologies.
4. Please select the areas in which AI systems offer the most promising opportunities for the protection of human rights, democracy and the rule of law	• Education;• Healthcare;• Environment and climate;

4bis. If other, which areas and why?	AI is serving its owner. I'd like to see more AI at the service of users, not serving corporations or states. Like personal assistants, developed in Open Source, and running entirely on user's devices, with the user's data stored locally, and which the user could entirely trust. I want those assistants helping their owner in everyday tasks without interference of third parties.
5. Please indicate which of the following AI system applications in your view have the greatest potential to enhance/protect human rights, democracy and the rule of law?	• Smart personal assistants (connected devices);• Medical applications for faster and more accurate diagnoses;• AI applications providing support to the healthcare system (triage, treatment delivery);
6. Please briefly explain how such applications would benefit human rights, democracy and the rule of law.	As explained at question 10, I'm not very comfortable with the set of choices in question 11. I checked the least harmful applications of your list, but the one I'd most like to see (question 10) is not here.
7. What other applications might contribute significantly to strengthening human rights, democracy and the rule of law?	See question 10. AI serves its owner. I want the user to be the owner of the AI. I want true personal assistants, not services provided by third parties. AI needs data, so AI run by 3rd parties means personal data in the hands of those parties, which means a reduction of self sovereignty, and a threat to human rights.
8. Please select the areas in which the deployment of AI systems poses the highest risk of violating human rights, democracy and the rule of law **8bis. Other**	• Law enforcement;• Customs and border control;• National security and counter-terrorism;
9. Please briefly explain how such applications might violate human rights, democracy and the rule of law.	I'm sad you only allow 3 answers to question 14. Most areas listed above pose unacceptable risks to human rights.
10. Please indicate the types of AI systems that represent the greatest risk to human rights, democracy and the rule of law	Facial recognition supporting law enforcement ;• Emotional analysis in the workplace to measure employees' level of engagement;Scoring / scoring of individuals by public entities;• Recruiting software/ AI applications used for assessing work performance ;• AI applications determining the allocation of social services;
11. Please briefly explain how such applications might violate human rights, democracy and the rule of law.	Ban technologies which can favor mass surveillance and profiling, which violate human's right to privacy.
12. What other applications might represent a significant risk to human rights, democracy and the rule of law?	Most of the applications listed above can be misused and represent a significant risk to human rights. It's a pity we are limited to a very limited number of answers.
13. In your opinion, should the development, deployment and use of AI systems that have been proven to violate human rights or undermine democracy or the rule of law be **13bis. Other**	Banned
14. In your opinion, should the development, deployment and use of AI systems that pose high risks with high probability to human rights, democracy and the rule of law be:	Banned

15. In your opinion, should the development, deployment and use of AI systems that pose low risks with high probability to human rights, democracy and the rule of law be:	Regulated (binding law)
16. In your opinion, should the development, deployment and use of AI systems that pose high risks with low probability to human rights, democracy and the rule of law be:	Banned
17. What are the most important legal principles, rights and interests that need to be addressed and therefore justify regulating the development, deployment and use of AI systems?	Respect for human dignity;Political pluralism;Freedom of expression, assembly and association;Privacy and data protection;• Possibility to challenge a decision made by an AI system and access to an effective remedy;
18. In your opinion, in what sectors/areas is a binding legal instrument needed to protect human rights, democracy and the rule of law? **18bis. Other**	Law enforcement;Customs and border control;Justice;
19. Self-regulation by companies is more efficient than government regulation to prevent and mitigate the risk of violations of human rights, democracy and the rule of law.	I completely disagree
20. Self-regulation by companies is sufficient to prevent and mitigate the risk of violations of human rights, democracy and the rule of law	I completely disagree
21. Which of the following instruments of self-regulation do you consider to be the most efficient? **21bis. Other**	Transparency
22. Existing international, regional and/or national binding and/or non-binding legal instruments are sufficient to regulate AI systems in order to ensure the protection of human rights, democracy and the rule of law.	I completely disagree
23. Please provide examples of existing international, regional and/or national (binding and/or non-binding) instruments that in your view are effective in guiding and regulating the design, development and use of AI systems to ensure compatibility with the standards for human rights, democracy and the rule of law	AI depends on data. Data protection rules in the EU are a step in the right direction. I France, algorithms used by public authorities have to be made available to the public.

24. If you responded disagree/completely disagree to question 22, please indicate why existing international, regional and/or national (binding and/or non-binding) legal instruments are not sufficient to regulate AI systems (select all you agree with):	• They provide a basis but fail to provide an effective substantive protection of human rights, democracy and the rule of law against the risks posed by AI systems;They do not provide for specific rights (e.g. transparency requirements, redress mechanisms) for persons affected by AI;There are too many and they are difficult to interpret and apply in the context of AI;
25. Please indicate other specific legal gaps that in your view need to be addressed at the level of the Council of Europe	
26. Individuals should always be informed when they interact with an AI system in any circumstances.	I rather agree
27. Individuals should always be informed when a decision which affects them personally is made by an AI system.	I fully agree
28. Individuals should always be informed when an AI system is used in a decision-making process which affects them personally.	I fully agree
29. Individuals should have a right to a meaningful explanation of algorithmic based decisions, in particular how the algorithm reached its output.	I fully agree
30. Individuals should always have the right that any decision taken by an AI system in the framework of judicial proceedings are reviewed by a "human" judge.	I fully agree
31. Individuals should have a right to demand the review of an algorithmic based decision by a human being.	I fully agree
32. There should always be a person responsible for reviewing algorithmic based decisions in the public sector and private companies.	I rather agree
33. Public institutions should not use AI systems to promote or discredit a particular way of life or opinion (e.g. "social scoring").	I fully agree
34. States should be obliged to design, develop and apply sustainable AI systems that respect applicable environmental protection standards.	Indifferent/no opinion
35. The code behind AI systems used in the public and private sectors should always be accessible to the competent	I fully agree

public authorities for the purposes of external audit.	
36. There should be higher transparency standards for public entities using AI than for private entities.	I fully agree
37. There should be higher standards for access to an effective remedy for individuals in relation to decisions informed and made by an AI system in the field of justice than in the field of consumer protection.	I fully agree
38. Member States should establish public oversight mechanisms for AI systems that may breach legally binding norms in the sphere of human rights, democracy and the rule of law.	I fully agree
39. Errors and flaws discovered in AI systems which have led or could lead to the violation of human rights, democracy and the rule of law must be reported to the competent authorities.	I fully agree
40. The use of facial recognition in public spaces should be prohibited.	I fully agree
41. The information obtained through the use of facial recognition systems should always be reviewed by a human being before being used for purposes that have an impact on individual freedom, such as in relation to a person boarding an airplane, upon police arrest or in the framework of judicial proceedings.	I fully agree
42. The use of AI systems in democratic processes (e.g. elections) should be strictly regulated.	I fully agree
43. Should a future legal framework at Council of Europe level include a specific liability regime in relation to AI applications?	Yes
44. If yes, what aspects should be covered?	The owner of the AI is still liable for the decision its AI makes.

45. In your opinion, how useful would the following compliance mechanisms be in preventing and mitigating the risks to human rights, democracy and the rule of law arising from the design, development and application of AI? - **Human rights, democracy and rule of law impact assessments** - **Certification and quality labelling** - **Audits and intersectional audits** - **Regulatory sandboxes** - **Continuous automated monitoring**	Highly useful Rather useful Indifferent/no opinion Indifferent/no opinion Highly useful
46. Please indicate what combination of mechanisms should be preferred to efficiently protect human rights, democracy and the rule of law **46bis. Other**	• Human rights, democracy and rule of law impact assessments ;Continuous automated monitoring;• Certification and quality labelling;
47. Please select which mechanism(s) should be part of either a binding instrument or a non-binding instrument to best protect human rights, democracy and the rule of law. - **Human rights, democracy and rule of law impact assessments** - **Certification and quality labelling** - **Audits and intersectional audits** - **Regulatory sandboxes** - **Continuous automated monitoring**	Binding instrument Binding instrument Non-binding instrument No opinion Binding instrument
47.bis. Other	
48. In your opinion, how useful would the following follow-up activities be if implemented by the Council of Europe? - **Monitoring of AI legislation and policies in member States** - **Capacity building on Council of Europe instruments, including assistance to facilitate ratification and implementation of relevant Council of Europe instruments** - **AI Observatory for sharing good practices and**	Highly useful Rather useful Rather useful Highly useful

exchanging information on legal, policy and technological developments related to AI systems - **Establishing a centre of expertise on AI and human rights**	
49. What other mechanisms, if any, should be considered?	
50. Are there any other issues with respect to the design, development and application of AI systems in the context of human rights, democracy and the rule of law that you wish to bring to the attention of the CAHAI?	
Date of submission	02/05/2021 18:42:41

Associazione Confconsumatori

State (where your institution is based)	Italy
Institution: Name of the institution/body/company	Associazione Confconsumatori
Personal capacity: Your socio-professional category	Higher occupations
Your stakeholder group	Civil society
2. In view of the elaboration of a legal framework on the design, development and application of AI, based on the standards of the Council of Europe on human rights, democracy and the rule of law, what kind of definition of artificial intelligence (AI) should be considered by the CAHAI	A technologically-neutral and simplified definition, such as "a set of sciences, theories and tech-niques whose purpose is to reproduce by a machine the cognitive abilities of a human being" (See the CAHAI feasibility study, §5)
2bis. If "other" please explain below	
3. What are the reasons for your preference?	The CAHAIR should consider a technologically-neutral and simplified definition of artificial intelligence (AI), such as the one set forth above, that it neither imposes the use of a specific type of technology nor discriminates in favor of its adoption, applicable in a non-discriminatory manner to a wide range of cases, in order to prevent distortions of competition. Moreover, a definition of artificial intelligence which meets the above requirements of technological neutrality and simplicity would allow a flexible and timely legal

	reaction to further dynamic technological developments inherent in the field at stake, without requiring further and repeated regulatory interventions.
4. Please select the areas in which AI systems offer the most promising opportunities for the protection of human rights, democracy and the rule of law	Justice;• Healthcare;• Other;
4bis. If other, which areas and why?	The so-called field of internet of things is characterized by the application of AI to objects, among which certain exert a positive influence on the protection of human rights, and in particular, of weaker people, such as people with disabilities, which for instance certainly benefit from smart cars as well as home automation. Moreover, certain AI applications (e. g. fitness bands to monitor calorie expenditure and heart beats as well as the level of oxygen in the blood) may contribute to protect individuals' right to health in daily life activities.
5. Please indicate which of the following AI system applications in your view have the greatest potential to enhance/protect human rights, democracy and the rule of law?	• Medical applications for faster and more accurate diagnoses;• Deep fakes and cheap fakes;• AI applications determining the allocation of educational services;
6. Please briefly explain how such applications would benefit human rights, democracy and the rule of law.	Medical applications of AI, ensuring faster and more accurate diagnoses, would entail a greater and stronger protection of the fundamental right to health to the benefit of the entire EU population. Indeed, the application of AI in the healthcare sector, especially in a long-term period, may foster the development of new medical treatments or the simplification and rationalization of already available treatments, making them faster and accessible to a wider range of EU citizens at lower cost. The advantages resulting from the application of AI to deep and cheap fakes are evident: AI may be used to detect and challenge such extremely dangerous and abusive practices resulting in the victim's identity theft, thus encouraging and ensuring privacy protection. The recourse to AI in the field of allocation of educational services may enhance a more democratic and merit-based access to such services to the benefit of less well-off people and, more broadly, of the UE society. Indeed, an appropriate use of AI in this area may help to tackle the corruption and bribery phenomena that often affect the processes of access to educational services (such as competitions, state exams, etc.) as well as making them more rapid and objective.
7. What other applications might contribute significantly to strengthening human rights, democracy and the rule of law?	The application of AI to public administration services, including - but not limited to- social contributions systems and justice administration, might significantly contribute to rationalize such services, make them more efficient and rapid, as well as more transparent.
8. Please select the areas in which the deployment of AI systems poses the highest risk of violating human rights, democracy and the rule of law **8bis. Other**	• Banking, finance and insurance;• National security and counter-terrorism;• Social networks/media, internet intermediaries ;
9. Please briefly explain how such applications might violate human rights, democracy and the rule of law.	The deployment of AI systems in the selected areas poses particularly high risks of limiting and infringing personal freedom by exercising a control over sensible aspects of individuals' personal lives. Striking a balance between collection of individuals' information and interference in their lives for the purposes of

	preventing certain dangerous conducts that may cause serious prejudices to a significant number of people (such as terroristic attacks), on the one side, and protection of privacy and personal freedom, on the other side, is a particularly complex task. The use of AI systems in the selected areas, oriented in principle to achieve citizens' protection, may, therefore, under certain circumstances, lead to a sacrifice of personal fundamental rights, such as, among others, freedom of expression, freedom of movement and privacy protection, which are the cornerstones of any democratic system.
10. Please indicate the types of AI systems that represent the greatest risk to human rights, democracy and the rule of law	☐Emotional analysis in the workplace to measure employees' level of engagement;Scoring / scoring of individuals by public entities;• AI applications to prevent the commission of a criminal offence;• AI applications used for analysing the performance of pupils/students in educational institutions such as schools and universities;
11. Please briefly explain how such applications might violate human rights, democracy and the rule of law.	The emotional analysis of employees, the scoring of individuals by public entities, the monitoring of students' performance and the use of artificial intelligence to prevent the commission of a crime all carry the risk of generating incorrect or discriminatory outcomes. Indeed, the scoring of individuals aimed at determining access to public and social services significantly affects the right to social security and social assistance, the employees' emotional analysis limits workers' autonomy and breaches their fundamental rights and monitoring students' performance has a negative effect on their well-being and infringes their rights as well as their privacy. Moreover, as far AI applications to prevent the commission of a criminal offense are concerned, in particular in the event that they do not only predict in which geographic area a crime might potentially occur, but also which individuals might be capable of committing said crime, they conflict with the presumption of innocence treating individuals as suspects based on their membership to a larger group. Lastly, a serious risk exists that any such applications may be used to exercise an authoritarian control over citizens' personal lives, limit their freedom and invade their privacy.
12. What other applications might represent a significant risk to human rights, democracy and the rule of law?	The progressive automation and robotization involves a rise in productivity that does not correspond to an increase in jobs. Therefore, there is a risk that the increasing recourse to AI systems in the performance of certain activities will result in greater unemployment, to the detriment in particular of less specialized workers who can be more easily replaced by machines. This would have a discriminatory effect on the lower classes who would be deprived of the fundamental right to work. In addition, there is a risk that the labor market and access to it will be conditioned by the profiling obtained by means of AI applications, which could produce discriminatory effects. Similarly, consumer profiling carried out through AI and any subsequent promotional campaigns carried out by manufactures towards consumers themselves based on information collected through such profiling could lead to privacy breaches as well as harm consumers' image and reputation.
13. In your opinion, should the development, deployment and use of AI systems that have been proven to violate human rights or undermine democracy or the rule of law be **13bis. Other**	Banned

14. In your opinion, should the development, deployment and use of AI systems that pose high risks with high probability to human rights, democracy and the rule of law be:	Banned
15. In your opinion, should the development, deployment and use of AI systems that pose low risks with high probability to human rights, democracy and the rule of law be:	Regulated (binding law)
16. In your opinion, should the development, deployment and use of AI systems that pose high risks with low probability to human rights, democracy and the rule of law be:	Subject to moratorium
17. What are the most important legal principles, rights and interests that need to be addressed and therefore justify regulating the development, deployment and use of AI systems?	Respect for human dignity;Freedom of expression, assembly and association;• Non-discrimination;Privacy and data protection;• Possibility to challenge a decision made by an AI system and access to an effective remedy;
18. In your opinion, in what sectors/areas is a binding legal instrument needed to protect human rights, democracy and the rule of law? **18bis. Other**	Banking, finance and insurance;• Healthcare;• Social networks/media, internet intermediaries ;
19. Self-regulation by companies is more efficient than government regulation to prevent and mitigate the risk of violations of human rights, democracy and the rule of law.	I rather disagree
20. Self-regulation by companies is sufficient to prevent and mitigate the risk of violations of human rights, democracy and the rule of law	I rather disagree
21. Which of the following instruments of self-regulation do you consider to be the most efficient? **21bis. Other**	Ethics guidelines
22. Existing international, regional and/or national binding and/or non-binding legal instruments are sufficient to regulate AI systems in order to ensure the protection of human rights, democracy and the rule of law.	I rather disagree
23. Please provide examples of existing international, regional and/or national (binding and/or non-binding) instruments that in your view are effective in guiding	I am not aware of any such binding or and/or non-binding instruments.

and regulating the design, development and use of AI systems to ensure compatibility with the standards for human rights, democracy and the rule of law	
24. If you responded disagree/completely disagree to question 22, please indicate why existing international, regional and/or national (binding and/or non-binding) legal instruments are not sufficient to regulate AI systems (select all you agree with):	• They provide a basis but fail to provide an effective substantive protection of human rights, democracy and the rule of law against the risks posed by AI systems;• They lack specific principles for the design, development and application of AI systems;• They do not provide enough guidance to the designers, developers and deployers of AI systems;They do not provide for specific rights (e.g. transparency requirements, redress mechanisms) for persons affected by AI;• They create barriers to the design, development and application of AI systems;
25. Please indicate other specific legal gaps that in your view need to be addressed at the level of the Council of Europe	In my opinion future works of Council of Europe should focus on the creation and development of a legal framework under which a greater protection of human rights is granted. The EU has a fundamental rights infrastructure in place, but it still needs further development in two main directions. Indeed, further steps for EU action should provide for: (i) an improved and effective implementation of already existing EU law in the field of human rights as well as (ii) the adoption of new directives to address specific legal gaps in protection creating, among other things, an artificial hierarchy of grounds. The heterogeneity of standards of human rights' protection between EU Member States is also a matter for concern.
26. Individuals should always be informed when they interact with an AI system in any circumstances.	I rather agree
27. Individuals should always be informed when a decision which affects them personally is made by an AI system.	I fully agree
28. Individuals should always be informed when an AI system is used in a decision-making process which affects them personally.	I rather agree
29. Individuals should have a right to a meaningful explanation of algorithmic based decisions, in particular how the algorithm reached its output.	I rather agree
30. Individuals should always have the right that any decision taken by an AI system in the framework of judicial proceedings are reviewed by a "human" judge.	I rather agree
31. Individuals should have a right to demand the review of an algorithmic based decision by a human being.	I rather agree
32. There should always be a person responsible for reviewing algorithmic based decisions in the public sector and private companies.	I rather agree

33. **Public institutions should not use AI systems to promote or discredit a particular way of life or opinion (e.g. "social scoring").**	I fully agree
34. **States should be obliged to design, develop and apply sustainable AI systems that respect applicable environmental protection standards.**	I rather agree
35. **The code behind AI systems used in the public and private sectors should always be accessible to the competent public authorities for the purposes of external audit.**	I rather agree
36. **There should be higher transparency standards for public entities using AI than for private entities.**	I rather agree
37. **There should be higher standards for access to an effective remedy for individuals in relation to decisions informed and made by an AI system in the field of justice than in the field of consumer protection.**	I fully agree
38. **Member States should establish public oversight mechanisms for AI systems that may breach legally binding norms in the sphere of human rights, democracy and the rule of law.**	I fully agree
39. **Errors and flaws discovered in AI systems which have led or could lead to the violation of human rights, democracy and the rule of law must be reported to the competent authorities.**	I rather agree
40. **The use of facial recognition in public spaces should be prohibited.**	I fully agree
41. **The information obtained through the use of facial recognition systems should always be reviewed by a human being before being used for purposes that have an impact on individual freedom, such as in relation to a person boarding an airplane, upon police arrest or in the framework of judicial proceedings.**	I fully agree
42. **The use of AI systems in democratic processes (e.g. elections) should be strictly regulated.**	I fully agree

43. Should a future legal framework at Council of Europe level include a specific liability regime in relation to AI applications?	Yes
44. If yes, what aspects should be covered?	Such legal framework should set forth a liability regime in relation to AI applications covering liability for both material and non-material damages, in order to ensure a full protection of persons which are affected by an harmful and illegal use of such AI applications. Indeed, AI applications may cause to the victim not only patrimonial damages but also moral damages arising from, inter alia, a restriction of his/her freedom and/or an invasion of privacy. This particularly broad liability regime may also act as a deterrent to those who avail of such IA applications.
45. In your opinion, how useful would the following compliance mechanisms be in preventing and mitigating the risks to human rights, democracy and the rule of law arising from the design, development and application of AI? - Human rights, democracy and rule of law impact assessments - Certification and quality labelling - Audits and intersectional audits - Regulatory sandboxes - Continuous automated monitoring	Rather useful Rather useful Rather useful Rather useful Rather useful
46. Please indicate what combination of mechanisms should be preferred to efficiently protect human rights, democracy and the rule of law 46bis. Other	• Human rights, democracy and rule of law impact assessments ;• Audits and intersectional audits;Continuous automated monitoring;
47. Please select which mechanism(s) should be part of either a binding instrument or a non-binding instrument to best protect human rights, democracy and the rule of law. - Human rights, democracy and rule of law impact assessments - Certification and quality labelling - Audits and intersectional audits - Regulatory sandboxes - Continuous automated monitoring	Binding instrument Non-binding instrument Binding instrument Non-binding instrument Binding instrument
47.bis. Other	I am not aware of any other mechanism(s).

48. In your opinion, how useful would the following follow-up activities be if implemented by the Council of Europe?	Highly useful
	Rather useful
- **Monitoring of AI legislation and policies in member States**	Rather useful
- **Capacity building on Council of Europe instruments, including assistance to facilitate ratification and implementation of relevant Council of Europe instruments**	Rather useful
- **AI Observatory for sharing good practices and exchanging information on legal, policy and technological developments related to AI systems**	
- **Establishing a centre of expertise on AI and human rights**	
49. What other mechanisms, if any, should be considered?	No other mechanisms appear to be necessary
50. Are there any other issues with respect to the design, development and application of AI systems in the context of human rights, democracy and the rule of law that you wish to bring to the attention of the CAHAI?	Individuals' data are massively collected by artificial intelligence (AI) systems which avail of such data to exert a persuasive influence on their behavior. Notably, AI systems can a have a powerful influence over consumers causing them to make choices they would not have made if they had been (better) informed. Such power by digital platforms over consumers' decisions may also be the result of the possible impact of AI systems on online search results, making certain sources less accessible than other. This may lead, among other things, to a distortion in competition on the relevant market.
	The above should be taken into account by the CAHAI in carrying out the complex task to develop a legal framework, under which appropriate legal protections are granted in this respect, for example, by creating new data protection rules and specific antitrust regulations.
Date of submission	30/04/2021 10:46:27

Atos

State (where your institution is based)	France
Institution: Name of the institution/body/company	Atos
Personal capacity: Your socio-professional category	Higher occupations
Your stakeholder group	Private business sector

2. In view of the elaboration of a legal framework on the design, development and application of AI, based on the standards of the Council of Europe on human rights, democracy and the rule of law, what kind of definition of artificial intelligence (AI) should be considered by the CAHAI	No definition, with a legal instrument focused on the effect of AI systems on human rights, de-mocracy and the rule of law
2bis. If "other" please explain below	
3. What are the reasons for your preference?	AI systems are developing so rapidly that a rigid definition could be highly limiting in future. The focus on legislation should be on the outcomes of their application rather than original technical intent.
4. Please select the areas in which AI systems offer the most promising opportunities for the protection of human rights, democracy and the rule of law	• Healthcare;• Environment and climate;• Public administration;
4bis. If other, which areas and why?	
5. Please indicate which of the following AI system applications in your view have the greatest potential to enhance/protect human rights, democracy and the rule of law?	• Medical applications for faster and more accurate diagnoses;• Automated fraud detection (banking, insurance);• AI applications determining the allocation of social services;
6. Please briefly explain how such applications would benefit human rights, democracy and the rule of law.	On-line fraud is a rapidly growing problem, it can only effectively be tackled by intelligent and automated systems that are able to respond in real-time to emerging threats. The cost and complexity of social service is rising to unsustainable levels in many countries - the complex administrative processes unfortunately result in a failure to deliver the required services to those that are most in need. Intelligent systems capable of identifying needs and risks and then prioritising and recommending the most appropriate courses of action could be the different between social care failure and sustainable support capability. As population longevity continues to rise, more cost effective personalised medication and healthcare is required - AI driven solutions must be at the heart of this.
7. What other applications might contribute significantly to strengthening human rights, democracy and the rule of law?	Identification of tax and benefits fraud - ensuring that govt support can be given to those who are in most need.
8. Please select the areas in which the deployment of AI systems poses the highest risk of violating human rights, democracy and the rule of law 8bis. Other	• National security and counter-terrorism;• Employment;• Law enforcement;
9. Please briefly explain how such applications might violate human rights, democracy and the rule of law.	Breaching privacy rights, making biased assessments of situations.

10. Please indicate the types of AI systems that represent the greatest risk to human rights, democracy and the rule of law	☐Emotional analysis in the workplace to measure employees' level of engagement;• Deep fakes and cheap fakes;• AI applications providing support to the healthcare system (triage, treatment delivery);Scoring / scoring of individuals by public entities;
11. Please briefly explain how such applications might violate human rights, democracy and the rule of law.	Ai systems may not be able to take all considerations and contexts into account. An individual's potential for a job / loan / treatment may be decided inappropriately, with little or no come-back on the system. Deep fakes might be used to create civil unrest.
12. What other applications might represent a significant risk to human rights, democracy and the rule of law?	Autonomous vehicles.
13. In your opinion, should the development, deployment and use of AI systems that have been proven to violate human rights or undermine democracy or the rule of law be 13bis. Other	Heavily regulated
14. In your opinion, should the development, deployment and use of AI systems that pose high risks with high probability to human rights, democracy and the rule of law be:	Subject to moratorium
15. In your opinion, should the development, deployment and use of AI systems that pose low risks with high probability to human rights, democracy and the rule of law be:	Self-regulated (ethics guidelines, voluntary certification)
16. In your opinion, should the development, deployment and use of AI systems that pose high risks with low probability to human rights, democracy and the rule of law be:	Regulated (binding law)
17. What are the most important legal principles, rights and interests that need to be addressed and therefore justify regulating the development, deployment and use of AI systems?	Privacy and data protection;• Non-discrimination;• Explainability;Respect for human dignity;• Possibility to challenge a decision made by an AI system and access to an effective remedy;
18. In your opinion, in what sectors/areas is a binding legal instrument needed to protect human rights, democracy and the rule of law? 18bis. Other	Banking, finance and insurance;Justice;• Healthcare;
19. Self-regulation by companies is more efficient than government regulation to prevent and mitigate the risk of violations of human rights, democracy and the rule of law.	I rather disagree
20. Self-regulation by companies is sufficient to prevent and mitigate the risk of violations	I rather disagree

of human rights, democracy and the rule of law	
21. Which of the following instruments of self-regulation do you consider to be the most efficient? **21bis. Other**	Voluntary certification
22. Existing international, regional and/or national binding and/or non-binding legal instruments are sufficient to regulate AI systems in order to ensure the protection of human rights, democracy and the rule of law.	I rather disagree
23. Please provide examples of existing international, regional and/or national (binding and/or non-binding) instruments that in your view are effective in guiding and regulating the design, development and use of AI systems to ensure compatibility with the standards for human rights, democracy and the rule of law	https://www.canada.ca/en/government/system/digital-government/digital-government-innovations/responsible-use-ai.html
24. If you responded disagree/completely disagree to question 22, please indicate why existing international, regional and/or national (binding and/or non-binding) legal instruments are not sufficient to regulate AI systems (select all you agree with):	• They lack specific principles for the design, development and application of AI systems;
25. Please indicate other specific legal gaps that in your view need to be addressed at the level of the Council of Europe	Legal requirements for certification and explainability.
26. Individuals should always be informed when they interact with an AI system in any circumstances.	I rather disagree
27. Individuals should always be informed when a decision which affects them personally is made by an AI system.	I rather agree
28. Individuals should always be informed when an AI system is used in a decision-making process which affects them personally.	I rather agree
29. Individuals should have a right to a meaningful explanation of algorithmic based decisions, in particular how the algorithm reached its output.	I rather disagree

30. Individuals should always have the right that any decision taken by an AI system in the framework of judicial proceedings are reviewed by a "human" judge.	I fully agree
31. Individuals should have a right to demand the review of an algorithmic based decision by a human being.	Indifferent/no opinion
32. There should always be a person responsible for reviewing algorithmic based decisions in the public sector and private companies.	Indifferent/no opinion
33. Public institutions should not use AI systems to promote or discredit a particular way of life or opinion (e.g. "social scoring").	I fully agree
34. States should be obliged to design, develop and apply sustainable AI systems that respect applicable environmental protection standards.	I fully agree
35. The code behind AI systems used in the public and private sectors should always be accessible to the competent public authorities for the purposes of external audit.	I rather disagree
36. There should be higher transparency standards for public entities using AI than for private entities.	I rather disagree
37. There should be higher standards for access to an effective remedy for individuals in relation to decisions informed and made by an AI system in the field of justice than in the field of consumer protection.	I fully agree
38. Member States should establish public oversight mechanisms for AI systems that may breach legally binding norms in the sphere of human rights, democracy and the rule of law.	I fully agree
39. Errors and flaws discovered in AI systems which have led or could lead to the violation of human rights, democracy and the rule of law must be reported to the competent authorities.	I fully agree
40. The use of facial recognition in public spaces should be prohibited.	I rather disagree
41. The information obtained through the use of facial recognition systems should	I rather agree

always be reviewed by a human being before being used for purposes that have an impact on individual freedom, such as in relation to a person boarding an airplane, upon police arrest or in the framework of judicial proceedings.	
42. The use of AI systems in democratic processes (e.g. elections) should be strictly regulated.	I fully agree
43. Should a future legal framework at Council of Europe level include a specific liability regime in relation to AI applications?	Yes
44. If yes, what aspects should be covered?	Private and Public organisations should carry a liability for creating, deploying and using trustworthy and ethical AI solutions. There should be similar regulations and penalties as those for data privacy and security.
45. In your opinion, how useful would the following compliance mechanisms be in preventing and mitigating the risks to human rights, democracy and the rule of law arising from the design, development and application of AI? - **Human rights, democracy and rule of law impact assessments** - **Certification and quality labelling** - **Audits and intersectional audits** - **Regulatory sandboxes** - **Continuous automated monitoring**	Rather useful Highly useful Rather useful Highly useful Highly useful
46. Please indicate what combination of mechanisms should be preferred to efficiently protect human rights, democracy and the rule of law **46bis. Other**	• Certification and quality labelling;• Audits and intersectional audits;• Human rights, democracy and rule of law impact assessments ;
47. Please select which mechanism(s) should be part of either a binding instrument or a non-binding instrument to best protect human rights, democracy and the rule of law. - **Human rights, democracy and rule of law impact assessments** - **Certification and quality labelling** - **Audits and intersectional audits**	Binding instrument Non-binding instrument Non-binding instrument Non-binding instrument Non-binding instrument

- **Regulatory sandboxes** - **Continuous automated monitoring**	157
47.bis. Other	
48. In your opinion, how useful would the following follow-up activities be if implemented by the Council of Europe? - **Monitoring of AI legislation and policies in member States** - **Capacity building on Council of Europe instruments, including assistance to facilitate ratification and implementation of relevant Council of Europe instruments** - **AI Observatory for sharing good practices and exchanging information on legal, policy and technological developments related to AI systems** - **Establishing a centre of expertise on AI and human rights**	Highly useful Rather useful Rather useful Indifferent/no opinion
49. What other mechanisms, if any, should be considered?	
50. Are there any other issues with respect to the design, development and application of AI systems in the context of human rights, democracy and the rule of law that you wish to bring to the attention of the CAHAI?	
Date of submission	20/04/2021 11:44:07

Azerbaijan E-GOV Development Center[1]

State (where your institution is based):	**Azerbaijan**
Institution: Name of the institution/body/company:	E-GOV Development Center public legal entity
Personal capacity: Your socio-professional category:	Higher occupations
Your stakeholder group:	Government & public administrative
2. In view of the elaboration of a legal framework on the design, development and application of AI, based on the standards of the Council of Europe on human rights, democracy and the rule of law, what kind of definition of artificial intelligence (AI) should be considered by the CAHAI:	A technologically-neutral and simplified definition, such as "a set of sciences, theories and tech-niques whose purpose is to reproduce by a machine the cognitive abilities of a human being" (See the CAHAI feasibility study, §5)
2bis. If "other" please explain below	
3. What are the reasons for your preference?	
4. Please select the areas in which AI systems offer the most promising opportunities for the protection of human rights, democracy and the rule of law	Welfare; Public administration;Education;Justice;Law enforcement;
4bis. If other, which areas and why?	
5. Please indicate which of the following AI system applications in your view have the greatest potential to enhance/protect human rights, democracy and the rule of law?	Deep fakes and cheap fakes; Emotional analysis in the workplace to measure employees' level of engagement; Facial recognition supporting law enforcement; AI applications to promote gender equality (e.g. analytical tools); AI applications determining the allocation of educational services; Automated fraud detection
6. Please briefly explain how such applications would benefit human rights, democracy and the rule of law.	Applications can gather big data to have a wider range of opportunity to process the legal cases as well as verification of information.
7. What other applications might contribute significantly to strengthening human rights, democracy and the rule of law?	
8. Please select the areas in which the deployment of AI systems poses the highest risk of violating human rights, democracy and the rule of law	Military, socio-technical systems as public safety and security, social welfare

---

[1] This contribution was communicated by the Republic of Azerbaijan to the secretariat of the CAHAI after the adoption by the CAHAI of the analysis on the multi-stakeholder consultation prepared by the secretariat (reference document CAHAI(2021)07). It has therefore been included in the compilation of the replies received in the framework of the consultation, but is not part of the analysis as such.

8bis. Other	159
9. Please briefly explain how such applications might violate human rights, democracy and the rule of law.	Bias and discrimination, lack of transparency, explain-ability and accountability
10. Please indicate the types of AI systems that represent the greatest risk to human rights, democracy and the rule of law	Military robots, automated and semi-automated decision systems for social welfare
11. Please briefly explain how such applications might violate human rights, democracy and the rule of law.	Discriminatory outcomes due to data imbalances and exclusivity in several layers of the pipeline
12. What other applications might represent a significant risk to human rights, democracy and the rule of law?	
13. In your opinion, should the development, deployment and use of AI systems that have been proven to violate human rights or undermine democracy or the rule of law be	
13bis. Other	
14. In your opinion, should the development, deployment and use of AI systems that pose high risks with high probability to human rights, democracy and the rule of law be:	Yes
15. In your opinion, should the development, deployment and use of AI systems that pose low risks with high probability to human rights, democracy and the rule of law be:	yes
16. In your opinion, should the development, deployment and use of AI systems that pose high risks with low probability to human rights, democracy and the rule of law be:	yes
17. What are the most important legal principles, rights and interests that need to be addressed and therefore justify regulating the development, deployment and use of AI systems?	Yes
18. In your opinion, in what sectors/areas is a binding legal instrument needed to protect human rights, democracy and the rule of law?	
18bis. Other	

19. Self-regulation by companies is more efficient than government regulation to prevent and mitigate the risk of violations of human rights, democracy and the rule of law.	**Not completely agree**
20. Self-regulation by companies is sufficient to prevent and mitigate the risk of violations of human rights, democracy and the rule of law	**Yes**
21. Which of the following instruments of self-regulation do you consider to be the most efficient? 21bis. Other	Ethics guidelines
22. Existing international, regional and/or national binding and/or non-binding legal instruments are sufficient to regulate AI systems in order to ensure the protection of human rights, democracy and the rule of law	No opinion
23. Please provide examples of existing international, regional and/or national (binding and/or nonbinding) instruments that in your view are effective in guiding and regulating the design, development and use of AI systems to ensure compatibility with the standards for human rights, democracy and the rule of law	IEEE, ACM, UNESCO, UN code of conducts and EU regulations as well as GDPR
24. If you responded disagree/completely disagree to question 22, please indicate why existing international, regional and/or national (binding and/or nonbinding) legal instruments are not sufficient to regulate AI systems (select all you agree with):	
25. Please indicate other specific legal gaps that in your view need to be addressed at the level of the Council of Europe.	No ideas
26. Individuals should always be informed when they interact with an AI system in any circumstances.	I fully agree
27. Individuals should always be informed when a decision which affects them personally is made by an AI system.	I fully agree
28. Individuals should always be informed when an AI system is used in a decision-making process which affects them personally.	I fully agree

29. Individuals should have a right to a meaningful explanation of algorithmic based decisions, in particular how the algorithm reached its output.	I fully agree
30. Individuals should always have the right that any decision taken by an AI system in the framework of judicial proceedings are reviewed by a "human" judge.	I fully agree
31. Individuals should have a right to demand the review of an algorithmic based decision by a human being.	I fully agree
32. There should always be a person responsible for reviewing algorithmic based decisions in the public sector and private companies.	I fully agree
33. Public institutions should not use AI systems to promote or discredit a particular way of life or opinion (e.g. "social scoring").	I fully agree
34. States should be obliged to design, develop and apply sustainable AI systems that respect applicable environmental protection standards.	I fully agree
35. The code behind AI systems used in the public and private sectors should always be accessible to the competent public authorities for the purposes of external audit.	I fully agree
36. There should be higher transparency standards for public entities using AI than for private entities.	I fully agree
37. There should be higher standards for access to an effective remedy for individuals in relation to decisions informed and made by an AI system in the field of justice than in the field of consumer protection.	I fully agree
38. Member States should establish public oversight mechanisms for AI systems that may breach legally binding norms in the sphere of human rights, democracy and the rule of law.	I fully agree
39. Errors and flaws discovered in AI systems which have led or could lead to the violation of human rights, democracy and the rule of law must be reported to the competent authorities.	I fully agree
40. The use of facial recognition in public spaces should be prohibited.	I fully agree

41. The information obtained through the use of facial recognition systems should always be reviewed by a human being before being used for purposes that have an impact on individual freedom, such as in relation to a person boarding an airplane, upon police arrest or in the framework of judicial proceedings.	I fully agree
42. The use of AI systems in democratic processes (e.g. elections) should be strictly regulated.	I fully agree
43. Should a future legal framework at Council of Europe level include a specific liability regime in relation to AI applications?	Yes
44. If yes, what aspects should be covered?	Transparency and accountability
45. In your opinion, how useful would the following compliance mechanisms be in preventing and mitigating the risks to human rights, democracy and the rule of law arising from the design, development and application of AI?	
- **Human rights, democracy and rule of law impact assessments** - **Certification and quality labelling** - **Audits and intersectional audits** - **Regulatory sandboxes** **Continuous automated monitoring**	- Highly useful - Highly useful - Useful - Useful - No opinion
46. Please indicate what combination of mechanisms should be preferred to efficiently protect human rights, democracy and the rule of law	Human rights, democracy and rule of law impact assessments
46bis. Other	
47. Please select which mechanism(s) should be part of either a binding instrument or a non-binding instrument to best protect human rights, democracy and the rule of law.	
- **Human rights, democracy and rule of law impact assessments**	- Binding instrument - Binding instrument - Binding instrument - Binding instrument

- **Certification and quality labelling** - **Audits and intersectional audits** - **Regulatory sandboxes** **Continuous automated monitoring**	- Binding instrument
47.bis. Other	
48. In your opinion, how useful would the following follow-up activities be if implemented by the Council of Europe?	
- **Monitoring of AI legislation and policies in member States** - **Capacity building on Council of Europe instruments, including assistance to facilitate ratification and implementation of relevant Council of Europe instruments** - **AI Observatory for sharing good practices and exchanging information on legal, policy and technological developments related to AI systems** **Establishing a centre of expertise on AI and human rights**	- Highly useful - Highly useful - Highly useful - Highly useful
49. What other mechanisms, if any, should be considered?	
50. Are there any other issues with respect to the design, development and application of AI systems in the context of human rights, democracy and the rule of law that you wish to bring to the attention of the CAHAI?	
Date of submission:	**7/7/2021**

Bahçeşehir University

State (where your institution is based)	**Turkey**
Institution: Name of the institution/body/company	Bahçeşehir University
Personal capacity: Your socio-professional category	Higher occupations

Your stakeholder group	Academic and scientific community
2. In view of the elaboration of a legal framework on the design, development and application of AI, based on the standards of the Council of Europe on human rights, democracy and the rule of law, what kind of definition of artificial intelligence (AI) should be considered by the CAHAI	A technologically-neutral and simplified definition, such as "a set of sciences, theories and tech-niques whose purpose is to reproduce by a machine the cognitive abilities of a human being" (See the CAHAI feasibility study, §5)
2bis. If "other" please explain below	
3. What are the reasons for your preference?	In addition to the selected technical definition with a legal instrument focused on the effect of AI systems on human rights, democracy, and the rule of law.
4. Please select the areas in which AI systems offer the most promising opportunities for the protection of human rights, democracy and the rule of law	Banking, finance and insurance;• Healthcare;Social networks/media, internet intermediaries ;
4bis. If other, which areas and why?	
5. Please indicate which of the following AI system applications in your view have the greatest potential to enhance/protect human rights, democracy and the rule of law?	• AI applications determining the allocation of social services;• Medical applications for faster and more accurate diagnoses;• Automated fraud detection (banking, insurance);• AI applications to predict the possible evolution of climate change and/or natural disasters;• AI applications determining the allocation of educational services;
6. Please briefly explain how such applications would benefit human rights, democracy and the rule of law.	The applications I have selected are those that increase the well-being of people in terms of access to services, quality of services. Its contribution to human rights and democracy cannot be denied in terms of providing ease of access and equality.
7. What other applications might contribute significantly to strengthening human rights, democracy and the rule of law?	As long as Trustworthy is adopted and the principles of organizations such as CAHAI and OECD are followed, there can be many AI applications.
8. Please select the areas in which the deployment of AI systems poses the highest risk of violating human rights, democracy and the rule of law 8bis. Other	• Election monitoring;• Employment;• National security and counter-terrorism;
9. Please briefly explain how such applications might violate human rights, democracy and the rule of law.	Because biased and non-transparent systems provide these doubts.
10. Please indicate the types of AI systems that represent the greatest risk to human rights, democracy and the rule of law	Facial recognition supporting law enforcement ;Scoring / scoring of individuals by public entities;• AI applications for personalised media content (recommender systems);• Deep fakes and cheap fakes;AI applications aimed at predicting recidivism ;
11. Please briefly explain how such applications might violate human rights, democracy and the rule of law.	I selected these options because of the possibility of using biased datasets and producing manipulative results.

12. What other applications might represent a significant risk to human rights, democracy and the rule of law?	-
13. In your opinion, should the development, deployment and use of AI systems that have been proven to violate human rights or undermine democracy or the rule of law be **13bis. Other**	Banned
14. In your opinion, should the development, deployment and use of AI systems that pose high risks with high probability to human rights, democracy and the rule of law be:	Regulated (binding law)
15. In your opinion, should the development, deployment and use of AI systems that pose low risks with high probability to human rights, democracy and the rule of law be:	Self-regulated (ethics guidelines, voluntary certification)
16. In your opinion, should the development, deployment and use of AI systems that pose high risks with low probability to human rights, democracy and the rule of law be:	Regulated (binding law)
17. What are the most important legal principles, rights and interests that need to be addressed and therefore justify regulating the development, deployment and use of AI systems?	• Legal certainty;• Transparency;• Explainability;• Non-discrimination;
18. In your opinion, in what sectors/areas is a binding legal instrument needed to protect human rights, democracy and the rule of law? **18bis. Other**	Justice;Law enforcement;Election monitoring;
19. Self-regulation by companies is more efficient than government regulation to prevent and mitigate the risk of violations of human rights, democracy and the rule of law.	I rather disagree
20. Self-regulation by companies is sufficient to prevent and mitigate the risk of violations of human rights, democracy and the rule of law	I rather disagree
21. Which of the following instruments of self-regulation do you consider to be the most efficient? **21bis. Other**	Ethics guidelines

22. Existing international, regional and/or national binding and/or non-binding legal instruments are sufficient to regulate AI systems in order to ensure the protection of human rights, democracy and the rule of law.	I rather disagree
23. Please provide examples of existing international, regional and/or national (binding and/or non-binding) instruments that in your view are effective in guiding and regulating the design, development and use of AI systems to ensure compatibility with the standards for human rights, democracy and the rule of law	European Commission, OECD
24. If you responded disagree/completely disagree to question 22, please indicate why existing international, regional and/or national (binding and/or non-binding) legal instruments are not sufficient to regulate AI systems (select all you agree with):	• They provide a basis but fail to provide an effective substantive protection of human rights, democracy and the rule of law against the risks posed by AI systems;• They lack specific principles for the design, development and application of AI systems;• They do not provide enough guidance to the designers, developers and deployers of AI systems;
25. Please indicate other specific legal gaps that in your view need to be addressed at the level of the Council of Europe	
26. Individuals should always be informed when they interact with an AI system in any circumstances.	I fully agree
27. Individuals should always be informed when a decision which affects them personally is made by an AI system.	I fully agree
28. Individuals should always be informed when an AI system is used in a decision-making process which affects them personally.	I fully agree
29. Individuals should have a right to a meaningful explanation of algorithmic based decisions, in particular how the algorithm reached its output.	I fully agree
30. Individuals should always have the right that any decision taken by an AI system in the framework of judicial proceedings are reviewed by a "human" judge.	I rather agree
31. Individuals should have a right to demand the review of an algorithmic based decision by a human being.	I rather agree

32. **There should always be a person responsible for reviewing algorithmic based decisions in the public sector and private companies.**	I rather agree
33. **Public institutions should not use AI systems to promote or discredit a particular way of life or opinion (e.g. "social scoring").**	I rather disagree
34. **States should be obliged to design, develop and apply sustainable AI systems that respect applicable environmental protection standards.**	I rather agree
35. **The code behind AI systems used in the public and private sectors should always be accessible to the competent public authorities for the purposes of external audit.**	I rather agree
36. **There should be higher transparency standards for public entities using AI than for private entities.**	I rather agree
37. **There should be higher standards for access to an effective remedy for individuals in relation to decisions informed and made by an AI system in the field of justice than in the field of consumer protection.**	I rather agree
38. **Member States should establish public oversight mechanisms for AI systems that may breach legally binding norms in the sphere of human rights, democracy and the rule of law.**	I rather agree
39. **Errors and flaws discovered in AI systems which have led or could lead to the violation of human rights, democracy and the rule of law must be reported to the competent authorities.**	Indifferent/no opinion
40. **The use of facial recognition in public spaces should be prohibited.**	Indifferent/no opinion
41. **The information obtained through the use of facial recognition systems should always be reviewed by a human being before being used for purposes that have an impact on individual freedom, such as in relation to a person boarding an airplane, upon police arrest or in the framework of judicial proceedings.**	Indifferent/no opinion

42. The use of AI systems in democratic processes (e.g. elections) should be strictly regulated.	I fully agree
43. Should a future legal framework at Council of Europe level include a specific liability regime in relation to AI applications?	No opinion
44. If yes, what aspects should be covered?	
45. In your opinion, how useful would the following compliance mechanisms be in preventing and mitigating the risks to human rights, democracy and the rule of law arising from the design, development and application of AI? - **Human rights, democracy and rule of law impact assessments** - **Certification and quality labelling** - **Audits and intersectional audits** - **Regulatory sandboxes** - **Continuous automated monitoring**	Indifferent/no opinion Rather useful Highly useful Rather useful Rather useful
46. Please indicate what combination of mechanisms should be preferred to efficiently protect human rights, democracy and the rule of law **46bis. Other**	• Human rights, democracy and rule of law impact assessments ;
47. Please select which mechanism(s) should be part of either a binding instrument or a non-binding instrument to best protect human rights, democracy and the rule of law. - **Human rights, democracy and rule of law impact assessments** - **Certification and quality labelling** - **Audits and intersectional audits** - **Regulatory sandboxes** - **Continuous automated monitoring**	Binding instrument Binding instrument Binding instrument Binding instrument Binding instrument
47.bis. Other	

48. In your opinion, how useful would the following follow-up activities be if implemented by the Council of Europe? - **Monitoring of AI legislation and policies in member States** - **Capacity building on Council of Europe instruments, including assistance to facilitate ratification and implementation of relevant Council of Europe instruments** - **AI Observatory for sharing good practices and exchanging information on legal, policy and technological developments related to AI systems** - **Establishing a centre of expertise on AI and human rights**	Rather useful Rather useful Indifferent/no opinion Indifferent/no opinion
49. What other mechanisms, if any, should be considered?	
50. Are there any other issues with respect to the design, development and application of AI systems in the context of human rights, democracy and the rule of law that you wish to bring to the attention of the CAHAI?	
Date of submission	30/04/2021 17:47:32

Beyond Reach Consulting Limited

State (where your institution is based)	UK
Institution: Name of the institution/body/company	Beyond Reach Consulting Limited
Personal capacity: Your socio-professional category	Higher occupations
Your stakeholder group	Private business sector
2. In view of the elaboration of a legal framework on the design, development and application of AI, based on the standards of the Council of Europe on human rights, democracy and the rule of law, what kind of definition of artificial	A technologically-neutral and simplified definition, such as "a set of sciences, theories and tech-niques whose purpose is to reproduce by a machine the cognitive abilities of a human being" (See the CAHAI feasibility study, §5)

intelligence (AI) should be considered by the CAHAI	
2bis. If "other" please explain below	
3. What are the reasons for your preference?	Our labelling of the approaches to algorithmically driven technologies may change and expand. I would keep it as broad as possible (without causing uncertainty) and not have it limited to the Turing Test. It is the outcomes that are unethical and/or detrimental to society that these technologies can influence, and create, that we are most focused on.
4. Please select the areas in which AI systems offer the most promising opportunities for the protection of human rights, democracy and the rule of law	Banking, finance and insurance;Law enforcement;Customs and border control;
4bis. If other, which areas and why?	
5. Please indicate which of the following AI system applications in your view have the greatest potential to enhance/protect human rights, democracy and the rule of law?	• Medical applications for faster and more accurate diagnoses;• AI applications to predict the possible evolution of climate change and/or natural disasters;• AI applications providing support to the healthcare system (triage, treatment delivery);
6. Please briefly explain how such applications would benefit human rights, democracy and the rule of law.	These systems have the most potential to enhance human flourishing and wellbeing. The rest of the applications have also the most potential to cause harm.
7. What other applications might contribute significantly to strengthening human rights, democracy and the rule of law?	AI systems which truly augment human decision making, provide verifiable, auditable and explainable meaning and insight, which does not undermine or skew choice, decision making authority of a human being or moral agency. AI systems which empower the disabled/infirm/elderly to have a better quality of life without risk of third party (hacker) interference.
8. Please select the areas in which the deployment of AI systems poses the highest risk of violating human rights, democracy and the rule of law **8bis. Other**	• Justice;• Law enforcement;• Customs and border control;
9. Please briefly explain how such applications might violate human rights, democracy and the rule of law.	It is the ability of such AI systems to include or exclude from society, to be deprived of freedom and/or freedom of movement which is most concerning. So many more than the 3 ticked would fall into this bracket (including welfare and national security counter terrorism. There is a second tier of Ai systems that could have a comparable including/excluding effect, and that is with regard to financial services, healthcare, education and public administration particularly if certain "credentials" deemed lacking are not met. This deprives personal choice and personal opportunity and will impact some of the most marginalised in society,
10. Please indicate the types of AI systems that represent the greatest risk to human rights, democracy and the rule of law	☐Emotional analysis in the workplace to measure employees' level of engagement;Facial recognition supporting law enforcement ;Scoring / scoring of individuals by public entities;• AI applications used for analysing the performance of pupils/students in educational institutions such as schools and universities;• AI applications to promote gender equality (e.g. analytical tools);

11. Please briefly explain how such applications might violate human rights, democracy and the rule of law.	These all have the potential to promote inclusionary or exclusionary practices on criteria coded by the few but applied to the majority, not fully taking in account justice/equity in the individual case., which can then result in undermining freedom of choice, freedom of movement, and significantly reduce opportunity. AI systems that promote optimisation leaving "edge" cases behind/excluded on potentially statistically sound reasons can still result in unfair and discriminatory outcomes
12. What other applications might represent a significant risk to human rights, democracy and the rule of law?	Applications which surveil or listen (always on, always watching) or predict (without opportunity to challenge or to see within the black box as to the explanation).
13. In your opinion, should the development, deployment and use of AI systems that have been proven to violate human rights or undermine democracy or the rule of law be 13bis. Other	Heavily regulated/controlled subject to context and proportionality/likehood of risk and with clear redress/correction mechanisms
14. In your opinion, should the development, deployment and use of AI systems that pose high risks with high probability to human rights, democracy and the rule of law be:	Banned
15. In your opinion, should the development, deployment and use of AI systems that pose low risks with high probability to human rights, democracy and the rule of law be:	Regulated (binding law)
16. In your opinion, should the development, deployment and use of AI systems that pose high risks with low probability to human rights, democracy and the rule of law be:	Regulated (binding law)
17. What are the most important legal principles, rights and interests that need to be addressed and therefore justify regulating the development, deployment and use of AI systems?	Respect for human dignity;• Possibility to challenge a decision made by an AI system and access to an effective remedy;• Transparency;• Explainability;• Personal integrity ;
18. In your opinion, in what sectors/areas is a binding legal instrument needed to protect human rights, democracy and the rule of law? 18bis. Other	Banking, finance and insurance;Education;• Healthcare;
19. Self-regulation by companies is more efficient than government regulation to prevent and mitigate the risk of violations of human rights, democracy and the rule of law.	I completely disagree
20. Self-regulation by companies is sufficient to prevent and mitigate the risk of violations	I completely disagree

of human rights, democracy and the rule of law	
21. Which of the following instruments of self-regulation do you consider to be the most efficient? **21bis. Other**	Voluntary ex-ante governance resulting in certification coupled with annual AI audit
22. Existing international, regional and/or national binding and/or non-binding legal instruments are sufficient to regulate AI systems in order to ensure the protection of human rights, democracy and the rule of law.	I completely disagree
23. Please provide examples of existing international, regional and/or national (binding and/or non-binding) instruments that in your view are effective in guiding and regulating the design, development and use of AI systems to ensure compatibility with the standards for human rights, democracy and the rule of law	The closest is GDPR as it pervades whichever technology which utilises/processes personal data. However outside the remit of personal data, GDPR becomes somewhat ineffective. It is also still not perfect. There have got to be better ways to empower individuals with control over data about them or which concerns them
24. If you responded disagree/completely disagree to question 22, please indicate why existing international, regional and/or national (binding and/or non-binding) legal instruments are not sufficient to regulate AI systems (select all you agree with):	• They provide a basis but fail to provide an effective substantive protection of human rights, democracy and the rule of law against the risks posed by AI systems;• They lack specific principles for the design, development and application of AI systems;• They do not provide enough guidance to the designers, developers and deployers of AI systems;They do not provide for specific rights (e.g. transparency requirements, redress mechanisms) for persons affected by AI;• They create barriers to the design, development and application of AI systems;There are too many and they are difficult to interpret and apply in the context of AI;
25. Please indicate other specific legal gaps that in your view need to be addressed at the level of the Council of Europe	International liability and enforceability to provide rigour for human rights protection not just within EU but across the world. This will require co-operation, coordination, and cohesion of Human Rights principles, digital rights, acceptable and not acceptable AI outcomes (which may or may not be ethically aligned).
26. Individuals should always be informed when they interact with an AI system in any circumstances.	I fully agree
27. Individuals should always be informed when a decision which affects them personally is made by an AI system.	I fully agree
28. Individuals should always be informed when an AI system is used in a decision-making process which affects them personally.	I fully agree
29. Individuals should have a right to a meaningful explanation of algorithmic based decisions, in particular how the algorithm reached its output.	I fully agree

30. Individuals should always have the right that any decision taken by an AI system in the framework of judicial proceedings are reviewed by a "human" judge.	I fully agree
31. Individuals should have a right to demand the review of an algorithmic based decision by a human being.	I fully agree
32. There should always be a person responsible for reviewing algorithmic based decisions in the public sector and private companies.	I fully agree
33. Public institutions should not use AI systems to promote or discredit a particular way of life or opinion (e.g. "social scoring").	I fully agree
34. States should be obliged to design, develop and apply sustainable AI systems that respect applicable environmental protection standards.	I rather agree
35. The code behind AI systems used in the public and private sectors should always be accessible to the competent public authorities for the purposes of external audit.	I fully agree
36. There should be higher transparency standards for public entities using AI than for private entities.	I rather agree
37. There should be higher standards for access to an effective remedy for individuals in relation to decisions informed and made by an AI system in the field of justice than in the field of consumer protection.	I fully agree
38. Member States should establish public oversight mechanisms for AI systems that may breach legally binding norms in the sphere of human rights, democracy and the rule of law.	I fully agree
39. Errors and flaws discovered in AI systems which have led or could lead to the violation of human rights, democracy and the rule of law must be reported to the competent authorities.	I fully agree
40. The use of facial recognition in public spaces should be prohibited.	I fully agree
41. The information obtained through the use of facial recognition systems should	I fully agree

always be reviewed by a human being before being used for purposes that have an impact on individual freedom, such as in relation to a person boarding an airplane, upon police arrest or in the framework of judicial proceedings.	
42. The use of AI systems in democratic processes (e.g. elections) should be strictly regulated.	I fully agree
43. Should a future legal framework at Council of Europe level include a specific liability regime in relation to AI applications?	Yes
44. If yes, what aspects should be covered?	It should ensure that it accounts for all actors/economic operators across the AI lifecycle and within the AI ecosystem. Liability should be proportionate and commensurate to cause AND control over the offending outcome. It should be noted what role each of the following have in dumbing down the effects or in undermining the consequences of legal violations: (1) the role contracting parties play in seeking to apportion liability between themselves based on risk, (2) the role insurance has to play in providing assurance that costs of breach will be covered, and (3) the role business ethics has to play in parties accepting fines for breach as part of the cost of operating.
45. In your opinion, how useful would the following compliance mechanisms be in preventing and mitigating the risks to human rights, democracy and the rule of law arising from the design, development and application of AI? - **Human rights, democracy and rule of law impact assessments** - **Certification and quality labelling** - **Audits and intersectional audits** - **Regulatory sandboxes** - **Continuous automated monitoring**	Highly useful Highly useful Highly useful Highly useful Highly useful
46. Please indicate what combination of mechanisms should be preferred to efficiently protect human rights, democracy and the rule of law **46bis. Other**	Continuous automated monitoring;• Human rights, democracy and rule of law impact assessments ;• Regulatory sandboxes;

47. Please select which mechanism(s) should be part of either a binding instrument or a non-binding instrument to best protect human rights, democracy and the rule of law. - **Human rights, democracy and rule of law impact assessments** - **Certification and quality labelling** - **Audits and intersectional audits** - **Regulatory sandboxes** - **Continuous automated monitoring**	Binding instrument Binding instrument Binding instrument Binding instrument Binding instrument
47.bis. Other	Dashboards with data trusts / institutions to enable individual and regulatory empowerment over data used in AI systems. This will require infrastructure and interoperability to enable secure transfer/sharing of data and/or insight/learnings to be federated between AI systems to ensure/promote human dignity and flourishing and minimise discrimination, unfair outcomes and proliferation of systemic bias.
48. In your opinion, how useful would the following follow-up activities be if implemented by the Council of Europe? - **Monitoring of AI legislation and policies in member States** - **Capacity building on Council of Europe instruments, including assistance to facilitate ratification and implementation of relevant Council of Europe instruments** - **AI Observatory for sharing good practices and exchanging information on legal, policy and technological developments related to AI systems** - **Establishing a centre of expertise on AI and human rights**	Rather useful Indifferent/no opinion Rather useful Highly useful
49. What other mechanisms, if any, should be considered?	Coordination and collaboration between countries, with an education/information sharing remit from a multi-disciplinary and multi-jurisdictional perspective.
50. Are there any other issues with respect to the design, development and application of AI systems in the context of human rights, democracy and the rule of law that you wish to bring to the attention of the CAHAI?	Pre-trained AI systems. The re-use of AI systems in different contexts despite being potentially harmful in some contexts. Whether the AI system has potential to include/exclude people groups. What is or could ever be deemed a justifiable bias. If human rights are subject to proportionality, how (if at all) could this be reflected safely and reliably in relation to AI.
Date of submission	29/04/2021 02:12:21

Beyond Sense

State (where your institution is based)	Israel
Institution: Name of the institution/body/company	Beyond Sense
Personal capacity: Your socio-professional category	Higher occupations
Your stakeholder group	Private business sector
2. In view of the elaboration of a legal framework on the design, development and application of AI, based on the standards of the Council of Europe on human rights, democracy and the rule of law, what kind of definition of artificial intelligence (AI) should be considered by the CAHAI	A technologically-neutral and simplified definition, such as "a set of sciences, theories and techniques whose purpose is to reproduce by a machine the cognitive abilities of a human being" (See the CAHAI feasibility study, §5)
2bis. If "other" please explain below	
3. What are the reasons for your preference?	AI should be used to improve people's lives and can do that. The challenge should be doing so with minimal effect on personal privacy. However, not using AI will mean downgrading people's lives in all aspects.
4. Please select the areas in which AI systems offer the most promising opportunities for the protection of human rights, democracy and the rule of law	Banking, finance and insurance;• Education; Law enforcement;
4bis. If other, which areas and why?	AAL- assisted ambient living, Elderly quality of life.
5. Please indicate which of the following AI system applications in your view have the greatest potential to enhance/protect human rights, democracy and the rule of law?	Facial recognition supporting law enforcement ;• Medical applications for faster and more accurate diagnoses;• Automated fraud detection (banking, insurance);• AI applications to prevent the commission of a criminal offence (e.g. anti-money laundry AI appli-cations);• AI applications providing support to the healthcare system (triage, treatment delivery);
6. Please briefly explain how such applications would benefit human rights, democracy and the rule of law.	Using facial recognition systems while maintaining people's privacy, will support all those locations where CCTV is not currently possible. It Will protect those people that are at risk (Public female toilets, elderly facilities, etc..); and will provide an opportunity to reduce risks where it matters the most. Resulting in real physical safety, without compromising privacy if done correctly.
7. What other applications might contribute significantly to strengthening human rights, democracy and the rule of law?	Anonymous facial recognition in cities, and touristic locations and facilities.

8. **Please select the areas in which the deployment of AI systems poses the highest risk of violating human rights, democracy and the rule of law** **8bis. Other**	• Justice;• Healthcare;• Election monitoring;•
9. **Please briefly explain how such applications might violate human rights, democracy and the rule of law.**	The risk of data being hacked is real, picture theft and use of data from CCTV is a realistic threat.
10. **Please indicate the types of AI systems that represent the greatest risk to human rights, democracy and the rule of law**	Scoring / scoring of individuals by public entities; Facial recognition supporting law enforcement; Medical applications for faster and more accurate diagnoses;• Automated fraud detection (banking, insurance);• Deep fakes and cheap fakes;
11. **Please briefly explain how such applications might violate human rights, democracy and the rule of law.**	AI is a statistical-based technology. Human character is specific and not standardized. Therefore statistics alone will create mistakes.
12. **What other applications might represent a significant risk to human rights, democracy and the rule of law?**	AI for online marketing will be tough to control and block, which will always impact democracies in the national level and subnational such as city elections and such.
13. **In your opinion, should the development, deployment and use of AI systems that have been proven to violate human rights or undermine democracy or the rule of law be** **13bis. Other**	adjusted and improved
14. **In your opinion, should the development, deployment and use of AI systems that pose high risks with high probability to human rights, democracy and the rule of law be:**	Regulated (binding law)
15. **In your opinion, should the development, deployment and use of AI systems that pose low risks with high probability to human rights, democracy and the rule of law be:**	Self-regulated (ethics guidelines, voluntary certification)
16. **In your opinion, should the development, deployment and use of AI systems that pose high risks with low probability to human rights, democracy and the rule of law be:**	Regulated (binding law)
17. **What are the most important legal principles, rights and interests that need to be addressed and therefore justify regulating the development, deployment and use of AI systems?**	Social security; Privacy and data protection; Personal integrity ;Legal certainty; Respect for human dignity;
18. **In your opinion, in what sectors/areas is a binding legal instrument needed to protect human rights, democracy and the rule of law?** **18bis. Other**	Banking, finance and insurance; Justice; Law enforcement;

19. **Self-regulation by companies is more efficient than government regulation to prevent and mitigate the risk of violations of human rights, democracy and the rule of law.**	Rather disagree
20. **Self-regulation by companies is sufficient to prevent and mitigate the risk of violations of human rights, democracy and the rule of law**	Rather disagree
21. **Which of the following instruments of self-regulation do you consider to be the most efficient?** 21bis. **Other**	Ethics guidelines
22. **Existing international, regional and/or national binding and/or non-binding legal instruments are sufficient to regulate AI systems in order to ensure the protection of human rights, democracy and the rule of law.**	Rather disagree
23. **Please provide examples of existing international, regional and/or national (binding and/or non-binding) instruments that in your view are effective in guiding and regulating the design, development and use of AI systems to ensure compatibility with the standards for human rights, democracy and the rule of law**	No use of facial recognition for business purposes, is the wrong approach, as providing AI-based data is providing better service to clients online and offline as well. Protection of privacy should be the key, rather than banning technology. We all want better service, and when the salesperson remembers us we are happy, banning the AI of that salesperson (real one offline can be replaced by a computer) is the downgrading of the quality of service. I believe this can be done whilst protecting privacy.
24. **If you responded disagree/completely disagree to question 22, please indicate why existing international, regional and/or national (binding and/or non-binding) legal instruments are not sufficient to regulate AI systems (select all you agree with):**	• They create barriers to the design, development and application of AI systems;• They provide a basis but fail to provide an effective substantive protection of human rights, democracy and the rule of law against the risks posed by AI systems;
25. **Please indicate other specific legal gaps that in your view need to be addressed at the level of the Council of Europe**	Balancing technological progress vs privacy. The approach of banning technology is wrong. Adjustment and rules of protection of privacy is the future, otherwise Europe will lack behind other nations.
26. **Individuals should always be informed when they interact with an AI system in any circumstances.**	Indifferent/no opinion
27. **Individuals should always be informed when a decision which affects them personally is made by an AI system.**	I rather agree
28. **Individuals should always be informed when an AI system is used in a decision-making**	I rather agree

process which affects them personally.	
29. **Individuals should have a right to a meaningful explanation of algorithmic based decisions, in particular how the algorithm reached its output.**	I rather disagree
30. **Individuals should always have the right that any decision taken by an AI system in the framework of judicial proceedings are reviewed by a "human" judge.**	I fully agree
31. **Individuals should have a right to demand the review of an algorithmic based decision by a human being.**	I rather agree
32. **There should always be a person responsible for reviewing algorithmic based decisions in the public sector and private companies.**	Indifferent/no opinion
33. **Public institutions should not use AI systems to promote or discredit a particular way of life or opinion (e.g. "social scoring").**	I fully agree
34. **States should be obliged to design, develop and apply sustainable AI systems that respect applicable environmental protection standards.**	I rather agree
35. **The code behind AI systems used in the public and private sectors should always be accessible to the competent public authorities for the purposes of external audit.**	I fully agree
36. **There should be higher transparency standards for public entities using AI than for private entities.**	I fully agree
37. **There should be higher standards for access to an effective remedy for individuals in relation to decisions informed and made by an AI system in the field of justice than in the field of consumer protection.**	I fully agree
38. **Member States should establish public oversight mechanisms for AI systems that may breach legally binding norms in the sphere of human rights, democracy and the rule of law.**	Indifferent/no opinion
39. **Errors and flaws discovered in AI systems which have led or could lead to the violation of human rights, democracy and the rule of law**	I fully agree

must be reported to the competent authorities.	
40. The use of facial recognition in public spaces should be prohibited.	I completely disagree
41. The information obtained through the use of facial recognition systems should always be reviewed by a human being before being used for purposes that have an impact on individual freedom, such as in relation to a person boarding an airplane, upon police arrest or in the framework of judicial proceedings.	I fully agree
42. The use of AI systems in democratic processes (e.g. elections) should be strictly regulated.	I fully agree
43. Should a future legal framework at Council of Europe level include a specific liability regime in relation to AI applications?	No opinion
44. If yes, what aspects should be covered?	
45. In your opinion, how useful would the following compliance mechanisms be in preventing and mitigating the risks to human rights, democracy and the rule of law arising from the design, development and application of AI? - **Human rights, democracy and rule of law impact assessments** - **Certification and quality labelling** - **Audits and intersectional audits** - **Regulatory sandboxes** **Continuous automated monitoring**	Rather not useful Rather not useful Rather not useful Rather not useful Rather useful
46. Please indicate what combination of mechanisms should be preferred to efficiently protect human rights, democracy and the rule of law **46bis. Other**	• Audits and intersectional audits;Continuous automated monitoring;

47. Please select which mechanism(s) should be part of either a binding instrument or a non-binding instrument to best protect human rights, democracy and the rule of law. - **Human rights, democracy and rule of law impact assessments** - **Certification and quality labelling** - **Audits and intersectional audits** - **Regulatory sandboxes** **Continuous automated monitoring**	Non-binding instrument Non-binding instrument Non-binding instrument Non-binding instrument Binding instrument
47.bis. Other	
48. In your opinion, how useful would the following follow-up activities be if implemented by the Council of Europe? - **Monitoring of AI legislation and policies in member States** - **Capacity building on Council of Europe instruments, including assistance to facilitate ratification and implementation of relevant Council of Europe instruments** - **AI Observatory for sharing good practices and exchanging information on legal, policy and technological developments related to AI systems** **Establishing a centre of expertise on AI and human rights**	Rather useful Indifferent/no opinion Indifferent/no opinion Rather useful
49. What other mechanisms, if any, should be considered?	Clear directives on building the technology and business cases.
50. Are there any other issues with respect to the design, development and application of AI systems in the context of human rights, democracy and the rule of law that you wish to bring to the attention of the CAHAI?	We see it as a must to improve AI, however, to balance it with people's privacy. Banning technology or limiting its development is wrong and will only cause the EU members to be less advanced than other countries. Building regulations that protect people's privacy is where the EU should be.
Date of submission	5/4/21 15:34:02

Big Data Accociation

State (where your institution is based)	**Moscow, Russia**
Institution: Name of the institution/body/company	Big Data Accociation
Personal capacity: Your socio-professional category	Higher occupations
Your stakeholder group	Private business sector
2. In view of the elaboration of a legal framework on the design, development and application of AI, based on the standards of the Council of Europe on human rights, democracy and the rule of law, what kind of definition of artificial intelligence (AI) should be considered by the CAHAI	No definition, with a legal instrument focused on the effect of AI systems on human rights, democracy and the rule of law
2bis. If "other" please explain below	
3. What are the reasons for your preference?	AI group of Technologies is still in early development stage and Law shall not determine the technical aspects of it but regulate risks and possible negative consequences of its application
4. Please select the areas in which AI systems offer the most promising opportunities for the protection of human rights, democracy and the rule of law	• Education;• Healthcare;• Public administration;
4bis. If other, which areas and why?	
5. Please indicate which of the following AI system applications in your view have the greatest potential to enhance/protect human rights, democracy and the rule of law?	• Medical applications for faster and more accurate diagnoses;• Automated fraud detection (banking, insurance);• AI applications determining the allocation of social services;• AI applications used for analysing the performance of pupils/students in educational institutions such as schools and universities;• AI applications determining the allocation of educational services;
6. Please briefly explain how such applications would benefit human rights, democracy and the rule of law.	AI application to help the most unprotected groups of individuals (children poor people, people who need care etc) AI excludes personal attitude and provide equality
7. What other applications might contribute significantly to strengthening human rights, democracy and the rule of law?	Government services in general
8. Please select the areas in which the deployment of AI systems poses the highest risk of violating human rights, democracy and the rule of law **8bis. Other**	• Social networks/media, internet intermediaries ;• Banking, finance and insurance;• National security and counter-terrorism;
9. Please briefly explain how such applications might violate human rights, democracy and the rule of law.	AI group of technologies is still in early development stage and may generate mistakes which in the above areas can cause significant problems

10. Please indicate the types of AI systems that represent the greatest risk to human rights, democracy and the rule of law	☐Emotional analysis in the workplace to measure employees' level of engagement;Scoring / scoring of individuals by public entities;• AI applications for personalised media content (recommender systems);• Deep fakes and cheap fakes;• Recruiting software/ AI applications used for assessing work performance ;
11. Please briefly explain how such applications might violate human rights, democracy and the rule of law.	AI group of technologies is still in early development stage and may generate mistakes which in the above areas can cause significant problems
12. What other applications might represent a significant risk to human rights, democracy and the rule of law?	predictive analysis of human behavior - ai os based on probability and can not determine humans
13. In your opinion, should the development, deployment and use of AI systems that have been proven to violate human rights or undermine democracy or the rule of law be **13bis. Other**	banned for correction, not forever
14. In your opinion, should the development, deployment and use of AI systems that pose high risks with high probability to human rights, democracy and the rule of law be:	Regulated (binding law)
15. In your opinion, should the development, deployment and use of AI systems that pose low risks with high probability to human rights, democracy and the rule of law be:	Self-regulated (ethics guidelines, voluntary certification)
16. In your opinion, should the development, deployment and use of AI systems that pose high risks with low probability to human rights, democracy and the rule of law be:	Self-regulated (ethics guidelines, voluntary certification)
17. What are the most important legal principles, rights and interests that need to be addressed and therefore justify regulating the development, deployment and use of AI systems?	• Non-discrimination;Freedom of expression, assembly and association;Respect for human dignity;Political pluralism;• Possibility to challenge a decision made by an AI system and access to an effective remedy;
18. In your opinion, in what sectors/areas is a binding legal instrument needed to protect human rights, democracy and the rule of law? **18bis. Other**	Public administration;Law enforcement;Justice;
19. Self-regulation by companies is more efficient than government regulation to prevent and mitigate the risk of violations of human rights, democracy and the rule of law.	I fully agree

20. Self-regulation by companies is sufficient to prevent and mitigate the risk of violations of human rights, democracy and the rule of law	Indifferent/no opinion
21. Which of the following instruments of self-regulation do you consider to be the most efficient? **21bis. Other**	Both: Code of Ethics and voluntary certification are essential
22. Existing international, regional and/or national binding and/or non-binding legal instruments are sufficient to regulate AI systems in order to ensure the protection of human rights, democracy and the rule of law.	I rather disagree
23. Please provide examples of existing international, regional and/or national (binding and/or non-binding) instruments that in your view are effective in guiding and regulating the design, development and use of AI systems to ensure compatibility with the standards for human rights, democracy and the rule of law	Code of ethics of data use in Russia - it is a self-established and self regulated Guidelines, white paper on best practices in data usage and protection and an Executive Body which accepts new participants to the Code of ethics and accept cases for the white paper.
24. If you responded disagree/completely disagree to question 22, please indicate why existing international, regional and/or national (binding and/or non-binding) legal instruments are not sufficient to regulate AI systems (select all you agree with):	They do not provide for specific rights (e.g. transparency requirements, redress mechanisms) for persons affected by AI;
25. Please indicate other specific legal gaps that in your view need to be addressed at the level of the Council of Europe	Test mechanisms for the AI products, voluntary certification quidelines
26. Individuals should always be informed when they interact with an AI system in any circumstances.	I rather disagree
27. Individuals should always be informed when a decision which affects them personally is made by an AI system.	I fully agree
28. Individuals should always be informed when an AI system is used in a decision-making process which affects them personally.	I rather agree
29. Individuals should have a right to a meaningful explanation of algorithmic based decisions, in particular how the algorithm reached its output.	I rather disagree

30. **Individuals should always have the right that any decision taken by an AI system in the framework of judicial proceedings are reviewed by a "human" judge.**	I fully agree
31. **Individuals should have a right to demand the review of an algorithmic based decision by a human being.**	I rather agree
32. **There should always be a person responsible for reviewing algorithmic based decisions in the public sector and private companies.**	I fully agree
33. **Public institutions should not use AI systems to promote or discredit a particular way of life or opinion (e.g. "social scoring").**	I completely disagree
34. **States should be obliged to design, develop and apply sustainable AI systems that respect applicable environmental protection standards.**	I rather agree
35. **The code behind AI systems used in the public and private sectors should always be accessible to the competent public authorities for the purposes of external audit.**	I rather disagree
36. **There should be higher transparency standards for public entities using AI than for private entities.**	I fully agree
37. **There should be higher standards for access to an effective remedy for individuals in relation to decisions informed and made by an AI system in the field of justice than in the field of consumer protection.**	I fully agree
38. **Member States should establish public oversight mechanisms for AI systems that may breach legally binding norms in the sphere of human rights, democracy and the rule of law.**	I rather agree
39. **Errors and flaws discovered in AI systems which have led or could lead to the violation of human rights, democracy and the rule of law must be reported to the competent authorities.**	I rather agree
40. **The use of facial recognition in public spaces should be prohibited.**	I completely disagree
41. **The information obtained through the use of facial recognition systems should**	I rather agree

always be reviewed by a human being before being used for purposes that have an impact on individual freedom, such as in relation to a person boarding an airplane, upon police arrest or in the framework of judicial proceedings.	
42. The use of AI systems in democratic processes (e.g. elections) should be strictly regulated.	I fully agree
43. Should a future legal framework at Council of Europe level include a specific liability regime in relation to AI applications?	No
44. If yes, what aspects should be covered?	
45. In your opinion, how useful would the following compliance mechanisms be in preventing and mitigating the risks to human rights, democracy and the rule of law arising from the design, development and application of AI? - **Human rights, democracy and rule of law impact assessments** - **Certification and quality labelling** - **Audits and intersectional audits** - **Regulatory sandboxes** - **Continuous automated monitoring**	Rather useful Rather useful Highly useful Highly useful Rather useful
46. Please indicate what combination of mechanisms should be preferred to efficiently protect human rights, democracy and the rule of law **46bis. Other**	• Audits and intersectional audits;• Regulatory sandboxes;Continuous automated monitoring;
47. Please select which mechanism(s) should be part of either a binding instrument or a non-binding instrument to best protect human rights, democracy and the rule of law. - **Human rights, democracy and rule of law impact assessments** - **Certification and quality labelling** - **Audits and intersectional audits** - **Regulatory sandboxes**	Non-binding instrument Non-binding instrument Binding instrument Non-binding instrument Non-binding instrument

- **Continuous automated monitoring**	187
47.bis. Other	
48. In your opinion, how useful would the following follow-up activities be if implemented by the Council of Europe? - **Monitoring of AI legislation and policies in member States** - **Capacity building on Council of Europe instruments, including assistance to facilitate ratification and implementation of relevant Council of Europe instruments** - **AI Observatory for sharing good practices and exchanging information on legal, policy and technological developments related to AI systems** - **Establishing a centre of expertise on AI and human rights**	Rather useful Indifferent/no opinion Highly useful Highly useful
49. What other mechanisms, if any, should be considered?	
50. Are there any other issues with respect to the design, development and application of AI systems in the context of human rights, democracy and the rule of law that you wish to bring to the attention of the CAHAI?	
Date of submission	4/20/21 12:42:26

Bilkent University

State (where your institution is based)	Turkey

Institution: Name of the institution/body/company	Bilkent University
Personal capacity: Your socio-professional category	Intermediate occupations
Your stakeholder group	Academic and scientific community
2. In view of the elaboration of a legal framework on the design, development and application of AI, based on the standards of the Council of Europe on human rights, democracy and the rule of law, what kind of definition of artificial intelligence (AI) should be considered by the CAHAI	No definition, with a legal instrument focused on the effect of AI systems on human rights, de-mocracy and the rule of law
2bis. If "other" please explain below	
3. What are the reasons for your preference?	Legal instruments should focused on the effect of AI systems on human rights, de-mocracy and the rule of law.
4. Please select the areas in which AI systems offer the most promising opportunities for the protection of human rights, democracy and the rule of law	• Healthcare;Banking, finance and insurance;National security and counter-terrorism;
4bis. If other, which areas and why?	
5. Please indicate which of the following AI system applications in your view have the greatest potential to enhance/protect human rights, democracy and the rule of law?	• AI applications to prevent the commission of a criminal offence (e.g. anti-money laundry AI appli-cations);• Medical applications for faster and more accurate diagnoses;Facial recognition supporting law enforcement ;• AI applications in the field of banking and insurance;• AI applications determining the allocation of social services;
6. Please briefly explain how such applications would benefit human rights, democracy and the rule of law.	Education, health and security AI applications , would benefit human rights, democracy and the rule of law. Due to the fact that for nations, these three areas significant in order to develop their welfare levels.
7. What other applications might contribute significantly to strengthening human rights, democracy and the rule of law?	Equally, right of access in education, health and social services can contribute human rights, democracy and the rule of law because to reach these rights equally is a fundamental right in a democratic environment.
8. Please select the areas in which the deployment of AI systems poses the highest risk of violating human rights, democracy and the rule of law **8bis. Other**	• Social networks/media, internet intermediaries ;• Employment;• Election monitoring;
9. Please briefly explain how such applications might violate human rights, democracy and the rule of law.	With the widespread use of AI applications in every field, not only individuals may suffer from unemployment but also this may cause to increase psychological diseases rate of crime.
10. Please indicate the types of AI systems that represent the	Smart personal assistants (connected devices);• Emotional analysis in the workplace to measure employees' level of engagement;• Deep fakes and cheap fakes;AI applications aimed

greatest risk to human rights, democracy and the rule of law	at predicting recidivism ;• AI applications to promote gender equality (e.g. analytical tools);
11. Please briefly explain how such applications might violate human rights, democracy and the rule of law.	Social media can violate human rights and democracy because mass media can affect easily and fast fake news and behave aggresively. Therefore, this attitude can damage democratic environment.
12. What other applications might represent a significant risk to human rights, democracy and the rule of law?	Deep fakes and cheap fakes can represent a significant risk to human rights, democracy because when unexpected criminal activity happens, innocent people might be judged and justice can be misled.
13. In your opinion, should the development, deployment and use of AI systems that have been proven to violate human rights or undermine democracy or the rule of law be **13bis. Other**	Banned
14. In your opinion, should the development, deployment and use of AI systems that pose high risks with high probability to human rights, democracy and the rule of law be:	Banned
15. In your opinion, should the development, deployment and use of AI systems that pose low risks with high probability to human rights, democracy and the rule of law be:	Regulated (binding law)
16. In your opinion, should the development, deployment and use of AI systems that pose high risks with low probability to human rights, democracy and the rule of law be:	Regulated (binding law)
17. What are the most important legal principles, rights and interests that need to be addressed and therefore justify regulating the development, deployment and use of AI systems?	Respect for human dignity;Privacy and data protection;• Social security;• Legal certainty;• Possibility to challenge a decision made by an AI system and access to an effective remedy;
18. In your opinion, in what sectors/areas is a binding legal instrument needed to protect human rights, democracy and the rule of law? **18bis. Other**	• Social networks/media, internet intermediaries ;Justice;Banking, finance and insurance;
19. Self-regulation by companies is more efficient than government regulation to prevent and mitigate the risk of violations of human rights, democracy and the rule of law.	I rather disagree
20. Self-regulation by companies is sufficient to prevent and mitigate the risk of violations of human rights, democracy and the rule of law	I rather disagree

21. Which of the following instruments of self-regulation do you consider to be the most efficient? **21bis. Other**	Ethics guidelines
22. Existing international, regional and/or national binding and/or non-binding legal instruments are sufficient to regulate AI systems in order to ensure the protection of human rights, democracy and the rule of law.	I fully agree
23. Please provide examples of existing international, regional and/or national (binding and/or non-binding) instruments that in your view are effective in guiding and regulating the design, development and use of AI systems to ensure compatibility with the standards for human rights, democracy and the rule of law	Government regulation about AI systems is neccessary in order to protect human rights and democratic environment.Due to the fact that there is no superior authority such as companies or organizations other than the state. State superiority enales to live individuals in a peaceful environment.
24. If you responded disagree/completely disagree to question 22, please indicate why existing international, regional and/or national (binding and/or non-binding) legal instruments are not sufficient to regulate AI systems (select all you agree with):	
25. Please indicate other specific legal gaps that in your view need to be addressed at the level of the Council of Europe	
26. Individuals should always be informed when they interact with an AI system in any circumstances.	I rather agree
27. Individuals should always be informed when a decision which affects them personally is made by an AI system.	I fully agree
28. Individuals should always be informed when an AI system is used in a decision-making process which affects them personally.	I fully agree
29. Individuals should have a right to a meaningful explanation of algorithmic based decisions, in particular how the algorithm reached its output.	Indifferent/no opinion
30. Individuals should always have the right that any decision taken by an AI system in the framework of judicial proceedings are reviewed by a "human" judge.	I fully agree

31. Individuals should have a right to demand the review of an algorithmic based decision by a human being.	I fully agree
32. There should always be a person responsible for reviewing algorithmic based decisions in the public sector and private companies.	I rather agree
33. Public institutions should not use AI systems to promote or discredit a particular way of life or opinion (e.g. "social scoring").	I rather disagree
34. States should be obliged to design, develop and apply sustainable AI systems that respect applicable environmental protection standards.	I completely disagree
35. The code behind AI systems used in the public and private sectors should always be accessible to the competent public authorities for the purposes of external audit.	Indifferent/no opinion
36. There should be higher transparency standards for public entities using AI than for private entities.	I fully agree
37. There should be higher standards for access to an effective remedy for individuals in relation to decisions informed and made by an AI system in the field of justice than in the field of consumer protection.	I rather agree
38. Member States should establish public oversight mechanisms for AI systems that may breach legally binding norms in the sphere of human rights, democracy and the rule of law.	Indifferent/no opinion
39. Errors and flaws discovered in AI systems which have led or could lead to the violation of human rights, democracy and the rule of law must be reported to the competent authorities.	I fully agree
40. The use of facial recognition in public spaces should be prohibited.	I fully agree
41. The information obtained through the use of facial recognition systems should always be reviewed by a human being before being used for purposes that have an impact on individual freedom, such as in relation to a person boarding an	I rather agree

airplane, upon police arrest or in the framework of judicial proceedings.	
42. **The use of AI systems in democratic processes (e.g. elections) should be strictly regulated.**	I fully agree
43. **Should a future legal framework at Council of Europe level include a specific liability regime in relation to AI applications?**	No opinion
44. **If yes, what aspects should be covered?**	
45. **In your opinion, how useful would the following compliance mechanisms be in preventing and mitigating the risks to human rights, democracy and the rule of law arising from the design, development and application of AI?** - **Human rights, democracy and rule of law impact assessments** - **Certification and quality labelling** - **Audits and intersectional audits** - **Regulatory sandboxes** - **Continuous automated monitoring**	Highly useful Highly useful Highly useful Highly useful Indifferent/no opinion
46. **Please indicate what combination of mechanisms should be preferred to efficiently protect human rights, democracy and the rule of law** **46bis. Other**	• Audits and intersectional audits;• Regulatory sandboxes;• Human rights, democracy and rule of law impact assessments ;
47. **Please select which mechanism(s) should be part of either a binding instrument or a non-binding instrument to best protect human rights, democracy and the rule of law.** - **Human rights, democracy and rule of law impact assessments** - **Certification and quality labelling** - **Audits and intersectional audits** - **Regulatory sandboxes** - **Continuous automated monitoring**	Binding instrument Non-binding instrument Binding instrument Binding instrument Non-binding instrument
47.bis. Other	

48. In your opinion, how useful would the following follow-up activities be if implemented by the Council of Europe? - **Monitoring of AI legislation and policies in member States** - **Capacity building on Council of Europe instruments, including assistance to facilitate ratification and implementation of relevant Council of Europe instruments** - **AI Observatory for sharing good practices and exchanging information on legal, policy and technological developments related to AI systems** - **Establishing a centre of expertise on AI and human rights**	Rather useful Indifferent/no opinion Highly useful Highly useful
49. What other mechanisms, if any, should be considered?	
50. Are there any other issues with respect to the design, development and application of AI systems in the context of human rights, democracy and the rule of law that you wish to bring to the attention of the CAHAI?	
Date of submission	4/30/21 15:36:05

Bits of Freedom

State (where your institution is based)	**The Netherlands**
Institution: Name of the institution/body/company	Bits of Freedom
Personal capacity: Your socio-professional category	Intermediate occupations
Your stakeholder group	Civil society
2. In view of the elaboration of a legal framework on the design, development and application of AI, based on the standards of the Council of Europe on human rights, democracy and the rule of law, what kind of definition of artificial	A technologically-neutral and simplified definition, such as "a set of sciences, theories and tech-niques whose purpose is to reproduce by a machine the cognitive abilities of a human being" (See the CAHAI feasibility study, §5)

intelligence (AI) should be considered by the CAHAI	
2bis. If "other" please explain below	
3. What are the reasons for your preference?	By narrowing the definition to automated decision making or machine learning systems, many AI technology will be excluded from the scope. This would result in a legal framework that doesn't offer solutions for risks beyond the narrow definition. A technologically-neutral definition helps to broaden the scope and is more future-proof.
4. Please select the areas in which AI systems offer the most promising opportunities for the protection of human rights, democracy and the rule of law	• Healthcare;• Environment and climate;
4bis. If other, which areas and why?	
5. Please indicate which of the following AI system applications in your view have the greatest potential to enhance/protect human rights, democracy and the rule of law?	• Medical applications for faster and more accurate diagnoses;• AI applications to predict the possible evolution of climate change and/or natural disasters;
6. Please briefly explain how such applications would benefit human rights, democracy and the rule of law.	Medical applications for faster and more accurate diagnoses: Provided that the datasets on which these are based include sufficient relevant information on vulnerable and marginalised groups and are not based on a homogeneous group, AI systems can potentially enable faster and more accurate diagnoses. This could in turn allow for more timely and cost-effective access and possible remedy for a wider group of people, thereby increasing access to healthcare. This would not only strengthen the right to health(care) but also democracy, as it could allow for broader access in society. Keeping in mind that those who have the least access to healthcare today are the communities that are already most vulnerable and marginalised, it is important to ensure that these systems equally benefit everyone. Effective public health policies must be implemented alongside any deployment of AI systems in healthcare must not unduly remove funding and resources from other health-related budgets.
	AI applications to predict the possible evolution of climate change and/or natural disasters: AI systems could potentially help better understand the effects of current policies on the climate and/or ecosystem. As such, they could potentially contribute to better decision-making related to protecting the climate and mitigating the effects of natural disasters. Keeping in mind that those affected mostly today are the communities that are already most vulnerable and marginalised, it is important to
	6ensure that these systems equally benefit everyone and do not perpetuate or exacerbate inequality.
7. What other applications might contribute significantly to strengthening human rights, democracy and the rule of law?	Corrective AI with the purpose to reduce social inequalities.
8. Please select the areas in which the deployment of AI systems poses the highest risk of	• Justice;• Banking, finance and insurance;• Law enforcement;

violating human rights, democracy and the rule of law **8bis. Other**	
9. Please briefly explain how such applications might violate human rights, democracy and the rule of law.	The use of AI systems risks further exacerbate existing racial and ethnic, gender, and social and economic inequalities (among others). Given the severe impacts that judicial systems, law enforcement (including national security and counter-terrorism) and customs and border control have on human rights institutional discrimination, any AI systems deployed in these sectors have the potential to cause great harm. This is especially worrisome given the institutional racism and other forms of discrimination that shape our social and political systems. Many of the policies and practices that are already entrenched with racial biases and often target already vulnerable and marginalised groups, especially black and people of color (BIPOC), will be coded into AI systems. This will make processes and the outcomes even more opaque, while falsely appearing to be 'objective'. Mass surveillance systems, such as facial recognition and other indiscriminate biometric surveillance tools, are fundamentally incompatible with human rights. These symptoms severely impact people's right to privacy, non-discrimination, freedom of expression, assembly and association, human dignity and life, liberty and security, among others. Human rights defenders, activists, journalists and political dissidents are particularly at risk. AI-driven surveillance technologies have also been used to track, surveil and at times arrest, detail and deport refugees and migrants. Algorithmic risk assessment tools or predictive policing, which are also biased against racial and ethnic minorities, lead to increased incarceration of BIPOC. Having no red lines and/or binding regulation and meaningful oversight of these applications will most likely result in further deterioration of human rights, putting individuals (especially BIPOC) at risk of significant harm thus eroding the core principles of democracy and rule of law. Yet these systems are often developed and deployed without including BIPOC and other marginalised groups in the process.
10. Please indicate the types of AI systems that represent the greatest risk to human rights, democracy and the rule of law	Facial recognition supporting law enforcement ;Scoring / scoring of individuals by public entities;• Automated fraud detection (banking, insurance);• AI applications determining the allocation of social services;• AI applications to prevent the commission of a criminal offence;
11. Please briefly explain how such applications might violate human rights, democracy and the rule of law.	Facial recognition supporting law enforcement – Allows for mass surveillance, has highly discriminatory outcomes (especially for women and gender non-conforming persons and BIPOC) and is fundamentally incompatible with human rights. Evidence shows that uses of biometric mass surveillance in Europe have resulted in violations of EU data protection law and unduly restricted people's rights including their privacy, right to free speech, right to protest and not to be discriminated against. The widespread use of biometric surveillance, profiling and prediction is a threat to the rule of law and our most basic freedoms. Scoring / scoring of individuals by public entities and automated fraud detection – Can increase inequality in access to and enjoyment of basic social and economic rights. Persons from lower socioeconomic classes and/or marginalised groups are disproportionately at risk, as AI-driven scoring systems impact their right to education (e.g. AI applications determining the allocation of educational services; AI applications used for analysing the

	performance of pupils/students in educational institutions such as schools and universities), right to work (e.g. algorithmic-driven hiring tools or performance assessment tools; emotional analysis in the workplace to measure employees' level of engagement, etc.), and right to social security, among others AI applications to prevent the commission of a criminal offence and AI applications aimed at predicting recidivism can lead to incarceration and limit people's freedom. Given institutional racism and biased AI systems, the use of algorithmic tools in the context of criminal justice risks perpetuating disproportionate harm to BIPOC and other vulnerable groups. AI applications determining the allocation of social services – Allocating social services without proper human oversight that looks at particular circumstances of each case can lead to misjudge a person's situation. Such error disproportionately impacts already marginalised persons, especially those of lower socioeconomic class, as access to social services is often necessary for their survival.
12. What other applications might represent a significant risk to human rights, democracy and the rule of law?	algorithmic-driven risk assessment tools for criminal justice
13. In your opinion, should the development, deployment and use of AI systems that have been proven to violate human rights or undermine democracy or the rule of law be **13bis. Other**	Banned
14. In your opinion, should the development, deployment and use of AI systems that pose high risks with high probability to human rights, democracy and the rule of law be:	Banned
15. In your opinion, should the development, deployment and use of AI systems that pose low risks with high probability to human rights, democracy and the rule of law be:	Regulated (binding law)
16. In your opinion, should the development, deployment and use of AI systems that pose high risks with low probability to human rights, democracy and the rule of law be:	Regulated (binding law)
17. What are the most important legal principles, rights and interests that need to be addressed and therefore justify regulating the development, deployment and use of AI systems?	Respect for human dignity;Equality;• Non-discrimination;Privacy and data protection;• Explainability;
18. In your opinion, in what sectors/areas is a binding legal instrument needed to protect human rights, democracy and the rule of law? **18bis. Other**	• Social networks/media, internet intermediaries ;Public administration;Law enforcement;

19. Self-regulation by companies is more efficient than government regulation to prevent and mitigate the risk of violations of human rights, democracy and the rule of law.	I completely disagree
20. Self-regulation by companies is sufficient to prevent and mitigate the risk of violations of human rights, democracy and the rule of law	I completely disagree
21. Which of the following instruments of self-regulation do you consider to be the most efficient? 21bis. Other	internal supervision
22. Existing international, regional and/or national binding and/or non-binding legal instruments are sufficient to regulate AI systems in order to ensure the protection of human rights, democracy and the rule of law.	I rather disagree
23. Please provide examples of existing international, regional and/or national (binding and/or non-binding) instruments that in your view are effective in guiding and regulating the design, development and use of AI systems to ensure compatibility with the standards for human rights, democracy and the rule of law	audits and DPIA's
24. If you responded disagree/completely disagree to question 22, please indicate why existing international, regional and/or national (binding and/or non-binding) legal instruments are not sufficient to regulate AI systems (select all you agree with):	• They provide a basis but fail to provide an effective substantive protection of human rights, democracy and the rule of law against the risks posed by AI systems;• They lack specific principles for the design, development and application of AI systems;They do not provide for specific rights (e.g. transparency requirements, redress mechanisms) for persons affected by AI;
25. Please indicate other specific legal gaps that in your view need to be addressed at the level of the Council of Europe	The rights for persons affected by AI
26. Individuals should always be informed when they interact with an AI system in any circumstances.	I rather agree
27. Individuals should always be informed when a decision which affects them personally is made by an AI system.	I fully agree
28. Individuals should always be informed when an AI system is used in a decision-making	I fully agree

process which affects them personally.	
29. Individuals should have a right to a meaningful explanation of algorithmic based decisions, in particular how the algorithm reached its output.	I fully agree
30. Individuals should always have the right that any decision taken by an AI system in the framework of judicial proceedings are reviewed by a "human" judge.	I fully agree
31. Individuals should have a right to demand the review of an algorithmic based decision by a human being.	I fully agree
32. There should always be a person responsible for reviewing algorithmic based decisions in the public sector and private companies.	I fully agree
33. Public institutions should not use AI systems to promote or discredit a particular way of life or opinion (e.g. "social scoring").	I rather agree
34. States should be obliged to design, develop and apply sustainable AI systems that respect applicable environmental protection standards.	I rather agree
35. The code behind AI systems used in the public and private sectors should always be accessible to the competent public authorities for the purposes of external audit.	I fully agree
36. There should be higher transparency standards for public entities using AI than for private entities.	I rather disagree
37. There should be higher standards for access to an effective remedy for individuals in relation to decisions informed and made by an AI system in the field of justice than in the field of consumer protection.	I rather agree
38. Member States should establish public oversight mechanisms for AI systems that may breach legally binding norms in the sphere of human rights, democracy and the rule of law.	I fully agree
39. Errors and flaws discovered in AI systems which have led or could lead to the violation of human rights, democracy and the rule of law	I fully agree

must be reported to the competent authorities.	
40. The use of facial recognition in public spaces should be prohibited.	I fully agree
41. The information obtained through the use of facial recognition systems should always be reviewed by a human being before being used for purposes that have an impact on individual freedom, such as in relation to a person boarding an airplane, upon police arrest or in the framework of judicial proceedings.	I rather agree
42. The use of AI systems in democratic processes (e.g. elections) should be strictly regulated.	I fully agree
43. Should a future legal framework at Council of Europe level include a specific liability regime in relation to AI applications?	Yes
44. If yes, what aspects should be covered?	a)To the extent possible, restore the victim's situation to the situation preceding any intervention of/by an AI system. b)Provide monetary compensation to victims harmed by AI systems. c)Establish sanctions of AI designers/developers/deployers for the harm caused by using the AI system. Sanctions should include the prohibition of further deploying the AI system unless significant changes are made to ensure that the design and/or use of the AI system is rights-respecting. d)Establish sanctions of AI designers/developers/deployers for the failure to conduct thorough human rights due diligence before and during the use of an AI system, or for failure to effectively monitor the use of the AI system. e)Sanctions of AI designers/developers/deployers for deploying an AI system that has been banned.
45. In your opinion, how useful would the following compliance mechanisms be in preventing and mitigating the risks to human rights, democracy and the rule of law arising from the design, development and application of AI? - Human rights, democracy and rule of law impact assessments - Certification and quality labelling - Audits and intersectional audits - Regulatory sandboxes - Continuous automated monitoring	Highly useful Rather useful Highly useful Indifferent/no opinion Highly useful

46. Please indicate what combination of mechanisms should be preferred to efficiently protect human rights, democracy and the rule of law 46bis. Other	• Human rights, democracy and rule of law impact assessments ;• Audits and intersectional audits;Continuous automated monitoring;
47. Please select which mechanism(s) should be part of either a binding instrument or a non-binding instrument to best protect human rights, democracy and the rule of law. - Human rights, democracy and rule of law impact assessments - Certification and quality labelling - Audits and intersectional audits - Regulatory sandboxes - Continuous automated monitoring	Binding instrument Non-binding instrument Binding instrument No opinion Binding instrument
47.bis. Other	
48. In your opinion, how useful would the following follow-up activities be if implemented by the Council of Europe? - Monitoring of AI legislation and policies in member States - Capacity building on Council of Europe instruments, including assistance to facilitate ratification and implementation of relevant Council of Europe instruments - AI Observatory for sharing good practices and exchanging information on legal, policy and technological developments related to AI systems - Establishing a centre of expertise on AI and human rights	Rather useful Rather useful Rather useful Highly useful
49. What other mechanisms, if any, should be considered?	Create a platform or forum providing the opportunity to effectively engage external stakeholders, especially civil society organisations and marginalised groups. Importantly, provide them with the tools, training, resources, and information necessary to meaningfully participate in AI governance and AI accountability.
50. Are there any other issues with respect to the design, development and application of AI systems in the context of human rights, democracy and the rule of law that you wish to bring to the attention of the CAHAI?	Proactively ensure inclusion of civil society (especially under-represented groups) throughout the process cycle. Establish feedback mechanisms and shared decision-making processes to ensure participatory mechanisms. This should be a (binding) legal obligation.

Date of submission	4/26/21 10:44:36

British Institute of International & Comparative Law (BIICL)

State (where your institution is based)	United Kingdom
Institution: Name of the institution/body/company	British Institute of International & Comparative Law (BIICL).
Personal capacity: Your socio-professional category	Higher occupations
Your stakeholder group	Academic and scientific community
2. In view of the elaboration of a legal framework on the design, development and application of AI, based on the standards of the Council of Europe on human rights, democracy and the rule of law, what kind of definition of artificial intelligence (AI) should be considered by the CAHAI	Other
2bis. If "other" please explain below	The High-Level Expert Group on Artificial Intelligence 2019 definition of Artificial Intelligence can serve as a useful starting point.
3. What are the reasons for your preference?	The High-Level Expert Group on Artificial Intelligence 2019 definition of Artificial Intelligence can serve as a useful starting point.
4. Please select the areas in which AI systems offer the most promising opportunities for the protection of human rights, democracy and the rule of law	• Healthcare;• Environment and climate;
4bis. If other, which areas and why?	
5. Please indicate which of the following AI system applications in your view have the greatest potential to enhance/protect human rights, democracy and the rule of law?	• Medical applications for faster and more accurate diagnoses;• AI applications to predict the possible evolution of climate change and/or natural disasters;• AI applications providing support to the healthcare system (triage, treatment delivery);
6. Please briefly explain how such applications would benefit human rights, democracy and the rule of law.	The opportunities presented by Artificial Intelligence can be broadly divided into two categories: 1. Categories where we can make efficiency gains: These are the areas where delivery of public services can be improved with the aid of AI. The significant challenges in here would be in terms of data management and privacy. 2. Categories where fairness considerations must prevail over efficiency considerations: We must be more circumspect about deployment of AI in moral and social realm. The significant challenges in here would be in terms of algorithmic injustice.

	The categories of health and environment as highlighted above broadly fall into the categories where efficiency gains can be made through advanced analytical processes. The recent breakthrough by AI in solving protein structures is example of such an efficiency gain. Similar advances have been witnessed in oncology involving cancer diagnosis through artificial intelligence. Another efficiency gain of AI lies in its potential use to provide warning for extreme weather events on the basis of existing data and simulations (See: Chris Huntingford et al, Machine learning and artificial intelligence to aid climate change research and preparedness (2019))
7. What other applications might contribute significantly to strengthening human rights, democracy and the rule of law?	As mentioned previously, the focus of deployment should be in areas where efficiency gains can be made, and we should proceed with extreme caution in areas involving social and moral repercussions. One such area where AI can have positive contribution is in the area of environment solutions such as recycling and waste management. (See: Holger Berg et al, Digital waste management, Eionet Report - ETC/WMGE 2020/4 September 2020)
8. Please select the areas in which the deployment of AI systems poses the highest risk of violating human rights, democracy and the rule of law **8bis. Other**	• Healthcare;• Employment;• Social networks/media, internet intermediaries ;
9. Please briefly explain how such applications might violate human rights, democracy and the rule of law.	AI systems are being deployed rapidly across areas of considerable human rights significance - in healthcare, education, employment, criminal justice - without appropriate safeguards or accountability in place. These are currently deployed without a full understanding of their impact on people and society, and in the absence of effective domestic or international regulatory frameworks. From a human rights and rule of law perspective, concerns include the potential of new forms of social control, discrimination, arbitrariness, lack of transparency and inequality, right to privacy, freedom of expression and freedom of thought, security and fair trail, to inequality, discrimination, the future of work, climate change, electoral fairness and democracy.

In particular, in relation to healthcare, governments globally have turned to data-driven interventions to combat the COVID-19 pandemic. Key current examples include contact tracing apps, information systems and databases for supporting testing and tracing services, wearables for monitoring compliance and social distancing, and biometric measures, while emerging interventions include immunity passports. Big data and machine learning are being used to understand and predict disease patterns. These data-intensive measures often challenge public trust and confidence, with concerns about efficacy, privacy, security, equality and autonomy. Key worries include public and private sharing of sensitive data, discrimination, social coercion and creation of long-term mass surveillance.

In relation to employment, changes in the nature of work could call into question many people's status as participants in society. Automation, the introduction of new technologies at the workplace, the implications of practices such as People Analytics and the use of big data and AI to manage the workforce has worrying concerns for the future of work quality of jobs in future labour markets.

Finally, the rise of AI based on machine learning, data driven technology and the ability to collect, analyse and apply large |

	amounts of data, has become the basis of new business and economic models of social media and internet companies. Tech companies harvest our behaviour online without our consent or understanding and use it to predict, influence and manipulate our decisions.
10. Please indicate the types of AI systems that represent the greatest risk to human rights, democracy and the rule of law	Facial recognition supporting law enforcement ;Scoring / scoring of individuals by public entities;• AI applications for personalised media content (recommender systems);• AI applications to prevent the commission of a criminal offence;AI applications aimed at predicting recidivism ;
11. Please briefly explain how such applications might violate human rights, democracy and the rule of law.	AI applications for personalised media content are part of a broader business model that captures surplus behaviour - unintentionally shared information – and creates a lucrative market in which to sell advertising space online. The power of machine learning means that this data is used not just to predict our behaviour but increasingly to manipulate it for profit and political gain, with clear human rights implications. The use of increasingly sophisticated technologies in the data processing economy creates ever more granular and scalable levels of information. Formerly unsophisticated data analytics processes have evolved into new techniques explaining, inferring, interpreting, and extrapolating human action by consolidating a wide range of highly granular data points, often collected and submitted by users themselves on a voluntary basis. The enhanced quality of data obtained by using new technologies enables prescriptive analytics for business purposes.

For example, the recommendations sidebar on Youtube's initial goal was to maximize watch time to make it grow as much as possible; it created a "filter bubble" to give people more of the same content they are watching. This also gives people only one side of reality and can make people fall into "rabbit holes"– resulting in political polarization. This technique has evolved to keep growing into "deep learning," so AI is able to mimic the human brain with data to create patterns and connections and recommend new content that people do not yet realize they are interested in.

In 2012, Facebook published the results of research showing it could alter the emotional state of users by manipulating their news feeds. In 2016, the idea behind the research on altering emotional states through Facebook was brought together with research on psychological profiling linked to research on Facebook likes in a technique called "behavioural microtargeting", which was reportedly used for the Trump campaign in the United States and for the leave.EU campaign in the EU referendum in the UK.

Google and Facebook's surveillance-based business model greatly harms the right to privacy on an unprecedented scale, and then poses a serious risk to a range of other rights, from freedom of expression and opinion, to freedom of thought and the right to non-discrimination. Google and Facebook offer services to billions of people without asking them to pay a financial fee; instead, citizens pay for the services with their intimate personal data; Google and Facebook collect and use this data to analyse people, aggregate them into groups, and to make predictions about their interests, characteristics, and ultimately behaviour, primarily so they can use these insights to generate advertising revenue. Google and Facebook's platforms rely not only on extracting vast amounts of people's data, but on drawing further insight and information from all that data using sophisticated algorithmic systems. These |

	systems are designed to find the best way to achieve outcomes in the companies' interests, including finely tuned ad targeting and delivery, and behavioural nudges that keep people engaged on the platforms. Now tech companies can affect real world behaviour and emotions without triggering the user's awareness. Never before has the world seen a power that can reach directly into our private thoughts and influence so effectively. As the Cambridge Analytica scandal revealed, the same algorithms designed to identify and influence consumer choices can be used to manipulate political opinions and voter behaviour, undermining democracy and violating freedom of thought. As "nudging" mechanisms become the norm for correcting" individuals' behaviour, those developing predictive models are bestowed with the power to decide what 'correct' is. This becomes particularly severe when considering the power imbalance between companies collecting and processing data and the "data subjects".
12. What other applications might represent a significant risk to human rights, democracy and the rule of law?	Tech companies' use of algorithms to predict and manipulate users' behaviours.
13. In your opinion, should the development, deployment and use of AI systems that have been proven to violate human rights or undermine democracy or the rule of law be **13bis. Other**	Banned
14. In your opinion, should the development, deployment and use of AI systems that pose high risks with high probability to human rights, democracy and the rule of law be:	Regulated (binding law)
15. In your opinion, should the development, deployment and use of AI systems that pose low risks with high probability to human rights, democracy and the rule of law be:	Regulated (binding law)
16. In your opinion, should the development, deployment and use of AI systems that pose high risks with low probability to human rights, democracy and the rule of law be:	Regulated (binding law)
17. What are the most important legal principles, rights and interests that need to be addressed and therefore justify regulating the development, deployment and use of AI systems?	Respect for human dignity;Equality;• Non-discrimination;Privacy and data protection;• Possibility to challenge a decision made by an AI system and access to an effective remedy;
18. In your opinion, in what sectors/areas is a binding legal instrument needed to protect human rights, democracy and the rule of law? **18bis. Other**	Justice;• Healthcare;• Social networks/media, internet intermediaries ;

19. Self-regulation by companies is more efficient than government regulation to prevent and mitigate the risk of violations of human rights, democracy and the rule of law.	I completely disagree
20. Self-regulation by companies is sufficient to prevent and mitigate the risk of violations of human rights, democracy and the rule of law	I rather disagree
21. Which of the following instruments of self-regulation do you consider to be the most efficient? **21bis. Other**	Voluntary certification
22. Existing international, regional and/or national binding and/or non-binding legal instruments are sufficient to regulate AI systems in order to ensure the protection of human rights, democracy and the rule of law.	I rather disagree
23. Please provide examples of existing international, regional and/or national (binding and/or non-binding) instruments that in your view are effective in guiding and regulating the design, development and use of AI systems to ensure compatibility with the standards for human rights, democracy and the rule of law	In order to protect standards for human rights, democracy and the rule of law, in many circumstances it is not always necessary for instruments to be specifically designed to refer to AI. Various existing human rights instruments of general application could apply to harmful effects caused by AI. For instance, the OECD Guidelines for Multinational enterprises are reasonably effective in securing adherence to human rights principles by businesses. Although not specific to AI, their provisions (in particular the chapters on human rights and due diligence) are of general application, and therefore could be applied equally to AI as to any other technology, process or practice. The limited enforcement mechanism of the OECD Guidelines via National Contact Points is reasonably effective in nudging businesses towards compliance. In terms of AI specific instruments, although there is now a profusion of such codes worldwide, the vast majority of these are too general and vague to have any real impact on guiding behaviour. Those instruments which have an appropriate level of specificity to guide organisations' actions when deploying AI (for instance the UK Information Commissioner's Office and Alan Turing Guidance on Explainable AI, and the Singapore Personal Data Protection Commission Model Framework on AI Governance (2nd Ed.) are not focussed on human rights, democracy and the rule of law specifically.
24. If you responded disagree/completely disagree to question 22, please indicate why existing international, regional and/or national (binding and/or non-binding) legal instruments are not sufficient to regulate AI systems (select all you agree with):	There are too many and they are difficult to interpret and apply in the context of AI;• They lack specific principles for the design, development and application of AI systems;• They do not provide enough guidance to the designers, developers and deployers of AI systems;They do not provide for specific rights (e.g. transparency requirements, redress mechanisms) for persons affected by AI;

25. Please indicate other specific legal gaps that in your view need to be addressed at the level of the Council of Europe	At present (with the exception of the EU's Draft AI regulation – which is clearly still some way from becoming legislation), there are no international, regional or national instruments which are tailored directly to the novel risks which are unique to AI. The Council of Europe could usefully seek to fill these gaps. The novel risks from AI fall into two categories: • Questions of how AI ought to take decisions, to the extent such decisions are delegated to it (e.g. the extent to which AI can be required to incorporate ethical values if and when important decisions are made by it). An example might be the decision-making within a self-driving car as to which humans to prioritise in the event of a crash; and • Whether there are any decisions that AI should not take (e.g. situations where there should be outright bans of AI).
26. Individuals should always be informed when they interact with an AI system in any circumstances.	I rather disagree
27. Individuals should always be informed when a decision which affects them personally is made by an AI system.	I rather agree
28. Individuals should always be informed when an AI system is used in a decision-making process which affects them personally.	I rather agree
29. Individuals should have a right to a meaningful explanation of algorithmic based decisions, in particular how the algorithm reached its output.	I rather agree
30. Individuals should always have the right that any decision taken by an AI system in the framework of judicial proceedings are reviewed by a "human" judge.	I rather disagree
31. Individuals should have a right to demand the review of an algorithmic based decision by a human being.	I rather disagree
32. There should always be a person responsible for reviewing algorithmic based decisions in the public sector and private companies.	I rather agree
33. Public institutions should not use AI systems to promote or discredit a particular way of life or opinion (e.g. "social scoring").	I rather disagree
34. States should be obliged to design, develop and apply sustainable AI systems that respect applicable environmental protection standards.	I rather agree
35. The code behind AI systems used in the public and private sectors should always be	I rather agree

accessible to the competent public authorities for the purposes of external audit.	
36. There should be higher transparency standards for public entities using AI than for private entities.	I rather agree
37. There should be higher standards for access to an effective remedy for individuals in relation to decisions informed and made by an AI system in the field of justice than in the field of consumer protection.	I rather agree
38. Member States should establish public oversight mechanisms for AI systems that may breach legally binding norms in the sphere of human rights, democracy and the rule of law.	I rather agree
39. Errors and flaws discovered in AI systems which have led or could lead to the violation of human rights, democracy and the rule of law must be reported to the competent authorities.	I rather agree
40. The use of facial recognition in public spaces should be prohibited.	I rather disagree
41. The information obtained through the use of facial recognition systems should always be reviewed by a human being before being used for purposes that have an impact on individual freedom, such as in relation to a person boarding an airplane, upon police arrest or in the framework of judicial proceedings.	I rather disagree
42. The use of AI systems in democratic processes (e.g. elections) should be strictly regulated.	I rather agree
43. Should a future legal framework at Council of Europe level include a specific liability regime in relation to AI applications?	Yes
44. If yes, what aspects should be covered?	Intersectional audits consider intersection of multiple sensitive attributes (race, gender, etc) jointly instead of attributes alone - for an example of such audits with machine learning, see for instance: Morina, Giulio & Oliinyk, Viktoriia & Waton, Julian & Marusic, Ines & Georgatzis, Konstantinos. (2019). Auditing and Achieving Intersectional Fairness in Classification Problems.

45. In your opinion, how useful would the following compliance mechanisms be in preventing and mitigating the risks to human rights, democracy and the rule of law arising from the design, development and application of AI? - **Human rights, democracy and rule of law impact assessments** - **Certification and quality labelling** - **Audits and intersectional audits** - **Regulatory sandboxes** **Continuous automated monitoring**	Highly useful Highly useful Highly useful Highly useful Rather useful
46. Please indicate what combination of mechanisms should be preferred to efficiently protect human rights, democracy and the rule of law **46bis. Other**	• Human rights, democracy and rule of law impact assessments ;• Certification and quality labelling;• Audits and intersectional audits;•
47. Please select which mechanism(s) should be part of either a binding instrument or a non-binding instrument to best protect human rights, democracy and the rule of law. - **Human rights, democracy and rule of law impact assessments** - **Certification and quality labelling** - **Audits and intersectional audits** - **Regulatory sandboxes** **Continuous automated monitoring**	Binding instrument Binding instrument Binding instrument Non-binding instrument Non-binding instrument
47.bis. Other	See proposal at answer 42 below.
48. In your opinion, how useful would the following follow-up activities be if implemented by the Council of Europe? - **Monitoring of AI legislation and policies in member States** - **Capacity building on Council of Europe instruments, including assistance to facilitate ratification and implementation of relevant Council of Europe instruments** - **AI Observatory for sharing good practices and exchanging information on legal, policy and technological**	Highly useful Highly useful Rather useful Rather useful

developments related to AI systems **Establishing a centre of expertise on AI and human rights**	
49. What other mechanisms, if any, should be considered?	
50. Are there any other issues with respect to the design, development and application of AI systems in the context of human rights, democracy and the rule of law that you wish to bring to the attention of the CAHAI?	It would be useful to require that ethical awareness is a mandatory part of training for AI professionals, in the same way that compulsory ethics modules (and ongoing training and certification requirements) apply to regulated professions which involve a significant degree of risk to the public if they are not practised in an ethical manner (e.g. law, medicine, accountancy etc).
Date of submission	4/29/21 14:09:26

Campaign to Stop Killer Robots

State (where your institution is based)	**Netherlands**
Institution: Name of the institution/body/company	Campaign to Stop Killer Robots
Personal capacity: Your socio-professional category	Higher occupations
Your stakeholder group	Civil society
2. In view of the elaboration of a legal framework on the design, development and application of AI, based on the standards of the Council of Europe on human rights, democracy and the rule of law, what kind of definition of artificial intelligence (AI) should be considered by the CAHAI	Other
2bis. If "other" please explain below	Artificial intelligence is a rather general term whose meaning changes over time. What we saw as AI a decade ago is now seen as simple software. So a definition is needed that is future proof and will encompass technologies we cannot currently predict. So I would suggest using the general term "computational techniques", as it is broad enough to cover a wide variety of technologies and also leaving room for future developments in technology
3. What are the reasons for your preference?	It is more general, broad enough to cover a wide variety of technologies, does not change over time (like our thinking on what AI is does) and also leaving room for future developments in technology.

4. Please select the areas in which AI systems offer the most promising opportunities for the protection of human rights, democracy and the rule of law	• Healthcare;• Environment and climate;
4bis. If other, which areas and why?	
5. Please indicate which of the following AI system applications in your view have the greatest potential to enhance/protect human rights, democracy and the rule of law?	• Medical applications for faster and more accurate diagnoses;• AI applications to predict the possible evolution of climate change and/or natural disasters;
6. Please briefly explain how such applications would benefit human rights, democracy and the rule of law.	Provided that additional safeguards are taken, and that these systems are developed by putting equality and human rights above profit (which is rarely the case today), the 2 areas selected appear to have a lower risk of exacerbating existing power imbalances in our societies that result in, among others, growing economic and social inequalities. It's important to consider first who will benefit from these systems (specifically, which demographic groups and/or sectors) and who will be harmed? Second, is the root cause of a (social, economic, political or other) issue effectively being addressed by deploying the AI system, or are we merely offering performative and superficial solutions?
7. What other applications might contribute significantly to strengthening human rights, democracy and the rule of law?	None
8. Please select the areas in which the deployment of AI systems poses the highest risk of violating human rights, democracy and the rule of law **8bis. Other**	• National security and counter-terrorism;• Law enforcement;• Justice;
9. Please briefly explain how such applications might violate human rights, democracy and the rule of law.	The use of autonomous weapons, without meaningful human control, by the military or law enforcement has far reaching consequences for the rights of individuals. It goes against fundamental rights like human dignity and the right to life. There are also concerns related to responsibility, accountability and redress. The automated use of violence also has negative effects on the democratic oversight over the use of violence by the state. Therefore there should always be meaningful human control over the use of force.

The use of AI systems risks further exacerbate existing racial and ethnic, gender, and social and economic inequalities. Given the severe impacts that judicial systems, law enforcement, national security have on human rights, any AI systems deployed in these sectors have the potential to cause great harm. |
| **10. Please indicate the types of AI systems that represent the greatest risk to human rights, democracy and the rule of law** | Facial recognition supporting law enforcement ;Scoring / scoring of individuals by public entities;• AI applications to prevent the commission of a criminal offence;AI applications aimed at predicting recidivism ;• AI applications determining the allocation of social services; |
| **11. Please briefly explain how such applications might violate human rights, democracy and the rule of law.** | All of the above mentioned applications have potential risk for human rights, democracy and the rule of law. The phrasings are quite general and it depends on specific applications and manner of implementation that would determine how big the risk is. It depends |

	what specific aspect is automated and what the possible consequences are for the individual, as well as the possibilities to challenge an automated decision. All these applications raise concerns, for example regarding biases in the functioning of the system.
12. What other applications might represent a significant risk to human rights, democracy and the rule of law?	Autonomous weapons, which are weapon systems that select and engage targets on the basis of sensor inputs, rather than human input. Autonomous weapons use sensors to determine where and when to apply force. The use of autonomous weapons without meaningful human control would violate fundamental human rights, like human dignity and the right to life. There are also concerns related to responsibility, accountability and redress. The automated use of violence also has negative effects on the democratic oversight over the use of violence by the state. Regulation: The use of autonomous weapons is problematic when used without meaningful human control. Therefore autonomous weapons should only be used with meaningful human control. Should be prohibited when: - The weapon system cannot be used with meaningful human control - The weapon system targets humans (this would be dehumanizing, goes against fundamental rights, and would be hugely problematic regarding biases in algorithms). See for example Human Rights Council 'Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions', Christof Heyns https://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session23/A-HRC-23-47_en.pdf Campaign to Stop Killer Robots 'Elements of a treaty' https://www.stopkillerrobots.org/wp-content/uploads/2020/03/Key-Elements-of-a-Treaty-on-Fully-Autonomous-Weapons.pdf Article 36 'Regulating autonomy in weapons systems' https://article36.org/wp-content/uploads/2020/10/Regulating-autonomy-leaflet.pdf ICRC & SIPRI (2020) 'Limmits on autonomy in weapon systems' https://www.sipri.org/media/press-release/2020/new-sipri-and-icrc-report-identifies-necessary-controls-autonomous-weapons
13. In your opinion, should the development, deployment and use of AI systems that have been proven to violate human rights or undermine democracy or the rule of law be **13bis. Other**	Banned
14. In your opinion, should the development, deployment and use of AI systems that pose high risks with high probability to human rights, democracy and the rule of law be:	Banned
15. In your opinion, should the development, deployment and use of AI systems that pose low risks	Regulated (binding law)

with high probability to human rights, democracy and the rule of law be:	
16. In your opinion, should the development, deployment and use of AI systems that pose high risks with low probability to human rights, democracy and the rule of law be:	Banned
17. What are the most important legal principles, rights and interests that need to be addressed and therefore justify regulating the development, deployment and use of AI systems?	Respect for human dignity;Equality;• Possibility to challenge a decision made by an AI system and access to an effective remedy;• Non-discrimination;Freedom of expression, assembly and association;
18. In your opinion, in what sectors/areas is a binding legal instrument needed to protect human rights, democracy and the rule of law? **18bis. Other**	Justice;Law enforcement;Public administration;
19. Self-regulation by companies is more efficient than government regulation to prevent and mitigate the risk of violations of human rights, democracy and the rule of law.	I completely disagree
20. Self-regulation by companies is sufficient to prevent and mitigate the risk of violations of human rights, democracy and the rule of law	I completely disagree
21. Which of the following instruments of self-regulation do you consider to be the most efficient? **21bis. Other**	Continuous, inclusive, and transparent human rights due diligence
22. Existing international, regional and/or national binding and/or non-binding legal instruments are sufficient to regulate AI systems in order to ensure the protection of human rights, democracy and the rule of law.	I rather disagree
23. Please provide examples of existing international, regional and/or national (binding and/or non-binding) instruments that in your view are effective in guiding and regulating the design, development and use of AI systems to ensure compatibility with the standards for human rights, democracy and the rule of law	Existing instruments provide a basis, but do not provide and effective substantive protection against AI systems.
24. If you responded disagree/completely disagree to question 22, please indicate why existing international, regional and/or national (binding and/or non-	• They provide a basis but fail to provide an effective substantive protection of human rights, democracy and the rule of law against the risks posed by AI systems;

binding) legal instruments are not sufficient to regulate AI systems (select all you agree with):	
25. Please indicate other specific legal gaps that in your view need to be addressed at the level of the Council of Europe	A legal instrument on autonomous weapons
26. Individuals should always be informed when they interact with an AI system in any circumstances.	I fully agree
27. Individuals should always be informed when a decision which affects them personally is made by an AI system.	I fully agree
28. Individuals should always be informed when an AI system is used in a decision-making process which affects them personally.	I fully agree
29. Individuals should have a right to a meaningful explanation of algorithmic based decisions, in particular how the algorithm reached its output.	I fully agree
30. Individuals should always have the right that any decision taken by an AI system in the framework of judicial proceedings are reviewed by a "human" judge.	I fully agree
31. Individuals should have a right to demand the review of an algorithmic based decision by a human being.	I fully agree
32. There should always be a person responsible for reviewing algorithmic based decisions in the public sector and private companies.	I fully agree
33. Public institutions should not use AI systems to promote or discredit a particular way of life or opinion (e.g. "social scoring").	I fully agree
34. States should be obliged to design, develop and apply sustainable AI systems that respect applicable environmental protection standards.	I fully agree
35. The code behind AI systems used in the public and private sectors should always be accessible to the competent public authorities for the purposes of external audit.	I fully agree
36. There should be higher transparency standards for public entities using AI than for private entities.	I fully agree

37. **There should be higher standards for access to an effective remedy for individuals in relation to decisions informed and made by an AI system in the field of justice than in the field of consumer protection.**	I fully agree
38. **Member States should establish public oversight mechanisms for AI systems that may breach legally binding norms in the sphere of human rights, democracy and the rule of law.**	I fully agree
39. **Errors and flaws discovered in AI systems which have led or could lead to the violation of human rights, democracy and the rule of law must be reported to the competent authorities.**	I fully agree
40. **The use of facial recognition in public spaces should be prohibited.**	I fully agree
41. **The information obtained through the use of facial recognition systems should always be reviewed by a human being before being used for purposes that have an impact on individual freedom, such as in relation to a person boarding an airplane, upon police arrest or in the framework of judicial proceedings.**	I fully agree
42. **The use of AI systems in democratic processes (e.g. elections) should be strictly regulated.**	I fully agree
43. **Should a future legal framework at Council of Europe level include a specific liability regime in relation to AI applications?**	Yes
44. **If yes, what aspects should be covered?**	a) To the extent possible, restore the victim's situation to the situation preceding any intervention of/by an AI system. b) Provide monetary compensation to victims harmed by AI systems. c) Establish sanctions of AI designers/developers/deployers for the harm caused by using the AI system. Sanctions should include the prohibition of further deploying the AI system unless significant changes are made to ensure that the design and/or use of the AI system is rights-respecting. d) Establish sanctions of AI designers/developers/deployers for the failure to conduct thorough human rights due diligence before and during the use of an AI system, or for failure to effectively monitor the use of the AI system. e) Sanctions of AI designers/developers/deployers for deploying an AI system that has been banned.

45. In your opinion, how useful would the following compliance mechanisms be in preventing and mitigating the risks to human rights, democracy and the rule of law arising from the design, development and application of AI? - Human rights, democracy and rule of law impact assessments - Certification and quality labelling - Audits and intersectional audits - Regulatory sandboxes - Continuous automated monitoring	Highly useful Rather useful Highly useful Highly useful Highly useful
46. Please indicate what combination of mechanisms should be preferred to efficiently protect human rights, democracy and the rule of law 46bis. Other	• Human rights, democracy and rule of law impact assessments ;• Audits and intersectional audits;Continuous automated monitoring;
47. Please select which mechanism(s) should be part of either a binding instrument or a non-binding instrument to best protect human rights, democracy and the rule of law. - Human rights, democracy and rule of law impact assessments - Certification and quality labelling - Audits and intersectional audits - Regulatory sandboxes - Continuous automated monitoring	Binding instrument No opinion Binding instrument Binding instrument Binding instrument
47.bis. Other	
48. In your opinion, how useful would the following follow-up activities be if implemented by the Council of Europe? - Monitoring of AI legislation and policies in member States - Capacity building on Council of Europe instruments, including assistance to facilitate ratification and implementation of relevant Council of Europe instruments - AI Observatory for sharing good practices and exchanging information on legal, policy and technological developments related to AI systems	Highly useful Highly useful Rather useful Highly useful

- **Establishing a centre of expertise on AI and human rights**	
49. What other mechanisms, if any, should be considered?	Create a platform or forum providing the opportunity to effectively engage external stakeholders, especially civil society organisations and marginalised groups. Importantly, provide them with the tools, training, resources, and information necessary to meaningfully participate in AI governance and AI accountability.
50. Are there any other issues with respect to the design, development and application of AI systems in the context of human rights, democracy and the rule of law that you wish to bring to the attention of the CAHAI?	Proactively ensure inclusion of civil society (especially under-represented groups) throughout the process cycle. Establish feedback mechanisms and shared decision-making processes to ensure participatory mechanisms. This should be a (binding) legal obligation.
Date of submission	5/7/21 20:02:00

Casa Pia de Lisboa, Public Institute

State (where your institution is based)	Portugal
Institution: Name of the institution/body/company	Casa Pia de Lisboa, Public Institute
Personal capacity: Your socio-professional category	Higher occupations
Your stakeholder group	Government & public administration
2. In view of the elaboration of a legal framework on the design, development and application of AI, based on the standards of the Council of Europe on human rights, democracy and the rule of law, what kind of definition of artificial intelligence (AI) should be considered by the CAHAI	A technologically-neutral and simplified definition, such as "a set of sciences, theories and tech-niques whose purpose is to reproduce by a machine the cognitive abilities of a human being" (See the CAHAI feasibility study, §5)
2bis. If "other" please explain below	
3. What are the reasons for your preference?	Ease of service to the public, based on processes already managed
4. Please select the areas in which AI systems offer the most	Justice;• Public administration;• Education;

promising opportunities for the protection of human rights, democracy and the rule of law	
4bis. If other, which areas and why?	
5. Please indicate which of the following AI system applications in your view have the greatest potential to enhance/protect human rights, democracy and the rule of law?	• Recruiting software/ AI applications used for assessing work performance ;• AI applications determining the allocation of educational services;• AI applications determining the allocation of social services;• AI applications used for analysing the performance of pupils/students in educational institutions such as schools and universities;• Scoring of individuals by public and private entities;
6. Please briefly explain how such applications would benefit human rights, democracy and the rule of law.	data that facilitate citizens' choices, in view of their interests, aptitudes and available supply
7. What other applications might contribute significantly to strengthening human rights, democracy and the rule of law?	Electronic vote
8. Please select the areas in which the deployment of AI systems poses the highest risk of violating human rights, democracy and the rule of law **8bis. Other**	• Banking, finance and insurance;• National security and counter-terrorism;• Justice;
9. Please briefly explain how such applications might violate human rights, democracy and the rule of law.	The private nature of data, subject to risks of corruption or breach of systems, makes applications vulnerable
10. Please indicate the types of AI systems that represent the greatest risk to human rights, democracy and the rule of law	☐Emotional analysis in the workplace to measure employees' level of engagement;Facial recognition supporting law enforcement ;• Recruiting software/ AI applications used for assessing work performance ;
11. Please briefly explain how such applications might violate human rights, democracy and the rule of law.	Data collection is aimed at a certain purpose / objective, but can be used without informed consent for other purposes
12. What other applications might represent a significant risk to human rights, democracy and the rule of law?	Social media (instagram, facebook...)
13. In your opinion, should the development, deployment and use of AI systems that have been proven to violate human rights or undermine democracy or the rule of law be **13bis. Other**	Banned
14. In your opinion, should the development, deployment and use of AI systems that pose high risks with high probability to human rights, democracy and the rule of law be:	Regulated (binding law)
15. In your opinion, should the development, deployment and use of AI systems that pose low risks	Subject to moratorium

with high probability to human rights, democracy and the rule of law be:	
16. In your opinion, should the development, deployment and use of AI systems that pose high risks with low probability to human rights, democracy and the rule of law be:	Self-regulated (ethics guidelines, voluntary certification)
17. What are the most important legal principles, rights and interests that need to be addressed and therefore justify regulating the development, deployment and use of AI systems?	• Social security;Freedom of expression, assembly and association;• Non-discrimination;Privacy and data protection;• Personal integrity ;
18. In your opinion, in what sectors/areas is a binding legal instrument needed to protect human rights, democracy and the rule of law? **18bis. Other**	Education;• Social networks/media, internet intermediaries ;Law enforcement;
19. Self-regulation by companies is more efficient than government regulation to prevent and mitigate the risk of violations of human rights, democracy and the rule of law.	I rather disagree
20. Self-regulation by companies is sufficient to prevent and mitigate the risk of violations of human rights, democracy and the rule of law	I rather disagree
21. Which of the following instruments of self-regulation do you consider to be the most efficient? **21bis. Other**	Voluntary certification
22. Existing international, regional and/or national binding and/or non-binding legal instruments are sufficient to regulate AI systems in order to ensure the protection of human rights, democracy and the rule of law.	I rather disagree
23. Please provide examples of existing international, regional and/or national (binding and/or non-binding) instruments that in your view are effective in guiding and regulating the design, development and use of AI systems to ensure compatibility with the standards for human rights, democracy and the rule of law	Control of road tolls; health applications; tax system
24. If you responded disagree/completely disagree to question 22, please indicate why	• They provide a basis but fail to provide an effective substantive protection of human rights, democracy and the rule of law against the risks posed by AI systems;They do not provide for specific

existing international, regional and/or national (binding and/or non-binding) legal instruments are not sufficient to regulate AI systems (select all you agree with):	rights (e.g. transparency requirements, redress mechanisms) for persons affected by AI;
25. Please indicate other specific legal gaps that in your view need to be addressed at the level of the Council of Europe	The strong obligation to accept cookies for browsing anywhere on the internet
26. Individuals should always be informed when they interact with an AI system in any circumstances.	I fully agree
27. Individuals should always be informed when a decision which affects them personally is made by an AI system.	I fully agree
28. Individuals should always be informed when an AI system is used in a decision-making process which affects them personally.	I fully agree
29. Individuals should have a right to a meaningful explanation of algorithmic based decisions, in particular how the algorithm reached its output.	I rather agree
30. Individuals should always have the right that any decision taken by an AI system in the framework of judicial proceedings are reviewed by a "human" judge.	I fully agree
31. Individuals should have a right to demand the review of an algorithmic based decision by a human being.	I rather agree
32. There should always be a person responsible for reviewing algorithmic based decisions in the public sector and private companies.	I fully agree
33. Public institutions should not use AI systems to promote or discredit a particular way of life or opinion (e.g. "social scoring").	I fully agree
34. States should be obliged to design, develop and apply sustainable AI systems that respect applicable environmental protection standards.	I fully agree
35. The code behind AI systems used in the public and private sectors should always be accessible to the competent public authorities for the purposes of external audit.	I fully agree

36. There should be higher transparency standards for public entities using AI than for private entities.	I completely disagree
37. There should be higher standards for access to an effective remedy for individuals in relation to decisions informed and made by an AI system in the field of justice than in the field of consumer protection.	I rather agree
38. Member States should establish public oversight mechanisms for AI systems that may breach legally binding norms in the sphere of human rights, democracy and the rule of law.	I rather agree
39. Errors and flaws discovered in AI systems which have led or could lead to the violation of human rights, democracy and the rule of law must be reported to the competent authorities.	I fully agree
40. The use of facial recognition in public spaces should be prohibited.	I rather agree
41. The information obtained through the use of facial recognition systems should always be reviewed by a human being before being used for purposes that have an impact on individual freedom, such as in relation to a person boarding an airplane, upon police arrest or in the framework of judicial proceedings.	I fully agree
42. The use of AI systems in democratic processes (e.g. elections) should be strictly regulated.	I fully agree
43. Should a future legal framework at Council of Europe level include a specific liability regime in relation to AI applications?	Yes
44. If yes, what aspects should be covered?	

45. In your opinion, how useful would the following compliance mechanisms be in preventing and mitigating the risks to human rights, democracy and the rule of law arising from the design, development and application of AI? - **Human rights, democracy and rule of law impact assessments** - **Certification and quality labelling** - **Audits and intersectional audits** - **Regulatory sandboxes** - **Continuous automated monitoring**	Highly useful Rather useful Highly useful Rather useful Rather useful
46. Please indicate what combination of mechanisms should be preferred to efficiently protect human rights, democracy and the rule of law **46bis. Other**	Continuous automated monitoring;• Human rights, democracy and rule of law impact assessments ;• Audits and intersectional audits;
47. Please select which mechanism(s) should be part of either a binding instrument or a non-binding instrument to best protect human rights, democracy and the rule of law. - **Human rights, democracy and rule of law impact assessments** - **Certification and quality labelling** - **Audits and intersectional audits** - **Regulatory sandboxes** - **Continuous automated monitoring**	Binding instrument Non-binding instrument Binding instrument Non-binding instrument Non-binding instrument
47.bis. Other	
48. In your opinion, how useful would the following follow-up activities be if implemented by the Council of Europe? - **Monitoring of AI legislation and policies in member States** - **Capacity building on Council of Europe instruments, including assistance to facilitate ratification and implementation of relevant Council of Europe instruments** - **AI Observatory for sharing good practices and**	Rather useful Highly useful Rather useful Indifferent/no opinion

- exchanging information on legal, policy and technological developments related to AI systems - **Establishing a centre of expertise on AI and human rights**	
49. What other mechanisms, if any, should be considered?	
50. Are there any other issues with respect to the design, development and application of AI systems in the context of human rights, democracy and the rule of law that you wish to bring to the attention of the CAHAI?	
Date of submission	4/5/21 17:57:30

Cassa Edile della provincia di Lecce

State (where your institution is based)	Italy
Institution: Name of the institution/body/company	Cassa Edile della provincia di Lecce
Personal capacity: Your socio-professional category	Higher occupations
Your stakeholder group	Private business sector
2. In view of the elaboration of a legal framework on the design, development and application of AI, based on the standards of the Council of Europe on human rights, democracy and the rule of law, what kind of definition of artificial intelligence (AI) should be considered by the CAHAI	No definition, with a legal instrument focused on the effect of AI systems on human rights, de-mocracy and the rule of law
2bis. If "other" please explain below	
3. What are the reasons for your preference?	It is not far-sighted to look for boundaries to a technology that is born to overcome them: the primary objective is the impact on the human community and citizenship.
4. Please select the areas in which AI systems offer the most promising opportunities for the	• Healthcare;• Environment and climate;• Public administration;

protection of human rights, democracy and the rule of law	
4bis. If other, which areas and why?	
5. Please indicate which of the following AI system applications in your view have the greatest potential to enhance/protect human rights, democracy and the rule of law?	• Medical applications for faster and more accurate diagnoses;• Automated fraud detection (banking, insurance);• AI applications to predict the possible evolution of climate change and/or natural disasters;• AI applications providing support to the healthcare system (triage, treatment delivery);• Deep fakes and cheap fakes;
6. Please briefly explain how such applications would benefit human rights, democracy and the rule of law.	Artificial Intelligences operate most profitably where the computing capabilities of the human brain are unable to operate at the same level of processing power. The spheres of individual and ethical choice, being AI based on statistical systems, are not areas of real effectiveness of the current ML mechanisms.
7. What other applications might contribute significantly to strengthening human rights, democracy and the rule of law?	Artificial Intelligences are not able, to date, to support democratic processes or human rights, as the very assumptions on which human life or civil society are based are absent.
8. Please select the areas in which the deployment of AI systems poses the highest risk of violating human rights, democracy and the rule of law **8bis. Other**	• Welfare;• Education;• Justice;
9. Please briefly explain how such applications might violate human rights, democracy and the rule of law.	Intervening on the personal spheres of the human community is highly risky due to the very intrinsic difficulty of defining its limits, areas and ethics.
10. Please indicate the types of AI systems that represent the greatest risk to human rights, democracy and the rule of law	• AI applications determining the allocation of educational services;• AI applications determining the allocation of social services;• AI applications used for analysing the performance of pupils/students in educational institutions such as schools and universities;Scoring / scoring of individuals by public entities;• Emotional analysis in the workplace to measure employees' level of engagement;
11. Please briefly explain how such applications might violate human rights, democracy and the rule of law.	Artificial Intelligences are not able, to date, to operate on mechanisms of the private sphere such as feelings and education: they do not bring any help (as in the fields of calculation, instead) to what philosophy and law and pedagogy already have up to now processed. Death and self-awareness are not areas in which they can have any competence: Artificial Intelligences operate by syntax and not by semantics.
12. What other applications might represent a significant risk to human rights, democracy and the rule of law?	By intervening in areas where philosophy, psychology, law and religion and ethics have already consolidated their field of action and elaboration.
13. In your opinion, should the development, deployment and use of AI systems that have been proven to violate human rights or undermine democracy or the rule of law be **13bis. Other**	Subject to continuous monitoring and independent audits
14. In your opinion, should the development, deployment and use of AI systems that pose high risks	Subject to moratorium

223

with high probability to human rights, democracy and the rule of law be:	
15. In your opinion, should the development, deployment and use of AI systems that pose low risks with high probability to human rights, democracy and the rule of law be:	Regulated (binding law)
16. In your opinion, should the development, deployment and use of AI systems that pose high risks with low probability to human rights, democracy and the rule of law be:	Subject to moratorium
17. What are the most important legal principles, rights and interests that need to be addressed and therefore justify regulating the development, deployment and use of AI systems?	• Personal integrity ;• Transparency;• Explainability;• Possibility to challenge a decision made by an AI system and access to an effective remedy;Respect for human dignity;
18. In your opinion, in what sectors/areas is a binding legal instrument needed to protect human rights, democracy and the rule of law? **18bis. Other**	Welfare;Education;Justice;
19. Self-regulation by companies is more efficient than government regulation to prevent and mitigate the risk of violations of human rights, democracy and the rule of law.	I rather disagree
20. Self-regulation by companies is sufficient to prevent and mitigate the risk of violations of human rights, democracy and the rule of law	I rather disagree
21. Which of the following instruments of self-regulation do you consider to be the most efficient? **21bis. Other**	Economic, financial and market convenience
22. Existing international, regional and/or national binding and/or non-binding legal instruments are sufficient to regulate AI systems in order to ensure the protection of human rights, democracy and the rule of law.	I rather disagree
23. Please provide examples of existing international, regional and/or national (binding and/or non-binding) instruments that in your view are effective in guiding and regulating the design, development and use of AI systems to ensure compatibility	Economic, financial and market convenience

with the standards for human rights, democracy and the rule of law	
24. If you responded disagree/completely disagree to question 22, please indicate why existing international, regional and/or national (binding and/or non-binding) legal instruments are not sufficient to regulate AI systems (select all you agree with):	• They provide a basis but fail to provide an effective substantive protection of human rights, democracy and the rule of law against the risks posed by AI systems;They do not provide for specific rights (e.g. transparency requirements, redress mechanisms) for persons affected by AI;
25. Please indicate other specific legal gaps that in your view need to be addressed at the level of the Council of Europe	Economic, financial and market convenience
26. Individuals should always be informed when they interact with an AI system in any circumstances.	I fully agree
27. Individuals should always be informed when a decision which affects them personally is made by an AI system.	I fully agree
28. Individuals should always be informed when an AI system is used in a decision-making process which affects them personally.	I fully agree
29. Individuals should have a right to a meaningful explanation of algorithmic based decisions, in particular how the algorithm reached its output.	I fully agree
30. Individuals should always have the right that any decision taken by an AI system in the framework of judicial proceedings are reviewed by a "human" judge.	I fully agree
31. Individuals should have a right to demand the review of an algorithmic based decision by a human being.	Indifferent/no opinion
32. There should always be a person responsible for reviewing algorithmic based decisions in the public sector and private companies.	I fully agree
33. Public institutions should not use AI systems to promote or discredit a particular way of life or opinion (e.g. "social scoring").	I fully agree
34. States should be obliged to design, develop and apply sustainable AI systems that respect applicable environmental protection standards.	I fully agree

35. The code behind AI systems used in the public and private sectors should always be accessible to the competent public authorities for the purposes of external audit.	I fully agree
36. There should be higher transparency standards for public entities using AI than for private entities.	I fully agree
37. There should be higher standards for access to an effective remedy for individuals in relation to decisions informed and made by an AI system in the field of justice than in the field of consumer protection.	I fully agree
38. Member States should establish public oversight mechanisms for AI systems that may breach legally binding norms in the sphere of human rights, democracy and the rule of law.	I fully agree
39. Errors and flaws discovered in AI systems which have led or could lead to the violation of human rights, democracy and the rule of law must be reported to the competent authorities.	I fully agree
40. The use of facial recognition in public spaces should be prohibited.	Indifferent/no opinion
41. The information obtained through the use of facial recognition systems should always be reviewed by a human being before being used for purposes that have an impact on individual freedom, such as in relation to a person boarding an airplane, upon police arrest or in the framework of judicial proceedings.	I fully agree
42. The use of AI systems in democratic processes (e.g. elections) should be strictly regulated.	I fully agree
43. Should a future legal framework at Council of Europe level include a specific liability regime in relation to AI applications?	Yes
44. If yes, what aspects should be covered?	Criminal liability

45. In your opinion, how useful would the following compliance mechanisms be in preventing and mitigating the risks to human rights, democracy and the rule of law arising from the design, development and application of AI? - **Human rights, democracy and rule of law impact assessments** - **Certification and quality labelling** - **Audits and intersectional audits** - **Regulatory sandboxes** **Continuous automated monitoring**	Highly useful Highly useful Highly useful Highly useful Highly useful
46. Please indicate what combination of mechanisms should be preferred to efficiently protect human rights, democracy and the rule of law **46bis. Other**	• Human rights, democracy and rule of law impact assessments ;• Regulatory sandboxes;Continuous automated monitoring;
47. Please select which mechanism(s) should be part of either a binding instrument or a non-binding instrument to best protect human rights, democracy and the rule of law. - **Human rights, democracy and rule of law impact assessments** - **Certification and quality labelling** - **Audits and intersectional audits** - **Regulatory sandboxes** **Continuous automated monitoring**	Binding instrument Non-binding instrument Non-binding instrument Binding instrument Binding instrument
47.bis. Other	
48. In your opinion, how useful would the following follow-up activities be if implemented by the Council of Europe? - **Monitoring of AI legislation and policies in member States** - **Capacity building on Council of Europe instruments, including assistance to facilitate ratification and implementation of relevant Council of Europe instruments** - **AI Observatory for sharing good practices and exchanging information on legal, policy and technological**	Highly useful Highly useful Highly useful Highly useful

developments related to AI systems **Establishing a centre of expertise on AI and human rights**	
49. What other mechanisms, if any, should be considered?	Mandatory philosophy and ethics exams for designers and managers
50. Are there any other issues with respect to the design, development and application of AI systems in the context of human rights, democracy and the rule of law that you wish to bring to the attention of the CAHAI?	Mandatory philosophy and ethics exams for designers and managers
Date of submission	4/2/21 12:42:45

Center for AI and Digital Policy

State (where your institution is based)	**USA - Washington D.C.**
Institution: Name of the institution/body/company	Center for AI and Digital Policy
Personal capacity: Your socio-professional category	Higher occupations
Your stakeholder group	Civil society
2. In view of the elaboration of a legal framework on the design, development and application of AI, based on the standards of the Council of Europe on human rights, democracy and the rule of law, what kind of definition of artificial intelligence (AI) should be considered by the CAHAI	No definition, with a legal instrument focused on the effect of AI systems on human rights, de-mocracy and the rule of law
2bis. If "other" please explain below	
3. What are the reasons for your preference?	Strict definitions focused on technological aspects of AI systems do not adequately reflect the harms that these systems might cause on an individual/group/society level. This is one of the reasons that in its most recent regulation proposal, EU also has avoided a prescriptive approach on definitions. We recommend that democratic values and human rights as identified and accepted by majority of nations (Universal

	Declarations of Human Rights, EU Charter of Fundamental Rights, and such) be the guide for the assessment of these systems. A strict definition risks the legal framework being outdated with the new use cases not currently foreseen. It would not be able to cover the harms and risks that might emerge due to the evolutionary nature of these systems.
4. Please select the areas in which AI systems offer the most promising opportunities for the protection of human rights, democracy and the rule of law	• Environment and climate;• Election monitoring;• Other;
4bis. If other, which areas and why?	AI systems, possibly coupled with blockchain technology, can be used to create a global repository / mechanism that would give a transparent and broader picture of certain corporations' impact on AI's future. Major technology companies impact the direction and future of AI systems and research not only by the products / services they provide, but also through lobbying, research funding and recruitment of top talent. Academics and corporate talent are usually bound / limited on what they can research and then publish due to funding agreements. A global database that requires major technology companies to disclose their lobbying expenses, and that requires researchers and/or funders to submit the details of research funding would create unprecedented information and transparency to public. From a positive side, it would also provide insight to government and other companies on where there are gaps to be filled. Society needs transparency in corporate, governmental, and academic research funding for evaluating impacts and reach, as well as lobbying activities. Disclosures on published papers can help disseminate needed information on an individual basis. However, we still require a broader picture of allocation of resources by our institutions and corporations.
5. Please indicate which of the following AI system applications in your view have the greatest potential to enhance/protect human rights, democracy and the rule of law?	• AI applications to predict the possible evolution of climate change and/or natural disasters;• AI applications to prevent the commission of a criminal offence (e.g. anti-money laundry AI applications);• AI applications providing support to the healthcare system (triage, treatment delivery);• AI applications to promote gender equality (e.g. analytical tools);
6. Please briefly explain how such applications would benefit human rights, democracy and the rule of law.	Before an AI system is introduced to a domain as a 'solution', we should understand the domain from all perspectives. AI provides us the ability to take a snapshot of our institutions and analyze it in ways that would not have been possible before. Therefore, the first use cases should be geared towards analytics and understanding the gaps, inequalities, and possible harms that these generate. This knowledge can then be used to engage the right stakeholders in the conversation, and if/when necessary, to prioritize resources and funding towards groups and communities that need them the most for a more equitable society.
7. What other applications might contribute significantly to strengthening human rights, democracy and the rule of law?	Applications that would create more transparency to public about the AI systems used by the government agencies (for example AI system registries). Applications that make it easier to monitor and analyze disinformation and/or political pressure. Applications that make it easier for individuals & groups to understand high-risk decisions and initiate due process requests.
8. Please select the areas in which the deployment of AI systems poses the highest risk of	• Law enforcement;• Customs and border control;• Welfare;

violating human rights, democracy and the rule of law **8bis. Other**	
9. Please briefly explain how such applications might violate human rights, democracy and the rule of law.	AI systems whether using predictions / classifications, are based on historical data that is by its very nature have biases. They also are based on a definition of a norm/normal/ideal/worth that are not universal, do not consider individual circumstances or context. When used in the context of law enforcement (predictive policing, mass surveillance, facial analysis), they risk amplification of these biases and put extra burdens and harms on already disadvantaged and marginalized communities. When used in customs and border control (asylum/refugee applications, biometric identification, lie detectors etc), they are forced upon populations that do not have any power to object or ask for alternative methods. Often the implementation of these systems also introduces biases due to the operators' inability to question the system or override any decisions. When used in welfare systems (eligibility for benefits, continuation of benefits, etc), the systems are used more for fraud detection/prevention than enhancing the welfare of those that are most in need. In none of these settings do the subjects have any right to regular due process. The decisions can be fatal at times. Often the subjects' right to express their ideas and beliefs are taken as negative inputs into the AI systems and decision making.
10. Please indicate the types of AI systems that represent the greatest risk to human rights, democracy and the rule of law	Facial recognition supporting law enforcement ;• Emotional analysis in the workplace to measure employees' level of engagement;Scoring / scoring of individuals by public entities;• Recruiting software/ AI applications used for assessing work performance ;
11. Please briefly explain how such applications might violate human rights, democracy and the rule of law.	Facial recognition used by law enforcement often requires mass surveillance of populations that is by its very definition against the rights of expression, assembly & association, protection of personal data and privacy. These systems are scientifically proven to be biased against people belonging to marginalized groups due to their lower inaccuracy in recognizing people with darker skin, women, LGBT-Q, those with disabilities. They perform even worse for those in the intersection of these groups. Also in implementation reality, facial recognition can cause law enforcement to jump to conclusions and wrongfully arrest a person rather than going through regular investigation mechanisms (as evidenced by 3 wrongful arrests in US). Although EU's proposed regulation bans 'real-time' remote biometric identification systems in public spaces for law enforcement systems, the exceptions provided can de facto lead to an authorization of facial recognition systems or a greenlight to invest in these infrastructures just in case. The regulation also allows for predictive policing (by way of classifying it as high risk) through AI systems used for profiling natural persons and AI systems predicting the occurrence or reoccurrence of "potential" criminal offence based on profiling. This application goes strictly against the presumption of innocence. Scoring of individuals by public entities & recruiting software that uses pseudo / flawed science to assess and score individuals (facial analysis, emotional analysis, voice tone/pitch analysis, gait analysis) are all serious violations of human rights and equality of humans. Again, they are based on a definition of a norm/normal/ideal/worth that is created by a certain group that defines all other that do not fit that definition as "unfit/unsuccessful/outlier/error." EU's proposed regulation still

	allows for systems using pseudoscience of emotion and facial analysis
12. What other applications might represent a significant risk to human rights, democracy and the rule of law?	Any system that does not have a scientific validity to support its use, and systems that are used to classify people into political and historical constructs of race, gender or good character, IQ etc... These systems not only take away from the human agency and freedom to self-identify, but they also erase the lives and experiences of those who do not neatly fit into a political binary category.
13. In your opinion, should the development, deployment and use of AI systems that have been proven to violate human rights or undermine democracy or the rule of law be **13bis. Other**	Banned
14. In your opinion, should the development, deployment and use of AI systems that pose high risks with high probability to human rights, democracy and the rule of law be:	Banned
15. In your opinion, should the development, deployment and use of AI systems that pose low risks with high probability to human rights, democracy and the rule of law be:	Regulated (binding law)
16. In your opinion, should the development, deployment and use of AI systems that pose high risks with low probability to human rights, democracy and the rule of law be:	Regulated (binding law)
17. What are the most important legal principles, rights and interests that need to be addressed and therefore justify regulating the development, deployment and use of AI systems?	Respect for human dignity;Freedom of expression, assembly and association;• Non-discrimination;• Personal integrity ;• Possibility to challenge a decision made by an AI system and access to an effective remedy;
18. In your opinion, in what sectors/areas is a binding legal instrument needed to protect human rights, democracy and the rule of law? **18bis. Other**	Law enforcement;Customs and border control;Public administration;
19. Self-regulation by companies is more efficient than government regulation to prevent and mitigate the risk of violations of human rights, democracy and the rule of law.	I completely disagree
20. Self-regulation by companies is sufficient to prevent and mitigate the risk of violations of human rights, democracy and the rule of law	I completely disagree

21. Which of the following instruments of self-regulation do you consider to be the most efficient? **21bis. Other**	Voluntary certification
22. Existing international, regional and/or national binding and/or non-binding legal instruments are sufficient to regulate AI systems in order to ensure the protection of human rights, democracy and the rule of law.	I completely disagree
23. Please provide examples of existing international, regional and/or national (binding and/or non-binding) instruments that in your view are effective in guiding and regulating the design, development and use of AI systems to ensure compatibility with the standards for human rights, democracy and the rule of law	There are no existing instruments that effectively regulate design/development/use of AI systems.
24. If you responded disagree/completely disagree to question 22, please indicate why existing international, regional and/or national (binding and/or non-binding) legal instruments are not sufficient to regulate AI systems (select all you agree with):	• They provide a basis but fail to provide an effective substantive protection of human rights, democracy and the rule of law against the risks posed by AI systems;• They lack specific principles for the design, development and application of AI systems;They do not provide for specific rights (e.g. transparency requirements, redress mechanisms) for persons affected by AI;
25. Please indicate other specific legal gaps that in your view need to be addressed at the level of the Council of Europe	The legislation on product liability, anti-discrimination (civil & employer liability), deceptive practices at minimum need to be updated to cover AI systems and possible harms. The cross-border nature of AI/data systems need to be dealt with in an international manner. Some countries that are trying to attract corporate investment cannot act as havens to the companies that are shielding themselves from certain jurisdictional duties (in other words, avoid what is currently happening with tax avoidance). Proposed EU regulation on AI systems does not provide details on mechanisms for individual recourse and redress against harmful AI systems. There is no environmental impact assessment requirement that these systems should go through. There are also several concepts included in the proposed regulation that is not clearly defined and which will provide a screen for providers of AI systems to hide behind. A few concepts not properly defined are data which is free of errors; complete dataset; representative dataset; subliminal techniques; materially distort behavior; or strictly necessary.
26. Individuals should always be informed when they interact with an AI system in any circumstances.	I fully agree
27. Individuals should always be informed when a decision	I fully agree

which affects them personally is made by an AI system.	
28. Individuals should always be informed when an AI system is used in a decision-making process which affects them personally.	I rather agree
29. Individuals should have a right to a meaningful explanation of algorithmic based decisions, in particular how the algorithm reached its output.	I rather agree
30. Individuals should always have the right that any decision taken by an AI system in the framework of judicial proceedings are reviewed by a "human" judge.	I fully agree
31. Individuals should have a right to demand the review of an algorithmic based decision by a human being.	I fully agree
32. There should always be a person responsible for reviewing algorithmic based decisions in the public sector and private companies.	I rather agree
33. Public institutions should not use AI systems to promote or discredit a particular way of life or opinion (e.g. "social scoring").	I fully agree
34. States should be obliged to design, develop and apply sustainable AI systems that respect applicable environmental protection standards.	I fully agree
35. The code behind AI systems used in the public and private sectors should always be accessible to the competent public authorities for the purposes of external audit.	I fully agree
36. There should be higher transparency standards for public entities using AI than for private entities.	I fully agree
37. There should be higher standards for access to an effective remedy for individuals in relation to decisions informed and made by an AI system in the field of justice than in the field of consumer protection.	I fully agree
38. Member States should establish public oversight mechanisms for AI systems that may breach legally binding norms in the sphere of human rights, democracy and the rule of law.	I fully agree

39. Errors and flaws discovered in AI systems which have led or could lead to the violation of human rights, democracy and the rule of law must be reported to the competent authorities.	I fully agree
40. The use of facial recognition in public spaces should be prohibited.	I fully agree
41. The information obtained through the use of facial recognition systems should always be reviewed by a human being before being used for purposes that have an impact on individual freedom, such as in relation to a person boarding an airplane, upon police arrest or in the framework of judicial proceedings.	I fully agree
42. The use of AI systems in democratic processes (e.g. elections) should be strictly regulated.	I fully agree
43. Should a future legal framework at Council of Europe level include a specific liability regime in relation to AI applications?	Yes
44. If yes, what aspects should be covered?	Product liability, anti-discrimination (civil & employer liability), and deceptive practices
45. In your opinion, how useful would the following compliance mechanisms be in preventing and mitigating the risks to human rights, democracy and the rule of law arising from the design, development and application of AI? - **Human rights, democracy and rule of law impact assessments** - **Certification and quality labelling** - **Audits and intersectional audits** - **Regulatory sandboxes** **Continuous automated monitoring**	Highly useful Highly useful Highly useful Highly useful Rather useful
46. Please indicate what combination of mechanisms should be preferred to efficiently protect human rights, democracy and the rule of law **46bis. Other**	• Human rights, democracy and rule of law impact assessments ;• Audits and intersectional audits;• Regulatory sandboxes;

47. Please select which mechanism(s) should be part of either a binding instrument or a non-binding instrument to best protect human rights, democracy and the rule of law. - **Human rights, democracy and rule of law impact assessments** - **Certification and quality labelling** - **Audits and intersectional audits** - **Regulatory sandboxes** **Continuous automated monitoring**	Binding instrument Binding instrument Binding instrument Non-binding instrument Non-binding instrument
47.bis. Other	
48. In your opinion, how useful would the following follow-up activities be if implemented by the Council of Europe? - **Monitoring of AI legislation and policies in member States** - **Capacity building on Council of Europe instruments, including assistance to facilitate ratification and implementation of relevant Council of Europe instruments** - **AI Observatory for sharing good practices and exchanging information on legal, policy and technological developments related to AI systems** **Establishing a centre of expertise on AI and human rights**	Highly useful Highly useful Rather useful Highly useful
49. What other mechanisms, if any, should be considered?	• Countries commit to these principles in the development, procurement, and implementation of AI systems for public service • Centralized capacity building on EU instruments that are targeted to public servants and oversight bodies. • Investment in independent AI audit ecosystem • Registry & Tracking mechanism to provide transparency on AI systems used in public services • Countries must ensure public participation in AI policymaking and also create robust mechanisms for independent oversight of AI systems
50. Are there any other issues with respect to the design, development and application of AI systems in the context of human rights, democracy and the rule of law that you wish to bring to the attention of the CAHAI?	Models that utilize pseudoscience / physiognomy / phrenology should be outright banned in AI systems. Facial analysis and emotion analysis in essence compare features against a "normal" and make predictions about future. This practice has in the past been used to justify slavery, permit genocide, prevent immigration. Countries that believe in human rights, dignity and rule of law cannot possibly permit scientific racism.
Date of submission	5/7/21 23:25:32

Centre for Democracy & Technology

State (where your institution is based)	**Belgium**
Institution: Name of the institution/body/company	Centre for Democracy & Technology
Personal capacity: Your socio-professional category	Higher occupations
Your stakeholder group	Civil society
2. In view of the elaboration of a legal framework on the design, development and application of AI, based on the standards of the Council of Europe on human rights, democracy and the rule of law, what kind of definition of artificial intelligence (AI) should be considered by the CAHAI	Other
2bis. If "other" please explain below	The chosen definition should take a broad view of AI, focused on the distinguishing features of the system and the role it plays in any process it is a part of. The definition should be encompassing enough to include predictive systems that replace or support decisions traditionally made by humans, or offer input, advice, or influence into a human decision making process. It should also include predictive systems designed to increase the efficiency of existing processes, even if they do not aim to offer any suggestion or input into the outcome of the process (such as a system that extracts and organises information from CVs, but does not rank or otherwise organise the candidates) as these systems may also introduce bias or errors that will affect the human decision makers.
3. What are the reasons for your preference?	Whilst 'automated decision making' describes the purpose of many AI systems, it is too narrow as systems that do not make decisions may nonetheless qualify as AI. Conversely, an impacts-based definition risks being too broad and could include human decisions without computer assistance.
4. Please select the areas in which AI systems offer the most promising opportunities for the protection of human rights, democracy and the rule of law	• Other;
4bis. If other, which areas and why?	While the community should have as a goal AI systems that protect and advance human rights, the first and immediate step must be to understand and avoid the potential for harm these systems are already exhibiting. Through our work, we have unfortunately found repeated examples of where the use of AI can perpetuate and even cause discrimination. CDT has done research on the use of AI in hiring tools and in access to disability benefits and found evidence of discrimination in both cases. Because algorithms learn by identifying patterns and replicating them, algorithm-driven tools can reinforce existing inequalities in our society. Algorithmic bias can also be harder to detect than human bias, because many people think of technology as 'neutral.' So although AI can help with increasing efficiency of certain tasks, in order to ensure that the risk of discrimination is mitigated against, it will be important to ensure

| | humans' ability to understand, question, test, verify, and challenge the output and function of systems and also to recognise that the use of such technologies is not neutral and will need further safeguards in place to protect human rights.

In many of the listed areas, 'promising' uses are at least possible. For example, AI could expand job applicant pools if it captures applications that humans may miss (or be quick to dismiss), but that contain info reflecting applicants' qualifications. 'Good' AI could equitably allocate other resources (i.e. social security benefits) to people who are disproportionately policed, incarcerated, or otherwise denied. Unfortunately the reality is that many current applications of AI perpetuate discrimination. |
|---|---|
| **5.   Please indicate which of the following AI system applications in your view have the greatest potential to enhance/protect human rights, democracy and the rule of law?** | • Medical applications for faster and more accurate diagnoses;• AI applications to predict the possible evolution of climate change and/or natural disasters;• AI applications to promote gender equality (e.g. analytical tools); |
| **6.   Please briefly explain how such applications would benefit human rights, democracy and the rule of law.** | Any application of AI that involves making crucial decisions about people's lives or well-being should be carefully considered. A common theme from our listed choices, is that these are applications trying to predict and prevent adverse impact by systems on individuals, and not the other way around. As outlined below, however, even in these instances, AI is not without its limitations.

Medical applications for faster and more accurate diagnoses: As the OECD has documented, AI has played an important role in helping to detect, predict and prevent outbreaks of Covid-19 in the context of the pandemic. An important caveat of the application of AI in a medical context is the need to recognise that this tech may embed longstanding biases pertaining to race and gender (e.g., beliefs that Black people have a higher pain tolerance or that women exaggerate their pain). Image recognition software used for medical diagnosis may not work equally well on different skin tones. Like other applications of AI, use in the area of medicine is not automatically free from risk of discrimination and bias and so should be treated accordingly.

AI and the environment: Only this week, environmental conservation experts in Kenya used AI applications to predict increased flooding, and acted early to evacuate endangered giraffes. Whilst AI algorithms can be used to build better climate models and determine more efficient methods for example of reducing CO_2 emissions, AI itself often requires substantial computing power and therefore consumes a lot of energy. For example, a study carried out by the University of Massachusetts found that creating a sophisticated AI to interpret human language led to the emissions of around 300,000 kilograms of the equivalent of CO_2.

AI applications to promote gender equality: AI may be able to help promote gender equality in certain cases: for example, AI tools can help employers check whether their job postings use gender-sensitive language to help support diversity in the workforce. However, even these tools pose risks, because they may cause humans to rely unduly on automated review processes, which cannot capture all forms of discriminatory language in the way a human reviewer might do. A key challenge is to ensure users know |

	the limitations of the program and consider the AI tool as a supplement, instead of a replacement for human judgment.
7. What other applications might contribute significantly to strengthening human rights, democracy and the rule of law?	Systems to identify discriminatory practices/outcomes and their sources, systems to analyse governance trends leading to rights abuses, systems to predict and identify new viruses or other sources of risk, systems to map policy approaches to results, and identifying other large scale trends (population/migration/etc) for informed decision making.
8. Please select the areas in which the deployment of AI systems poses the highest risk of violating human rights, democracy and the rule of law **8bis. Other**	• Justice;• Law enforcement;• National security and counter-terrorism;
9. Please briefly explain how such applications might violate human rights, democracy and the rule of law.	Use of AI systems for law enforcement, national security and counter-terrorism is risky because it can provide the fuel for decisions that result in a deprivation of liberty without due process. They can effectively lengthen a term of imprisonment when used to predict recidivism. They can contribute to over-policing in neighborhoods that are already over-policed, and result in disparate rates of imprisonment. Those who are affected adversely by AI used in these areas are effectively barred from mounting challenges to such use because the algorithms employed are proprietary, classified, or jealously guarded by law enforcement or the entities that provide them. Use of AI in sentencing decisions can also have an adverse impact on access to justice for minorities and communities at risk. Evidence has previously shown how automated risk assessment of a defendant to guide a judge's sentence can have very unreliable results and be biased against race. That is because such systems have the potential to incorporate and amplify the aggregate biases of all of the decisions it was trained on. We also strongly caution against the use of AI for automated analysis of social media content in law enforcement, justice, and counter-terrorism contexts. The tools that law enforcement officials and others use to conduct sentiment analysis, semantic analysis, and other forms of automated evaluation of individuals' social media content are prone to bias and error, often with a disparate impact on racial and ethnic minorities. Collection of social media content by law enforcement and national security officials can involve a substantial invasion of privacy for individuals and yields little useful information.
10. Please indicate the types of AI systems that represent the greatest risk to human rights, democracy and the rule of law	Facial recognition supporting law enforcement ;• Emotional analysis in the workplace to measure employees' level of engagement;Scoring / scoring of individuals by public entities;• AI applications to prevent the commission of a criminal offence;• AI applications determining the allocation of social services;
11. Please briefly explain how such applications might violate human rights, democracy and the rule of law.	Facial recognition is particularly problematic in the law enforcement arena because it has been shown to be less accurate when being used to identify dark-skinned people and women. Mis-identification in the criminal justice arena can deprive a person of liberty. As mentioned above, because AI learns by identifying patterns and replicating them, algorithm-driven tools can reinforce existing inequalities in our society. Given that racial-profiling is already a concerning trend across society there is a real danger that facial recognition technology can exacerbate or even increase this phenomenon that violates people's rights.

The European Data Protection Supervisor has called for a moratorium on the use of remote biometric identification systems - including facial recognition - in publicly accessible spaces. This arises from the data protection body's concern that a stricter approach is needed to automated recognition in public spaces of human features - such as of faces but also of gait, fingerprints, DNA, voice, keystrokes and other biometric or behavioural signals - whether these are used in a commercial or administrative context, or for law enforcement purposes. A stricter approach is necessary in the view of the EDPS in light of the extremely high risks of deep and non-democratic intrusion into individuals' private lives. Outside the European Union, in Council of Europe member states there is an even higher risk of use and adverse impact of these technologies given the lack of equivalent data protection rules. For example, it has recently come to light, the extent to which the Russian authorities are using facial recognition to identify and arrest people that attend protests, including those who were simply peacefully protesting. Such use of the technology has a chilling effect on freedom of association and expression. Such developments in non-EU states makes it is even more pertinent that a Council of Europe Convention ensure a higher layer of protection for human rights across the Council of Europe jurisdiction and potentially beyond.

CDT concurs that law enforcement's use of facial recognition can pose a particularly high threat to human rights given the risks of racial profiling and indiscriminate surveillance. It therefore would be desirable, in such cases where there is a high risk of rights violations, to consider a moratorium until such a time that robust safeguards and effective limitations are in place.

Governments are also increasingly turning to algorithms to determine whether and to what extent people should receive crucial social security benefits. Billed as a way to increase efficiency and root out fraud, these algorithm-driven decision-making tools are often implemented without much public debate and are incredibly difficult to understand once underway. Reports from people on the ground confirm that the tools are frequently reducing and denying benefits, often with unfair and inhumane results. As research from CDT has confirmed, people with disabilities in particular experience disproportionate and particular harm because of unjust algorithm-driven decision-making. To prevent such harms, thoughtful design, use, and oversight of algorithm-driven decision-making systems will be crucial.

Further, employers turn to algorithm-driven technologies to analyse employees in the workplace. These technologies are purported to measure employees' engagement and productivity. Instead, they enable employers to impose more stringent productivity requirements and prevent workers from unionising. CDT is examining how these tools facilitate worker exploitation by penalising employees for needing breaks or alternative work schedules.

| 12. What other applications might represent a significant risk to human rights, democracy and the rule of law? | Content moderation also features prominently in discussion of the use of AI, but as with other uses, it is rife with potential risks to human rights and the rule of law. AI/machine learning and other forms of automation are sometimes incorporated by online intermediaries to enable them to manage the massive quantities of user-generated content that people upload onto their systems. |

	These automated tools can be useful for some aspects of sorting and organising user-generated content, but they also have distinct limitations.
	Tools or techniques may not be robust; that is, they may perform well in an experimental or training environment but poorly in the real world. Data quality issues can mean that tools are trained on unrepresentative data sets that end up baking bias into the algorithmic processes. Automated tools for analysing user-generated content typically assess a limited degree of context; they may evaluate a given image, for example, but not understand crucial information about the caption, account, or commentary around the image that is essential to its meaning. The operation of automated tools can be difficult to measure, and the creators of these tools may report 'accuracy' rates that fail to meaningfully characterise the tool's impact on different speakers and communities. And the decision processes for some machine learning learning techniques are difficult to explain in terms that are relevant and useful to human understanding, making interventions and mitigation tactics to protect human rights potentially very difficult. Finally, automation/AI will never be able to achieve consensus decisions or analysis of issues on which humans do not already agree; a machine-learning classifier trained to identify hate speech will nevertheless make determinations with which some people strongly disagree.
	In addition to these technical limitations in the use of AI for content moderation, it is important to recall that 'automation' in these circumstances is typically a form of content filtering. Content filtering raises significant threats to human rights, particularly when mandated by law. Filtering is a form of prior restraint on speech, where all statements by anyone using a service must be pre-approved by the filter in order to be posted. Filtering requires a form of total surveillance of people's communications to ensure that whatever is being said abides by the filter's standards. While content filtering can have a very useful role to play in the management of massive quantities of online content (think, for example, of spam filtering), it is crucial for any voluntary use of filters to incorporate opportunities for review of the filter's decisions and operation, and opportunities for appeal of the inevitable errors the filter will make. Filtering, whether it uses simple techniques or sophisticated machine learning, should never be mandated in law.
13. In your opinion, should the development, deployment and use of AI systems that have been proven to violate human rights or undermine democracy or the rule of law be **13bis. Other**	Banned
14. In your opinion, should the development, deployment and use of AI systems that pose high risks with high probability to human rights, democracy and the rule of law be:	Banned
15. In your opinion, should the development, deployment and use of AI systems that pose low risks with high probability to human	Regulated (binding law)

rights, democracy and the rule of law be:	
16. In your opinion, should the development, deployment and use of AI systems that pose high risks with low probability to human rights, democracy and the rule of law be:	Subject to moratorium
17. What are the most important legal principles, rights and interests that need to be addressed and therefore justify regulating the development, deployment and use of AI systems?	Respect for human dignity;Freedom of expression, assembly and association;• Non-discrimination;Privacy and data protection;• Possibility to challenge a decision made by an AI system and access to an effective remedy;
18. In your opinion, in what sectors/areas is a binding legal instrument needed to protect human rights, democracy and the rule of law? **18bis. Other**	Given the broad range of use and application of AI, a sector-specific approach will be required. In some areas, audits and stronger obligations on explainability would be desirable. In other areas, there is already existing legislation and so it is less pressing to regulate. At the same time, we need to carefully monitor changes to existing regulations in case they change in a manner that limits their control over AI. For example, in the U.S. the Dep't of Housing and Urban Development proposed rule changes that would have impacted people's access to legal redress for discrimination resulting from algorithmic models.;
19. Self-regulation by companies is more efficient than government regulation to prevent and mitigate the risk of violations of human rights, democracy and the rule of law.	I completely disagree
20. Self-regulation by companies is sufficient to prevent and mitigate the risk of violations of human rights, democracy and the rule of law	I completely disagree
21. Which of the following instruments of self-regulation do you consider to be the most efficient? **21bis. Other**	Self-regulation has proven to be an inadequate approach to mitigate against human rights violations and ensure access to effective remedy to those whose rights are impacted. CDT therefore recommends (see response 39 below) a combination of risk-based assessments and human rights impact assessments, as well as obligations with regard to explainability and AI.
22. Existing international, regional and/or national binding and/or non-binding legal instruments are sufficient to regulate AI systems in order to ensure the protection of human rights, democracy and the rule of law.	I rather disagree
23. Please provide examples of existing international, regional and/or national (binding and/or non-binding) instruments that in your view are effective in guiding and regulating the design, development and use of AI systems to ensure compatibility with the standards for human	The EU's Regulation (EU) 2016/679 General Data Protection Regulation (GDPR) places obligations on EU member states with regard to data governance and explainability. However, as the EU's Fundamental Rights Agency has found, despite the existence of GDPR, many actors do not understand how to carry out a fundamental rights-based approach to data governance in order to prevent algorithmic discrimination, particularly in the private sector. So whereas GDPR has had a positive impact on privacy and better data governance, further thought is needed on combatting

rights, democracy and the rule of law	discrimination in particular. CDT concurs with the opinion of the EU European Data Protection Supervisor that recommender systems should by default not be based on profiling within the meaning of Art. 4(4) of the GDPR. In theory GDPR can be a helpful tool in limiting the AI-driven spread of disinformation by limiting such profiling, however the GDPR is currently not adequately enforced to make this positive potential a reality. Furthermore, GDPR is focussed on individual consent, but in reality today's complex info-ecosystems mean that data-subjects often do not understand the full implications of what they are consenting to. GDPR also empowers data-subjects to delete information that is inaccurate or where they simply wish to withdraw consent, but deleting specific data points from machine-learning is currently very challenging. Overall, whereas GDPR is an essential privacy and data protection law, for some of the reasons outlined above it is not fully equipped to deal with the issues of collective algorithmic harm. See also Finck, Michèle, The Limits of the GDPR in the Personalisation Context (May 1, 2020). Cambridge University Press, 2021, Max Planck Institute for Innovation & Competition Research Paper No. 21-11, Available at SSRN: https://ssrn.com/abstract=3830304 Given the risks that micro-targeting in the context of elections in particular and profiling pose in a democracy, CDT has further agreed with the EU EDPS that advertising based on pervasive tracking should be phased out.
24. If you responded disagree/completely disagree to question 22, please indicate why existing international, regional and/or national (binding and/or non-binding) legal instruments are not sufficient to regulate AI systems (select all you agree with):	• They provide a basis but fail to provide an effective substantive protection of human rights, democracy and the rule of law against the risks posed by AI systems;• They lack specific principles for the design, development and application of AI systems;• They do not provide enough guidance to the designers, developers and deployers of AI systems;They do not provide for specific rights (e.g. transparency requirements, redress mechanisms) for persons affected by AI;
25. Please indicate other specific legal gaps that in your view need to be addressed at the level of the Council of Europe	Article 14 of the Council of Europe Convention on Human Rights (ECHR) enshrines the protection against discrimination in the enjoyment of the rights set forth in the Convention. According to the Court's case law, the principle of nondiscrimination is of a "fundamental" nature and underlies the Convention together with the rule of law, and the values of tolerance and social peace (S.A.S. v. France [GC], 2014, § 149; Străin and Others v. Romania, 2005, § 59). Furthermore, this protection is completed by Article 1 of Protocol No. 12 to the Convention which prohibits discrimination more generally, in the enjoyment of any right set forth by law. Vital decisions which impact our lives are being made using automated decision-making (ADM). These systems, now used in job recruitment, decisions on benefits, access to educational opportunities and other settings frequently perpetuate existing prejudice and discrimination. This is particularly urgent considering that those most affected are already marginalised and at-risk. The current problem is a lack of access to effective remedies. Further legal safeguards and obligations around the obligation to meaningfully explain the use of algorithms is needed in order to ensure access to justice and improved oversight of AI. If an individual has suffered discrimination as prohibited under European human rights law they need to have access to effective remedy in practice. Ensuring such access will involve some mandatory

	transparency over how AI is used and stronger obligations on explaining how decisions were reached. Furthermore, in cases such as recruitment and access to social benefits, auditing could also be considered. In December 2020, the EU's Fundamental Rights Agency released a report of the results of an interview of 100 public officials and private and civil sector experts. The report found that despite the existence of GDPR, many actors did not understand how to carry out a fundamental rights-based approach to data governance in order to prevent algorithmic discrimination, particularly in the private sector. There is a need to make it imperative for private companies to take action in this area. There is a lack of case studies and case-law in the area of AI and discrimination across Europe to help inform upcoming legislative proposals with evidenced-based policy suggestions.
26. Individuals should always be informed when they interact with an AI system in any circumstances.	I rather agree
27. Individuals should always be informed when a decision which affects them personally is made by an AI system.	I rather agree
28. Individuals should always be informed when an AI system is used in a decision-making process which affects them personally.	I rather agree
29. Individuals should have a right to a meaningful explanation of algorithmic based decisions, in particular how the algorithm reached its output.	I rather agree
30. Individuals should always have the right that any decision taken by an AI system in the framework of judicial proceedings are reviewed by a "human" judge.	I fully agree
31. Individuals should have a right to demand the review of an algorithmic based decision by a human being.	I rather agree
32. There should always be a person responsible for reviewing algorithmic based decisions in the public sector and private companies.	I rather agree
33. Public institutions should not use AI systems to promote or discredit a particular way of life or opinion (e.g. "social scoring").	I fully agree
34. States should be obliged to design, develop and apply sustainable AI systems that respect applicable environmental protection standards.	I rather agree
35. The code behind AI systems used in the public and private sectors should always be	I rather agree

accessible to the competent public authorities for the purposes of external audit.	
36. There should be higher transparency standards for public entities using AI than for private entities.	I fully agree
37. There should be higher standards for access to an effective remedy for individuals in relation to decisions informed and made by an AI system in the field of justice than in the field of consumer protection.	I fully agree
38. Member States should establish public oversight mechanisms for AI systems that may breach legally binding norms in the sphere of human rights, democracy and the rule of law.	I fully agree
39. Errors and flaws discovered in AI systems which have led or could lead to the violation of human rights, democracy and the rule of law must be reported to the competent authorities.	I fully agree
40. The use of facial recognition in public spaces should be prohibited.	I rather agree
41. The information obtained through the use of facial recognition systems should always be reviewed by a human being before being used for purposes that have an impact on individual freedom, such as in relation to a person boarding an airplane, upon police arrest or in the framework of judicial proceedings.	I fully agree
42. The use of AI systems in democratic processes (e.g. elections) should be strictly regulated.	I fully agree
43. Should a future legal framework at Council of Europe level include a specific liability regime in relation to AI applications?	Yes
44. If yes, what aspects should be covered?	For systems that support human decisions, hold the deciding humans responsible for any rights violations or illegal outcomes. For systems that make or act on their own decisions/analysis, hold the humans that selected/deployed the system responsible.

45. In your opinion, how useful would the following compliance mechanisms be in preventing and mitigating the risks to human rights, democracy and the rule of law arising from the design, development and application of AI? - **Human rights, democracy and rule of law impact assessments** - **Certification and quality labelling** - **Audits and intersectional audits** - **Regulatory sandboxes** **Continuous automated monitoring**	Highly useful Rather useful Highly useful Rather useful Highly useful
46. Please indicate what combination of mechanisms should be preferred to efficiently protect human rights, democracy and the rule of law **46bis. Other**	• Human rights, democracy and rule of law impact assessments ;• Audits and intersectional audits;Continuous automated monitoring;
47. Please select which mechanism(s) should be part of either a binding instrument or a non-binding instrument to best protect human rights, democracy and the rule of law. - **Human rights, democracy and rule of law impact assessments** - **Certification and quality labelling** - **Audits and intersectional audits** - **Regulatory sandboxes** **Continuous automated monitoring**	Binding instrument No opinion Binding instrument No opinion Binding instrument
47.bis. Other	A risk-based approach helps to set the parameters for particularly high-risk applications of AI which should be subject to further regulation. At the same time the analysis of risk should be more nuanced. Key factors for inclusion in a risk assessment: (1) the likelihood/probability of the occurrence of a certain use of AI; (2) the impact of that application; acknowledgement that any application of AI can potentially be high risk depending on the specific purpose for which it is used i.e. recommender systems in music streaming might be categorised as 'low-risk' but should a streaming-app use speech recognition to detect emotional state or gender etc. this would be a high-risk application; (3) user choice, whether an individual has the ability to choose not to be subject to the AI application i.e. in applying for a job that you need you have little choice but to be subject to a recruitment process that may deploy AI.

	Process towards a risk-based assessment:
	(1) the State should set the parameters of what constitutes a risk and what processes, processes, procedures and safeguards should apply in each case;
	(2) companies may do more than that which a government requires, and adopt additional safeguards;
	(3) governments should not take such decisions alone, the categorisation of risks should involve a robust multi-stakeholder process and in particular allocate resources to ensure dialogue and feedback from at-risk or vulnerable groups most likely to suffer the adverse impacts of the application of high-risk AI.
	Auditing and impact assessments:
	Risk-based approaches are based on predicted outcomes. Given the complexity of and constant evolution of the applications of AI, in addition to such an ex ante analysis, ex post human rights impact assessments can be a crucial tool to assess the actual impact. These impact assessments should be analysed for trends that can inform future risk assessments.
	Auditing applications of AI for discriminatory and other adverse impacts is also an important tool. National authorities/regional laws can and should set the parameters that the audit should entail, as well as which specific harms that audit should seek to uncover. Companies may have overall responsibility that such an audit is carried out, but an independent third party with relevant expertise should conduct the audit. The State should set out clear rules to ensure the independence, competence of such third party auditors. The obligation and basic procedures to guarantee a multistakeholder consultative process should also be mandated by law. There will be situations where it is more appropriate that a State authority itself has investigatory powers to check certain applications of AI. For example, you could imagine a situation where national equality bodies are mandated to investigate discrimination in the allocation of social security benefits by a Government Department. In addition, the Convention should provide a legal framework that enables privacy-preserving access to research data for third parties such as academic researchers and civil society. This can add an additional layer of oversight.
48. In your opinion, how useful would the following follow-up activities be if implemented by the Council of Europe? - **Monitoring of AI legislation and policies in member States** - **Capacity building on Council of Europe instruments, including assistance to facilitate ratification and implementation of relevant Council of Europe instruments** - **AI Observatory for sharing good practices and exchanging information on**	Highly useful Highly useful Highly useful Highly useful

legal, policy and technological developments related to AI systems **Establishing a centre of expertise on AI and human rights**	
49. What other mechanisms, if any, should be considered?	The development of standards and practices in relation to the auditing of AI for discrimination in particular.
50. Are there any other issues with respect to the design, development and application of AI systems in the context of human rights, democracy and the rule of law that you wish to bring to the attention of the CAHAI?	
Date of submission	5/7/21 18:26:17

Centre for Democracy and Rule of Law

State (where your institution is based)	Ukraine
Institution: Name of the institution/body/company	Centre for Democracy and Rule of Law
Personal capacity: Your socio-professional category	Intermediate occupations
Your stakeholder group	Civil society
2. In view of the elaboration of a legal framework on the design, development and application of AI, based on the standards of the Council of Europe on human rights, democracy and the rule of law, what kind of definition of artificial intelligence (AI) should be considered by the CAHAI	A definition focusing on automated decision-making
2bis. If "other" please explain below	
3. What are the reasons for your preference?	This definition allows avoiding the overly broad and vague terms, focusing on the aspects, which are technically and logistically important for conducting human rights impact assessment and develop appropriate regulation. In this respect, such regulation can be adjusted towards the systems, which perform critical functions in an automated manner. Civil society organisation AlgorithmWatch defines automated decision-making systems ("ADM") as "a socio-

	technological framework that encompasses a decision-making model, an algorithm that translates this model into computable code, the data this code uses as an input — either to 'learn' from it or to analyse it by applying the model — and the entire political and economic environment surrounding its use. This means that the decision itself to apply an ADM system for a certain purpose — as well as the way it is developed (i.e. by a public sector entity or a commercial company), procured and finally deployed — are parts of this framework.
4. Please select the areas in which AI systems offer the most promising opportunities for the protection of human rights, democracy and the rule of law	Social networks/media, internet intermediaries ;• Healthcare;• Environment and climate;
4bis. If other, which areas and why?	
5. Please indicate which of the following AI system applications in your view have the greatest potential to enhance/protect human rights, democracy and the rule of law?	• AI applications to promote gender equality (e.g. analytical tools);• AI applications to predict the possible evolution of climate change and/or natural disasters;• Medical applications for faster and more accurate diagnoses;• AI applications used for analysing the performance of pupils/students in educational institutions such as schools and universities;
6. Please briefly explain how such applications would benefit human rights, democracy and the rule of law.	Subject to the human rights impact assessment and adjusting all the necessary applications to the social, political and economic contexts, in which they are expected to be implemented, the balance shall be established between the potential benefits and dangers, stemming from such systems. Form the perspective of CEDEM, the most-well balanced and realistic in terms of effective enforcement and deployment in various environments, including the vulnerable and marginalised ones, are the following applications:

1. Medical applications for faster and more accurate diagnoses: Subject to the inclusion of the relevant data and regular human supervision of the effective functioning of such systems, application can make the processes of determining the diagnoses significantly easier, faster and more precise healthcare. As a reasonable consequence, it will remove part of load from the workers of the healthcare sphere, thus enabling more individuals to simultaneously access such services. At the same time, implementation of such services shall not be the burden for the States, forcing them to re-allocate funding from the ordinary healthcare services or other areas, where such funding is a necessary condition for effective functioning of the democratic institutions.

2. AI applications to predict the possible evolution of climate change and/or natural disasters: AI can potentially make easier and faster the prediction of consequences of the current environmental policies, as well as modelling of the climate processes, which can be expected in the nearest future. Based on this information, the decision-making processes can become faster and more narrowly tailored to the problems at stake. Also, implementing such systems shall take into account global, not local contexts, and thus enhance co-operation between the societies to combat the gravest threats in this area.

3. AI applications to promote gender equality (e.g. analytical tools): Affirmative action can be taken in the relevant cases based on the |

| | AI assessments and predictions if the systems are developed taken into account non-binary approach to defining gender and are strictly reviewed to avoid biases and stereotypes being involved into their mechanisms from the very beginning. Additionally, design and development of such systems per se will push modern societies towards collection of data about vulnerable groups and working out of better strategies on dealing with issues of gender inequality. As well, such systems apparently shall be combined with other positive actions, enabling to draw the wider picture of this problem and avoid voluntaristic decisions.

4. AI applications used for analysing the performance of pupils/students in educational institutions such as schools and universities: Based on the results of AI assessment of student's performance the individual approaches can be developed towards each student, which will enhance the quality of education and may serve an encouragement to work out more personalised educational programs. Also, it will detect the gaps in the learning methods, based on the average progress of students over the particular courses or periods of courses. Yet, such systems shall be subject to the close human supervision and guarantees that various biased pieces of data are not involved into the system. |
|---|---|
| **7. What other applications might contribute significantly to strengthening human rights, democracy and the rule of law?** | Applications, which provide simple public services (e.g. certificates, extracts from documents, certify copies etc); applications for regulation of public spaces (e.g. calculation periodicity for traffic lights, modelling infrastructure of the cities etc) |
| **8. Please select the areas in which the deployment of AI systems poses the highest risk of violating human rights, democracy and the rule of law**
8bis. Other | • Law enforcement;• Justice;• Employment; |
| **9. Please briefly explain how such applications might violate human rights, democracy and the rule of law.** | AI systems might strengthen existing racial and ethnic, gender, and social, economic and other inequalities. Specifically, in the judicial and law enforcement spheres (which covers the notions of counter-terrorism, border control and others) AI might contribute to creation of the system based on the institutional discrimination, which will amount to constant breaches of human rights. In particular, it may happen due to the existing patterns of disciminatory policies, turning which into algorithms will create even more dangerous conditions for existence and development of the vulnerable and marginalised groups. Same goes as to mass surveillance systems, such as facial recognition and other indiscriminate biometric surveillance tools, which are fundamentally incompatible with human rights. Also, currently most domestic laws do not have essential safeguards against potential abuses and misuses of the AI systems in the given spheres, thus development and implementation of such technologies might be used via unfettered discretion. This, in turn, might significantly affect such vulnerable groups as political activists, opposition, journalists and others, serving a tool for suppression of opposite thoughts. |
| **10. Please indicate the types of AI systems that represent the greatest risk to human rights, democracy and the rule of law** | Facial recognition supporting law enforcement ;Scoring / scoring of individuals by public entities;AI applications aimed at predicting recidivism ;• AI applications to prevent the commission of a criminal offence;• AI applications for personalised media content (recommender systems); |
| **11. Please briefly explain how such applications might violate** | Although almost any sphere of AI usage can become a safe harbour for malicious activities and abuses, as well as open the space for violations, especially in view of the addressed above |

human rights, democracy and the rule of law.	possibility to fill systems with biased and stereotyped information, five chosen categories are among the ones subjected to dangers of AI application the most. 1. Facial recognition supporting law enforcement: can create the space for application of illegal mass surveillance, being overly and disproportionately intrusive into privacy of the citizens. Profiling of individuals creates the risks of bias and stigmatisation of the vulnerable categories of individuals, especially women, people of colour, gender non-conforming persons etc. In addition, such systems are already incompatible with numerous existing (including EU) regulations on data protection, being impossible to obtain prior consent or grant an appropriate procedure for removal of data in the systems. 2. Scoring / scoring of individuals by public entities: can disproportionately affect individuals from vulnerable and marginalised groups, subsequently significantly limiting their rights in the education, employment, social services and other spheres due to existence and enhancement of biases etc. 3. AI applications for personalised media content (recommender systems): creates the dangers for information pluralism, especially in such period as pre-election and election one, when individuals are vulnerable towards mis-, mal- and disinformation. Also, deprivation of certain data might significantly contribute to radicalisation and polarisation of views, enhancement of biases and stereotypes. Another problem implies overly broad content-takedowns, which may lead to silencing the minorities and political opposition, amounting to the destruction of the freedom of speech. Also, dangers might arises as to disproportionate and unnecessary collection of personal data for adjustment of the mechanisms of targeting to personalise media content. 4. AI applications to prevent the commission of a criminal offence and AI applications aimed at predicting recidivism:
12. What other applications might represent a significant risk to human rights, democracy and the rule of law?	autonomous weapon systems, AI in a judge capacity, AI-based targeted political advertising
13. In your opinion, should the development, deployment and use of AI systems that have been proven to violate human rights or undermine democracy or the rule of law be **13bis. Other**	entirely banned or banned in the circumstances, when such systems breach human rights
14. In your opinion, should the development, deployment and use of AI systems that pose high risks with high probability to human rights, democracy and the rule of law be:	Banned
15. In your opinion, should the development, deployment and use of AI systems that pose low risks with high probability to human rights, democracy and the rule of law be:	Subject to moratorium

16. In your opinion, should the development, deployment and use of AI systems that pose high risks with low probability to human rights, democracy and the rule of law be:	Regulated (binding law)
17. What are the most important legal principles, rights and interests that need to be addressed and therefore justify regulating the development, deployment and use of AI systems?	Respect for human dignity;• Non-discrimination;• Possibility to challenge a decision made by an AI system and access to an effective remedy;Freedom of expression, assembly and association;Privacy and data protection;
18. In your opinion, in what sectors/areas is a binding legal instrument needed to protect human rights, democracy and the rule of law? **18bis. Other**	Law enforcement;Justice;Public administration;
19. Self-regulation by companies is more efficient than government regulation to prevent and mitigate the risk of violations of human rights, democracy and the rule of law.	I rather disagree
20. Self-regulation by companies is sufficient to prevent and mitigate the risk of violations of human rights, democracy and the rule of law	I completely disagree
21. Which of the following instruments of self-regulation do you consider to be the most efficient? **21bis. Other**	human rights due diligence combined with ethics guidelines
22. Existing international, regional and/or national binding and/or non-binding legal instruments are sufficient to regulate AI systems in order to ensure the protection of human rights, democracy and the rule of law.	I rather disagree
23. Please provide examples of existing international, regional and/or national (binding and/or non-binding) instruments that in your view are effective in guiding and regulating the design, development and use of AI systems to ensure compatibility with the standards for human rights, democracy and the rule of law	
24. If you responded disagree/completely disagree to question 22, please indicate why existing international, regional and/or national (binding and/or non-binding) legal instruments are	• They provide a basis but fail to provide an effective substantive protection of human rights, democracy and the rule of law against the risks posed by AI systems;• They lack specific principles for the design, development and application of AI systems;They do not provide for specific rights (e.g. transparency requirements, redress mechanisms) for persons affected by AI;

not sufficient to regulate AI systems (select all you agree with):	
25. Please indicate other specific legal gaps that in your view need to be addressed at the level of the Council of Europe	1. Providing individuals with the right to refuse to be subjected to AI systems with the possibility of alternative options for exercising one's right. 2. Ensuring that minimum transparency requirements are met by the AI designers, developers and deployers. 3. Banning systems, which per se act indiscriminately or arbitrarily towards use of biometrics, can lead to unlawful mass surveillance, supression of minorities or vulnerable groups, can discriminate based on the biased data filled into the system or impossibility to adjust algorithms to the local peculiarities. 4. Provide for application of human rights laws in both public and private sectors throughout the whole lifecircle of AI usage.
26. Individuals should always be informed when they interact with an AI system in any circumstances.	I fully agree
27. Individuals should always be informed when a decision which affects them personally is made by an AI system.	I fully agree
28. Individuals should always be informed when an AI system is used in a decision-making process which affects them personally.	I fully agree
29. Individuals should have a right to a meaningful explanation of algorithmic based decisions, in particular how the algorithm reached its output.	I fully agree
30. Individuals should always have the right that any decision taken by an AI system in the framework of judicial proceedings are reviewed by a "human" judge.	I fully agree
31. Individuals should have a right to demand the review of an algorithmic based decision by a human being.	I fully agree
32. There should always be a person responsible for reviewing algorithmic based decisions in the public sector and private companies.	I fully agree
33. Public institutions should not use AI systems to promote or discredit a particular way of life or opinion (e.g. "social scoring").	I fully agree
34. States should be obliged to design, develop and apply sustainable AI systems that respect applicable environmental protection standards.	I fully agree
35. The code behind AI systems used in the public and private sectors should always be	I fully agree

accessible to the competent public authorities for the purposes of external audit.	
36. There should be higher transparency standards for public entities using AI than for private entities.	I fully agree
37. There should be higher standards for access to an effective remedy for individuals in relation to decisions informed and made by an AI system in the field of justice than in the field of consumer protection.	I fully agree
38. Member States should establish public oversight mechanisms for AI systems that may breach legally binding norms in the sphere of human rights, democracy and the rule of law.	I fully agree
39. Errors and flaws discovered in AI systems which have led or could lead to the violation of human rights, democracy and the rule of law must be reported to the competent authorities.	I fully agree
40. The use of facial recognition in public spaces should be prohibited.	I fully agree
41. The information obtained through the use of facial recognition systems should always be reviewed by a human being before being used for purposes that have an impact on individual freedom, such as in relation to a person boarding an airplane, upon police arrest or in the framework of judicial proceedings.	I fully agree
42. The use of AI systems in democratic processes (e.g. elections) should be strictly regulated.	I fully agree
43. Should a future legal framework at Council of Europe level include a specific liability regime in relation to AI applications?	Yes
44. If yes, what aspects should be covered?	1. Possibility of reparations (including satisfaction, restitution or compensation), as well as reviewing the matter decided by the AI by the human. 2. Accountability of relevant designers, developers, reviewers or deployers for the violations, which took place in the course of their work (inappropriate legal review, technical flaws etc). 3. Possibility to request bans on systems, which turned out to be incompatible in whole or in part with the applicable human rights standards

45. In your opinion, how useful would the following compliance mechanisms be in preventing and mitigating the risks to human rights, democracy and the rule of law arising from the design, development and application of AI? - **Human rights, democracy and rule of law impact assessments** - **Certification and quality labelling** - **Audits and intersectional audits** - **Regulatory sandboxes** **Continuous automated monitoring**	Highly useful Highly useful Highly useful Highly useful Highly useful
46. Please indicate what combination of mechanisms should be preferred to efficiently protect human rights, democracy and the rule of law **46bis. Other**	• Human rights, democracy and rule of law impact assessments ;• Audits and intersectional audits;Continuous automated monitoring;
47. Please select which mechanism(s) should be part of either a binding instrument or a non-binding instrument to best protect human rights, democracy and the rule of law. - **Human rights, democracy and rule of law impact assessments** - **Certification and quality labelling** - **Audits and intersectional audits** - **Regulatory sandboxes** **Continuous automated monitoring**	Binding instrument Non-binding instrument Binding instrument Binding instrument Binding instrument
47.bis. Other	
48. In your opinion, how useful would the following follow-up activities be if implemented by the Council of Europe? - **Monitoring of AI legislation and policies in member States** - **Capacity building on Council of Europe instruments, including assistance to facilitate ratification and implementation of relevant Council of Europe instruments** - **AI Observatory for sharing good practices and exchanging information on legal, policy and technological**	Highly useful Highly useful Rather useful Highly useful

developments related to AI systems **Establishing a centre of expertise on AI and human rights**	
49. What other mechanisms, if any, should be considered?	
50. Are there any other issues with respect to the design, development and application of AI systems in the context of human rights, democracy and the rule of law that you wish to bring to the attention of the CAHAI?	Multi stakeholder consultations with regard to the listed processes with a compulsory involvement of civil society.
Date of submission	4/29/21 18:37:05

Centre for European Volunteering

State (where your institution is based)	Belgium
Institution: Name of the institution/body/company	Centre for European Volunteering
Personal capacity: Your socio-professional category	Intermediate occupations
Your stakeholder group	Civil society
2. In view of the elaboration of a legal framework on the design, development and application of AI, based on the standards of the Council of Europe on human rights, democracy and the rule of law, what kind of definition of artificial intelligence (AI) should be considered by the CAHAI	A technologically-neutral and simplified definition, such as "a set of sciences, theories and tech-niques whose purpose is to reproduce by a machine the cognitive abilities of a human being" (See the CAHAI feasibility study, §5)
2bis. If "other" please explain below	
3. What are the reasons for your preference?	I don't think a specific definition could help to include the variety of AI. A general one, supported by focused articles tackling the different aspects of AI could definitely answer many of the current needs.
4. Please select the areas in which AI systems offer the most promising opportunities for the	Justice;• Education;• Healthcare;•

protection of human rights, democracy and the rule of law	
4bis. If other, which areas and why?	
5. Please indicate which of the following AI system applications in your view have the greatest potential to enhance/protect human rights, democracy and the rule of law?	• Medical applications for faster and more accurate diagnoses;• AI applications to predict the possible evolution of climate change and/or natural disasters;• AI applications to prevent the commission of a criminal offence (e.g. anti-money laundry AI applications);• AI applications providing support to the healthcare system (triage, treatment delivery);• AI applications determining the allocation of educational services;
6. Please briefly explain how such applications would benefit human rights, democracy and the rule of law.	If possible to reach the vast majority of the population, giving access to digital tools to everyone, AI apps of this kind could help and support a more inclusive society; they could individuate and support the prevention of international criminal organised acts; they could facilitate access to health assistance and education.
7. What other applications might contribute significantly to strengthening human rights, democracy and the rule of law?	A system monitoring the situation of judiciary penitentiaries, checking for the update of the condition of the prison sentences and the people deprived of freedom (when they end their prison sentence period, to be sure that the judicial system is alerted to not leave people incarcereted after that time; to allow people deprived of their liberty to develop educational activities while inside the prison settings with the support of volunteers, or to even volunteer themselves). A system monitoring and providing support for online volunteering activities.
8. Please select the areas in which the deployment of AI systems poses the highest risk of violating human rights, democracy and the rule of law **8bis. Other**	• Banking, finance and insurance;• Law enforcement;• Election monitoring
9. Please briefly explain how such applications might violate human rights, democracy and the rule of law.	Storage data, if the AI system isn't well monitored and secured, could pose risk for hacking procedure and so to increase criminal activities and as well putting a risk individuals by maybe delivering and spreading sensitive materials: allowing abuse of power and force; threathening; corruption; etc..
10. Please indicate the types of AI systems that represent the greatest risk to human rights, democracy and the rule of law	• Automated fraud detection (banking, insurance);AI applications aimed at predicting recidivism ;• AI applications determining the allocation of social services;• AI applications to promote gender equality (e.g. analytical tools);
11. Please briefly explain how such applications might violate human rights, democracy and the rule of law.	They could be used against the person in need if not managed with accuracy and constantly monitored by a transparent system.
12. What other applications might represent a significant risk to human rights, democracy and the rule of law?	//
13. In your opinion, should the development, deployment and use of AI systems that have been proven to violate human rights or undermine democracy or the rule of law be **13bis. Other**	Revised, regulated and if it keeps to impose a threath, banned.

14. **In your opinion, should the development, deployment and use of AI systems that pose high risks with high probability to human rights, democracy and the rule of law be:**	Regulated (binding law)
15. **In your opinion, should the development, deployment and use of AI systems that pose low risks with high probability to human rights, democracy and the rule of law be:**	Regulated (binding law)
16. **In your opinion, should the development, deployment and use of AI systems that pose high risks with low probability to human rights, democracy and the rule of law be:**	Regulated (binding law)
17. **What are the most important legal principles, rights and interests that need to be addressed and therefore justify regulating the development, deployment and use of AI systems?**	Respect for human dignity;• Social security;• Non-discrimination;Privacy and data protection;• Transparency;•
18. **In your opinion, in what sectors/areas is a binding legal instrument needed to protect human rights, democracy and the rule of law?** **18bis. Other**	Justice;Election monitoring;Education;
19. **Self-regulation by companies is more efficient than government regulation to prevent and mitigate the risk of violations of human rights, democracy and the rule of law.**	I completely disagree
20. **Self-regulation by companies is sufficient to prevent and mitigate the risk of violations of human rights, democracy and the rule of law**	I completely disagree
21. **Which of the following instruments of self-regulation do you consider to be the most efficient?** **21bis. Other**	Ethics guidelines
22. **Existing international, regional and/or national binding and/or non-binding legal instruments are sufficient to regulate AI systems in order to ensure the protection of human rights, democracy and the rule of law.**	I completely disagree
23. **Please provide examples of existing international, regional and/or national (binding and/or non-binding) instruments that in your view are effective in guiding**	//

and regulating the design, development and use of AI systems to ensure compatibility with the standards for human rights, democracy and the rule of law	
24. If you responded disagree/completely disagree to question 22, please indicate why existing international, regional and/or national (binding and/or non-binding) legal instruments are not sufficient to regulate AI systems (select all you agree with):	• They provide a basis but fail to provide an effective substantive protection of human rights, democracy and the rule of law against the risks posed by AI systems; They do not provide for specific rights (e.g. transparency requirements, redress mechanisms) for persons affected by AI; There are too many and they are difficult to interpret and apply in the context of AI;
25. Please indicate other specific legal gaps that in your view need to be addressed at the level of the Council of Europe	
26. Individuals should always be informed when they interact with an AI system in any circumstances.	I fully agree
27. Individuals should always be informed when a decision which affects them personally is made by an AI system.	I fully agree
28. Individuals should always be informed when an AI system is used in a decision-making process which affects them personally.	I fully agree
29. Individuals should have a right to a meaningful explanation of algorithmic based decisions, in particular how the algorithm reached its output.	I fully agree
30. Individuals should always have the right that any decision taken by an AI system in the framework of judicial proceedings are reviewed by a "human" judge.	I fully agree
31. Individuals should have a right to demand the review of an algorithmic based decision by a human being.	I fully agree
32. There should always be a person responsible for reviewing algorithmic based decisions in the public sector and private companies.	I fully agree
33. Public institutions should not use AI systems to promote or discredit a particular way of life or opinion (e.g. "social scoring").	I fully agree
34. States should be obliged to design, develop and apply sustainable AI systems that	I fully agree

respect applicable environmental protection standards.	
35. The code behind AI systems used in the public and private sectors should always be accessible to the competent public authorities for the purposes of external audit.	I fully agree
36. There should be higher transparency standards for public entities using AI than for private entities.	I rather disagree
37. There should be higher standards for access to an effective remedy for individuals in relation to decisions informed and made by an AI system in the field of justice than in the field of consumer protection.	I rather disagree
38. Member States should establish public oversight mechanisms for AI systems that may breach legally binding norms in the sphere of human rights, democracy and the rule of law.	Indifferent/no opinion
39. Errors and flaws discovered in AI systems which have led or could lead to the violation of human rights, democracy and the rule of law must be reported to the competent authorities.	I fully agree
40. The use of facial recognition in public spaces should be prohibited.	Indifferent/no opinion
41. The information obtained through the use of facial recognition systems should always be reviewed by a human being before being used for purposes that have an impact on individual freedom, such as in relation to a person boarding an airplane, upon police arrest or in the framework of judicial proceedings.	I fully agree
42. The use of AI systems in democratic processes (e.g. elections) should be strictly regulated.	I fully agree
43. Should a future legal framework at Council of Europe level include a specific liability regime in relation to AI applications?	No opinion
44. If yes, what aspects should be covered?	

45. **In your opinion, how useful would the following compliance mechanisms be in preventing and mitigating the risks to human rights, democracy and the rule of law arising from the design, development and application of AI?** - **Human rights, democracy and rule of law impact assessments** - **Certification and quality labelling** - **Audits and intersectional audits** - **Regulatory sandboxes Continuous automated monitoring**	Highly useful Rather useful Highly useful Rather useful Highly useful
46. **Please indicate what combination of mechanisms should be preferred to efficiently protect human rights, democracy and the rule of law** **46bis. Other**	Continuous automated monitoring;• Audits and intersectional audits;• Human rights, democracy and rule of law impact assessments ;
47. **Please select which mechanism(s) should be part of either a binding instrument or a non-binding instrument to best protect human rights, democracy and the rule of law.** - **Human rights, democracy and rule of law impact assessments** - **Certification and quality labelling** - **Audits and intersectional audits** - **Regulatory sandboxes Continuous automated monitoring**	Binding instrument Binding instrument Binding instrument Non-binding instrument Binding instrument
47.bis. Other	
48. **In your opinion, how useful would the following follow-up activities be if implemented by the Council of Europe?** - **Monitoring of AI legislation and policies in member States** - **Capacity building on Council of Europe instruments, including assistance to facilitate ratification and implementation of relevant Council of Europe instruments** - **AI Observatory for sharing good practices and exchanging information on legal, policy and technological**	Highly useful Highly useful Highly useful Highly useful

developments related to AI systems **Establishing a centre of expertise on AI and human rights**	
49. What other mechanisms, if any, should be considered?	
50. Are there any other issues with respect to the design, development and application of AI systems in the context of human rights, democracy and the rule of law that you wish to bring to the attention of the CAHAI?	
Date of submission	4/28/21 12:49:54

Centre for the Study of Existential Risk, University of Cambridge

State (where your institution is based)	**United Kingdom**
Institution: Name of the institution/body/company	Centre for the Study of Existential Risk, University of Cambridge
Personal capacity: Your socio-professional category	Higher occupations
Your stakeholder group	Academic and scientific community
2. In view of the elaboration of a legal framework on the design, development and application of AI, based on the standards of the Council of Europe on human rights, democracy and the rule of law, what kind of definition of artificial intelligence (AI) should be considered by the CAHAI	Other
2bis. If "other" please explain below	A technologically-neutral definition, such as 'a set of computational sciences, theories and techniques whose purpose is to improve the accuracy, speed, or scale of machine decision-making, producing capabilities that can support-, substitute for-, or improve upon human task performance.'
3. What are the reasons for your preference?	There is general value in taking a technology-neutral approach for AI, both because (a) in many cases the regulatory rationale around AI is not specific to certain approaches, but is itself technology-neutral (cf. Bennett Moses 2013 - 'How to Think About Law,

| | Regulation and Technology: Problems with 'Technology' as a Regulatory Target'); and, (b) given the high rate of development in AI frameworks and approaches, this makes it more adaptive.

This definition however should not be anthropocentric (e.g. about systems that merely seek to 'reproduce'--when in some cases, AI systems are used to surpass or support human task performance, or in completely novel functions). Nor should it focus on the [internal] 'cognitive abilities' of humans, but rather on task performance levels.

Alternatively, a legal framework could take a risk-based approach (that is, focused on impacts), taking a general technology-neutral definition, but within specific regulations or laws focusing in on multi-part-definitions of AI, which recombine elements of 'design', 'use case', or 'capability' (e.g. Schuett 2019 'A Legal Definition of AI'). |
|---|---|
| **4.   Please select the areas in which AI systems offer the most promising opportunities for the protection of human rights, democracy and the rule of law** | Welfare;• Healthcare;• Environment and climate; |
| **4bis. If other, which areas and why?** | |
| **5.   Please indicate which of the following AI system applications in your view have the greatest potential to enhance/protect human rights, democracy and the rule of law?** | • Medical applications for faster and more accurate diagnoses;• AI applications to predict the possible evolution of climate change and/or natural disasters;• AI applications for personalised media content (recommender systems);• AI applications providing support to the healthcare system (triage, treatment delivery);• AI applications to promote gender equality (e.g. analytical tools); |
| **6.   Please briefly explain how such applications would benefit human rights, democracy and the rule of law.** | AI systems could benefit a range of human rights both directly and indirectly, by greatly supporting global health care, equality, as well as in support of the struggle against the climate crisis.

Media recommender systems, if used well, could support more informed and reflective public discourse, strengthening society's 'epistemic security' (Seger et al. 2020, 'Tackling threats to informed decisionmaking in democratic societies'), and with it supporting democracy and the rule of law--however, the precise implementation of this would be precarious and prone to many new risks. |
| **7.   What other applications might contribute significantly to strengthening human rights, democracy and the rule of law?** | -There are a range of emerging applications in monitoring human rights violations, and holding violators accountable (cf. Risse and Livingston 2019. "The Future Impact of Artificial Intelligence on Humans and Human Rights.").
-Various text-as-data AI systems could also be used to strengthen international law, by detecting (engineered) treaty conflicts (e.g. Deeks 2020 'High-Tech International Law'; Maas 2021 'AI, Governance Displacement, and the (de)fragmentation of International Law...').
-More broadly, a range of AI applications could support general 'cooperative capabilities' (such as party's ability to understand the world and each other; to communicate; to make credible commitments (see Dafoe et al. 2021 'Cooperative AI: machines must learn to find common ground') |
| **8.   Please select the areas in which the deployment of AI systems poses the highest risk of** | • Justice;• Law enforcement;• Customs and border control; |

violating human rights, democracy and the rule of law **8bis. Other**	
9. Please briefly explain how such applications might violate human rights, democracy and the rule of law.	Applications of AI within justice, law enforcement, and especially border control applications tend to induce a very high risk of violating human rights: (1) they involve the use of opaque tools, (2) by government actors who do not always have the technological insight to interrogate the limits of these systems, (3) in contexts where bias or errors can easily accumulate (because of 'dirty data' or pernicious self-corrupting data feedback loops), and (4) where the impacts are on fundamental rights of often vulnerable communities. Most importantly, even where they achieve 'predictive accuracy', (5) many use cases of machine learning are at odds with the broader core purposes of judicial and law enforcement systems, which are not just about providing maximum public safety, but also about ensuring the right incentives and pathways towards rehabilitation (Kamyshev 2019 'Machine Learning in the Judicial System Is Mostly Hype').
10. Please indicate the types of AI systems that represent the greatest risk to human rights, democracy and the rule of law	Facial recognition supporting law enforcement ;• Emotional analysis in the workplace to measure employees' level of engagement;Scoring / scoring of individuals by public entities;• Deep fakes and cheap fakes;AI applications aimed at predicting recidivism ;
11. Please briefly explain how such applications might violate human rights, democracy and the rule of law.	As mentioned above, many law enforcement systems (especially in prediction) might be plagued by 'dirty data', and might result in self-corrupting feedback loops, where they impinge on a range of rights both directly, but also indirectly (in terms of challenges to due progress and accountability). DeepFake systems can challenge democratic processes both directly, as well as indirectly, by eroding the 'epistemic backstop' (Rini 2020 'Deepfakes and the Epistemic Backstop').
12. What other applications might represent a significant risk to human rights, democracy and the rule of law?	-The use of AI systems for computational propaganda and/or cyberwarfare, and the general erosion of the 'epistemic security'. -There are also a range of other 'malicious use' cases (Avin et al. 2018 'The Malicious Use of Artificial Intelligence'). -Moreover, the eventual growing use of various Deep Reinforcement Learning systems in industrial and public applications might impose a range of distinct challenges for these societal values, and for effective AI governance (Whittlestone et al. 2021, 'The Societal Implications of Deep Reinforcement Learning').
13. In your opinion, should the development, deployment and use of AI systems that have been proven to violate human rights or undermine democracy or the rule of law be **13bis. Other**	Banned
14. In your opinion, should the development, deployment and use of AI systems that pose high risks with high probability to human rights, democracy and the rule of law be:	Subject to moratorium
15. In your opinion, should the development, deployment and use of AI systems that pose low risks with high probability to human rights, democracy and the rule of law be:	Self-regulated (ethics guidelines, voluntary certification)

16. In your opinion, should the development, deployment and use of AI systems that pose high risks with low probability to human rights, democracy and the rule of law be:	Subject to moratorium
17. What are the most important legal principles, rights and interests that need to be addressed and therefore justify regulating the development, deployment and use of AI systems?	Respect for human dignity;Freedom of expression, assembly and association;• Non-discrimination;• Transparency;• Explainability;
18. In your opinion, in what sectors/areas is a binding legal instrument needed to protect human rights, democracy and the rule of law? **18bis. Other**	Law enforcement;• Social networks/media, internet intermediaries ;-The use of Deep Reinforcement Learning systems in various infrastructures (see Whittlestone et al. 2021 - above) -The use of AI systems for hacking and cyberwarfare (cf. Schneier 2021 'The Coming AI Hackers');
19. Self-regulation by companies is more efficient than government regulation to prevent and mitigate the risk of violations of human rights, democracy and the rule of law.	I rather disagree
20. Self-regulation by companies is sufficient to prevent and mitigate the risk of violations of human rights, democracy and the rule of law	I rather disagree
21. Which of the following instruments of self-regulation do you consider to be the most efficient? **21bis. Other**	Voluntary certification
22. Existing international, regional and/or national binding and/or non-binding legal instruments are sufficient to regulate AI systems in order to ensure the protection of human rights, democracy and the rule of law.	I completely disagree
23. Please provide examples of existing international, regional and/or national (binding and/or non-binding) instruments that in your view are effective in guiding and regulating the design, development and use of AI systems to ensure compatibility with the standards for human rights, democracy and the rule of law	There are a range of activities and initiatives in existing treaty bodies, which are being extended to regulate various security risks from AI (see review of Kunz & Ó hÉigeartaigh 2021, 'Artificial Intelligence and Robotization'; Garcia 2020 'Multilateralism and Artificial Intelligence: What Role for the United Nations?'). There is also active progress within some specific treaty regimes such as road traffic conventions (cf. Smith 2020 'New Technologies and Old Treaties'). But on the whole, significant holes still remain (see Cihon et al. 2020, 'Fragmentation and the Future: Investigating Architectures for International AI Governance').
24. If you responded disagree/completely disagree to question 22, please indicate why existing international, regional and/or national (binding and/or	There are too many and they are difficult to interpret and apply in the context of AI;• They lack specific principles for the design, development and application of AI systems;• They do not provide enough guidance to the designers, developers and deployers of AI systems;

non-binding) legal instruments are not sufficient to regulate AI systems (select all you agree with):	
25. **Please indicate other specific legal gaps that in your view need to be addressed at the level of the Council of Europe**	-Competing definitions of AI that are often either too vague, or too technology-specific (e.g. enumerating approaches and techniques) -Competing and undertheorized principles such as 'meaningful human control' -Cross-domain impacts of AI techniques, not constrained to siloed legal responses -Regimes very retrospective, potentially not resilient or adaptive to future change in AI capabilities or usage -Existing legal approaches to AI governance instruments do not fully engage with how AI applications may affect (and potentially erode) the doctrinal categories, lawmaking processes, or political scaffolding of existing (international) legal tools (cf. Maas 2021 'Artificial Intelligence Governance Under Change: Foundations, Facets, Frameworks')
26. **Individuals should always be informed when they interact with an AI system in any circumstances.**	Indifferent/no opinion
27. **Individuals should always be informed when a decision which affects them personally is made by an AI system.**	I rather agree
28. **Individuals should always be informed when an AI system is used in a decision-making process which affects them personally.**	I rather agree
29. **Individuals should have a right to a meaningful explanation of algorithmic based decisions, in particular how the algorithm reached its output.**	I rather agree
30. **Individuals should always have the right that any decision taken by an AI system in the framework of judicial proceedings are reviewed by a "human" judge.**	I rather agree
31. **Individuals should have a right to demand the review of an algorithmic based decision by a human being.**	Indifferent/no opinion
32. **There should always be a person responsible for reviewing algorithmic based decisions in the public sector and private companies.**	I rather agree
33. **Public institutions should not use AI systems to promote or discredit a particular way of life or opinion (e.g. "social scoring").**	I rather agree
34. **States should be obliged to design, develop and apply sustainable AI systems that respect applicable environmental protection standards.**	I rather agree

35. The code behind AI systems used in the public and private sectors should always be accessible to the competent public authorities for the purposes of external audit.	I fully agree
36. There should be higher transparency standards for public entities using AI than for private entities.	I rather agree
37. There should be higher standards for access to an effective remedy for individuals in relation to decisions informed and made by an AI system in the field of justice than in the field of consumer protection.	I fully agree
38. Member States should establish public oversight mechanisms for AI systems that may breach legally binding norms in the sphere of human rights, democracy and the rule of law.	I rather agree
39. Errors and flaws discovered in AI systems which have led or could lead to the violation of human rights, democracy and the rule of law must be reported to the competent authorities.	I fully agree
40. The use of facial recognition in public spaces should be prohibited.	I rather agree
41. The information obtained through the use of facial recognition systems should always be reviewed by a human being before being used for purposes that have an impact on individual freedom, such as in relation to a person boarding an airplane, upon police arrest or in the framework of judicial proceedings.	I rather agree
42. The use of AI systems in democratic processes (e.g. elections) should be strictly regulated.	I fully agree
43. Should a future legal framework at Council of Europe level include a specific liability regime in relation to AI applications?	No opinion
44. If yes, what aspects should be covered?	

45. In your opinion, how useful would the following compliance mechanisms be in preventing and mitigating the risks to human rights, democracy and the rule of law arising from the design, development and application of AI? - **Human rights, democracy and rule of law impact assessments** - **Certification and quality labelling** - **Audits and intersectional audits** - **Regulatory sandboxes** **Continuous automated monitoring**	Rather useful Indifferent/no opinion Indifferent/no opinion Rather useful Rather useful
46. Please indicate what combination of mechanisms should be preferred to efficiently protect human rights, democracy and the rule of law **46bis. Other**	• Human rights, democracy and rule of law impact assessments ;• Regulatory sandboxes;Continuous automated monitoring;
47. Please select which mechanism(s) should be part of either a binding instrument or a non-binding instrument to best protect human rights, democracy and the rule of law. - **Human rights, democracy and rule of law impact assessments** - **Certification and quality labelling** - **Audits and intersectional audits** - **Regulatory sandboxes** **Continuous automated monitoring**	Binding instrument No opinion Binding instrument Non-binding instrument Non-binding instrument
47.bis. Other	
48. In your opinion, how useful would the following follow-up activities be if implemented by the Council of Europe? - **Monitoring of AI legislation and policies in member States** - **Capacity building on Council of Europe instruments, including assistance to facilitate ratification and implementation of relevant Council of Europe instruments** - **AI Observatory for sharing good practices and exchanging information on legal, policy and technological**	Indifferent/no opinion Highly useful Rather useful Rather useful

developments related to AI systems **Establishing a centre of expertise on AI and human rights**	
49. What other mechanisms, if any, should be considered?	-Programs to improve technology assessment capabilities within governments: AI faces a regulatory information problem: even as this societally impactful technology is being developed rapidly in the private sector, academia is sometimes ill equipped to study (computationally intensive) projects, and government lacks clear 'eyes and ears' to track AI development and [mis]use. As such, programs to develop and support infrastructure to enable rapid assessments and measuring of AI by governments would have value (see also Jack Clark's work at the OECD) -A range of institutional, software, and hardware mechanisms that improve AI actors' ability to make verifiable, trustworthy claims about the AI systems they develop and deploy (see Brundage et al. 2020 'Toward Trustworthy AI Development: Mechanisms for Supporting Verifiable Claims'). -Improve mechanisms to identify 'early warning signs' of disruptive progress in specific AI capability domains or their usage, in order to support more democratic and inclusive stakeholder dialogue about the societal choices they wish to make in AI (see Whittlestone & Cremer 2021 'Artificial Canaries: Early Warning Signs for Anticipatory and Democratic Governance of AI').
50. Are there any other issues with respect to the design, development and application of AI systems in the context of human rights, democracy and the rule of law that you wish to bring to the attention of the CAHAI?	
Date of submission	5/8/21 16:09:55

Centro Internacional para Investigaciones en Derechos Humanos (CiiDH)

State (where your institution is based)	**ONG**
Institution: Name of the institution/body/company	Centro Internacional para Investigaciones en Derechos Humanos (CiiDH)
Personal capacity: Your socio-professional category	Higher occupations

Your stakeholder group	Civil society
2. In view of the elaboration of a legal framework on the design, development and application of AI, based on the standards of the Council of Europe on human rights, democracy and the rule of law, what kind of definition of artificial intelligence (AI) should be considered by the CAHAI	No definition, with a legal instrument focused on the effect of AI systems on human rights, de-mocracy and the rule of law
2bis. If "other" please explain below	
3. What are the reasons for your preference?	Its necesary the construction of the definition with experts in diferente matters
4. Please select the areas in which AI systems offer the most promising opportunities for the protection of human rights, democracy and the rule of law	Banking, finance and insurance ;Justice;Customs and border control;
4bis. If other, which areas and why?	Stadisctics, chemistry. nature science
5. Please indicate which of the following AI system applications in your view have the greatest potential to enhance/protect human rights, democracy and the rule of law?	Emotional analysis in the workplace to measure employees' level of engagement;• Medical applications for faster and more accurate diagnoses;Facial recognition supporting law enforcement ;• AI applications determining the allocation of social services;• Recruiting software/ AI applications used for assessing work performance ;
6. Please briefly explain how such applications would benefit human rights, democracy and the rule of law.	all the human rights are interdependent and interconnected
7. What other applications might contribute significantly to strengthening human rights, democracy and the rule of law?	social media and social account
8. Please select the areas in which the deployment of AI systems poses the highest risk of violating human rights, democracy and the rule of law 8bis. Other	• Justice;• Customs and border control;• Election monitoring;
9. Please briefly explain how such applications might violate human rights, democracy and the rule of law.	becausse the desicions in this sistems are very sensibily for the people
10. Please indicate the types of AI systems that represent the greatest risk to human rights, democracy and the rule of law	Facial recognition supporting law enforcement ;Smart personal assistants (connected devices);• AI applications in the field of banking and insurance;• AI applications to promote gender equality (e.g. analytical tools);• AI applications to predict the possible evolution of climate change and/or natural disasters;;
11. Please briefly explain how such applications might violate	Because this applications violet the privacy and intimate life of the people .

human rights, democracy and the rule of law.	
12. What other applications might represent a significant risk to human rights, democracy and the rule of law?	the military control in indigenous areas. Data bases used for the financial systems
13. In your opinion, should the development, deployment and use of AI systems that have been proven to violate human rights or undermine democracy or the rule of law be **13bis. Other**	No opinion
14. In your opinion, should the development, deployment and use of AI systems that pose high risks with high probability to human rights, democracy and the rule of law be:	Banned
15. In your opinion, should the development, deployment and use of AI systems that pose low risks with high probability to human rights, democracy and the rule of law be:	Banned
16. In your opinion, should the development, deployment and use of AI systems that pose high risks with low probability to human rights, democracy and the rule of law be:	Banned
17. What are the most important legal principles, rights and interests that need to be addressed and therefore justify regulating the development, deployment and use of AI systems?	Respect for human dignity;Equality;Political pluralism;• Social security;• Non-discrimination;
18. In your opinion, in what sectors/areas is a binding legal instrument needed to protect human rights, democracy and the rule of law? **18bis. Other**	Justice;Customs and border control;• Healthcare;
19. Self-regulation by companies is more efficient than government regulation to prevent and mitigate the risk of violations of human rights, democracy and the rule of law.	I completely disagree
20. Self-regulation by companies is sufficient to prevent and mitigate the risk of violations of human rights, democracy and the rule of law	I completely disagree
21. Which of the following instruments of self-regulation do you consider to be the most efficient?	Voluntary certification

21bis. Other	
22. Existing international, regional and/or national binding and/or non-binding legal instruments are sufficient to regulate AI systems in order to ensure the protection of human rights, democracy and the rule of law.	I completely disagree
23. Please provide examples of existing international, regional and/or national (binding and/or non-binding) instruments that in your view are effective in guiding and regulating the design, development and use of AI systems to ensure compatibility with the standards for human rights, democracy and the rule of law	I don't know theexisting international or national instruments at this respect
24. If you responded disagree/completely disagree to question 22, please indicate why existing international, regional and/or national (binding and/or non-binding) legal instruments are not sufficient to regulate AI systems (select all you agree with):	There are too many and they are difficult to interpret and apply in the context of AI;
25. Please indicate other specific legal gaps that in your view need to be addressed at the level of the Council of Europe	I don't watch others
26. Individuals should always be informed when they interact with an AI system in any circumstances.	I fully agree
27. Individuals should always be informed when a decision which affects them personally is made by an AI system.	I fully agree
28. Individuals should always be informed when an AI system is used in a decision-making process which affects them personally.	I fully agree
29. Individuals should have a right to a meaningful explanation of algorithmic based decisions, in particular how the algorithm reached its output.	I fully agree
30. Individuals should always have the right that any decision taken by an AI system in the framework of judicial proceedings are reviewed by a "human" judge.	I fully agree

31. **Individuals should have a right to demand the review of an algorithmic based decision by a human being.**	I fully agree
32. **There should always be a person responsible for reviewing algorithmic based decisions in the public sector and private companies.**	I fully agree
33. **Public institutions should not use AI systems to promote or discredit a particular way of life or opinion (e.g. "social scoring").**	I fully agree
34. **States should be obliged to design, develop and apply sustainable AI systems that respect applicable environmental protection standards.**	I fully agree
35. **The code behind AI systems used in the public and private sectors should always be accessible to the competent public authorities for the purposes of external audit.**	I fully agree
36. **There should be higher transparency standards for public entities using AI than for private entities.**	I fully agree
37. **There should be higher standards for access to an effective remedy for individuals in relation to decisions informed and made by an AI system in the field of justice than in the field of consumer protection.**	I fully agree
38. **Member States should establish public oversight mechanisms for AI systems that may breach legally binding norms in the sphere of human rights, democracy and the rule of law.**	I fully agree
39. **Errors and flaws discovered in AI systems which have led or could lead to the violation of human rights, democracy and the rule of law must be reported to the competent authorities.**	I fully agree
40. **The use of facial recognition in public spaces should be prohibited.**	I fully agree
41. **The information obtained through the use of facial recognition systems should always be reviewed by a human being before being used for purposes that have an impact on individual freedom, such as in relation to a person boarding an**	I fully agree

airplane, upon police arrest or in the framework of judicial proceedings.	
42. The use of AI systems in democratic processes (e.g. elections) should be strictly regulated.	I fully agree
43. Should a future legal framework at Council of Europe level include a specific liability regime in relation to AI applications?	No
44. If yes, what aspects should be covered?	
45. In your opinion, how useful would the following compliance mechanisms be in preventing and mitigating the risks to human rights, democracy and the rule of law arising from the design, development and application of AI? - Human rights, democracy and rule of law impact assessments - Certification and quality labelling - Audits and intersectional audits - Regulatory sandboxes Continuous automated monitoring	Highly useful Highly useful Highly useful Highly useful Highly useful
46. Please indicate what combination of mechanisms should be preferred to efficiently protect human rights, democracy and the rule of law 46bis. Other	• Human rights, democracy and rule of law impact assessments ;
47. Please select which mechanism(s) should be part of either a binding instrument or a non-binding instrument to best protect human rights, democracy and the rule of law. - Human rights, democracy and rule of law impact assessments - Certification and quality labelling - Audits and intersectional audits - Regulatory sandboxes Continuous automated monitoring	Binding instrument No opinion No opinion No opinion No opinion
47.bis. Other	

48. In your opinion, how useful would the following follow-up activities be if implemented by the Council of Europe? - **Monitoring of AI legislation and policies in member States** - **Capacity building on Council of Europe instruments, including assistance to facilitate ratification and implementation of relevant Council of Europe instruments** - **AI Observatory for sharing good practices and exchanging information on legal, policy and technological developments related to AI systems** **Establishing a centre of expertise on AI and human rights**	Not useful Not useful Not useful Highly useful
49. What other mechanisms, if any, should be considered?	
50. Are there any other issues with respect to the design, development and application of AI systems in the context of human rights, democracy and the rule of law that you wish to bring to the attention of the CAHAI?	
Date of submission	4/30/21 22:40:33

Chancellor of Justice (Estonia)

State (where your institution is based)	Estonia
Institution: Name of the institution/body/company	Chancellor of Justice
Personal capacity: Your socio-professional category	Intermediate occupations
Your stakeholder group	Government & public administration
2. In view of the elaboration of a legal framework on the design, development and application of AI, based on the standards of the Council of Europe on human rights, democracy and the rule of law, what kind of definition of artificial intelligence (AI) should be considered by the CAHAI	A definition focusing on machine learning systems

2bis. If "other" please explain below	
3. What are the reasons for your preference?	The AI should be defined as precisely and clearly as possible through functionality so that there is no ambiguity and various interpretations.
4. Please select the areas in which AI systems offer the most promising opportunities for the protection of human rights, democracy and the rule of law	• Healthcare;• Public administration;Law enforcement;
4bis. If other, which areas and why?	
5. Please indicate which of the following AI system applications in your view have the greatest potential to enhance/protect human rights, democracy and the rule of law?	• Medical applications for faster and more accurate diagnoses;• AI applications providing support to the healthcare system (triage, treatment delivery);• AI applications determining the allocation of educational services;• AI applications determining the allocation of social services;• Smart personal assistants (connected devices);
6. Please briefly explain how such applications would benefit human rights, democracy and the rule of law.	Applications that create equal opportunities for people have the greatest positive impact. Be it social or health services, the opportunity to get a better education, the opportunity to live an independent life as a person with disabilities with the help of a smart personal assistant, and so on.
7. What other applications might contribute significantly to strengthening human rights, democracy and the rule of law?	The rule of law and democracy would also be greatly affected by applications that can analyze fake news or factually incorrect information.
8. Please select the areas in which the deployment of AI systems poses the highest risk of violating human rights, democracy and the rule of law **8bis. Other**	• Law enforcement;• National security and counter-terrorism;• Public administration;
9. Please briefly explain how such applications might violate human rights, democracy and the rule of law.	These are the areas where there is the greatest risk of profiling people and making unfair decisions based on it. These are also the areas that affect most people.
10. Please indicate the types of AI systems that represent the greatest risk to human rights, democracy and the rule of law	• Emotional analysis in the workplace to measure employees' level of engagement;Scoring / scoring of individuals by public entities;• AI applications to prevent the commission of a criminal offence;AI applications aimed at predicting recidivism ;Facial recognition supporting law enforcement ;
11. Please briefly explain how such applications might violate human rights, democracy and the rule of law.	They are in an area that is directly related to profiling people and can lead to discrimination and intense interference with one's privacy.
12. What other applications might represent a significant risk to human rights, democracy and the rule of law?	Applications designed to influence people's views, opinions and beliefs can also be dangerous for democracy and the rule of law.
13. In your opinion, should the development, deployment and use of AI systems that have been proven to violate human rights or undermine democracy or the rule of law be	Banned

13bis. Other	
14. In your opinion, should the development, deployment and use of AI systems that pose high risks with high probability to human rights, democracy and the rule of law be:	Regulated (binding law)
15. In your opinion, should the development, deployment and use of AI systems that pose low risks with high probability to human rights, democracy and the rule of law be:	Regulated (binding law)
16. In your opinion, should the development, deployment and use of AI systems that pose high risks with low probability to human rights, democracy and the rule of law be:	Regulated (binding law)
17. What are the most important legal principles, rights and interests that need to be addressed and therefore justify regulating the development, deployment and use of AI systems?	Respect for human dignity;• Non-discrimination;Privacy and data protection;Equality;• Possibility to challenge a decision made by an AI system and access to an effective remedy;
18. In your opinion, in what sectors/areas is a binding legal instrument needed to protect human rights, democracy and the rule of law? **18bis. Other**	Public administration;Law enforcement;Justice;
19. Self-regulation by companies is more efficient than government regulation to prevent and mitigate the risk of violations of human rights, democracy and the rule of law.	I completely disagree
20. Self-regulation by companies is sufficient to prevent and mitigate the risk of violations of human rights, democracy and the rule of law	I completely disagree
21. Which of the following instruments of self-regulation do you consider to be the most efficient? **21bis. Other**	Ethics guidelines
22. Existing international, regional and/or national binding and/or non-binding legal instruments are sufficient to regulate AI systems in order to ensure the protection of human rights, democracy and the rule of law.	I rather disagree

23. Please provide examples of existing international, regional and/or national (binding and/or non-binding) instruments that in your view are effective in guiding and regulating the design, development and use of AI systems to ensure compatibility with the standards for human rights, democracy and the rule of law	There are currently no regulations at the European level to follow as a good example.
24. If you responded disagree/completely disagree to question 22, please indicate why existing international, regional and/or national (binding and/or non-binding) legal instruments are not sufficient to regulate AI systems (select all you agree with):	• They provide a basis but fail to provide an effective substantive protection of human rights, democracy and the rule of law against the risks posed by AI systems;• They lack specific principles for the design, development and application of AI systems;• They do not provide enough guidance to the designers, developers and deployers of AI systems;They do not provide for specific rights (e.g. transparency requirements, redress mechanisms) for persons affected by AI;
25. Please indicate other specific legal gaps that in your view need to be addressed at the level of the Council of Europe	
26. Individuals should always be informed when they interact with an AI system in any circumstances.	I fully agree
27. Individuals should always be informed when a decision which affects them personally is made by an AI system.	I fully agree
28. Individuals should always be informed when an AI system is used in a decision-making process which affects them personally.	I fully agree
29. Individuals should have a right to a meaningful explanation of algorithmic based decisions, in particular how the algorithm reached its output.	I fully agree
30. Individuals should always have the right that any decision taken by an AI system in the framework of judicial proceedings are reviewed by a "human" judge.	I fully agree
31. Individuals should have a right to demand the review of an algorithmic based decision by a human being.	I fully agree
32. There should always be a person responsible for reviewing algorithmic based decisions in the public sector and private companies.	I fully agree
33. Public institutions should not use AI systems to promote or discredit a particular way of life or	I fully agree

opinion (e.g. "social scoring").	
34. States should be obliged to design, develop and apply sustainable AI systems that respect applicable environmental protection standards.	I fully agree
35. The code behind AI systems used in the public and private sectors should always be accessible to the competent public authorities for the purposes of external audit.	I fully agree
36. There should be higher transparency standards for public entities using AI than for private entities.	I rather agree
37. There should be higher standards for access to an effective remedy for individuals in relation to decisions informed and made by an AI system in the field of justice than in the field of consumer protection.	I fully agree
38. Member States should establish public oversight mechanisms for AI systems that may breach legally binding norms in the sphere of human rights, democracy and the rule of law.	I fully agree
39. Errors and flaws discovered in AI systems which have led or could lead to the violation of human rights, democracy and the rule of law must be reported to the competent authorities.	I fully agree
40. The use of facial recognition in public spaces should be prohibited.	I rather agree
41. The information obtained through the use of facial recognition systems should always be reviewed by a human being before being used for purposes that have an impact on individual freedom, such as in relation to a person boarding an airplane, upon police arrest or in the framework of judicial proceedings.	I fully agree
42. The use of AI systems in democratic processes (e.g. elections) should be strictly regulated.	I fully agree
43. Should a future legal framework at Council of Europe level include a specific liability	No opinion

regime in relation to AI applications?	
44. If yes, what aspects should be covered?	
45. In your opinion, how useful would the following compliance mechanisms be in preventing and mitigating the risks to human rights, democracy and the rule of law arising from the design, development and application of AI? - **Human rights, democracy and rule of law impact assessments** - **Certification and quality labelling** - **Audits and intersectional audits** - **Regulatory sandboxes** **Continuous automated monitoring**	Highly useful Rather useful Highly useful Highly useful Rather useful
46. Please indicate what combination of mechanisms should be preferred to efficiently protect human rights, democracy and the rule of law **46bis. Other**	• Human rights, democracy and rule of law impact assessments ;• Audits and intersectional audits;• Regulatory sandboxes;
47. Please select which mechanism(s) should be part of either a binding instrument or a non-binding instrument to best protect human rights, democracy and the rule of law. - **Human rights, democracy and rule of law impact assessments** - **Certification and quality labelling** - **Audits and intersectional audits** - **Regulatory sandboxes** **Continuous automated monitoring**	Binding instrument No opinion Binding instrument Binding instrument No opinion
47.bis. Other	
48. In your opinion, how useful would the following follow-up activities be if implemented by the Council of Europe? - **Monitoring of AI legislation and policies in member States** - **Capacity building on Council of Europe instruments, including assistance to facilitate ratification and**	Highly useful Rather useful Indifferent/no opinion Indifferent/no opinion

implementation of relevant Council of Europe instruments - **AI Observatory for sharing good practices and exchanging information on legal, policy and technological developments related to AI systems** **Establishing a centre of expertise on AI and human rights**	
49. What other mechanisms, if any, should be considered?	
50. Are there any other issues with respect to the design, development and application of AI systems in the context of human rights, democracy and the rule of law that you wish to bring to the attention of the CAHAI?	
Date of submission	4/23/21 11:27:52

Clementine

State (where your institution is based)	Hungary
Institution: Name of the institution/body/company	Clementine
Personal capacity: Your socio-professional category	Higher occupations
Your stakeholder group	Private business sector
2. In view of the elaboration of a legal framework on the design, development and application of AI, based on the standards of the Council of Europe on human rights, democracy and the rule of law, what kind of definition of artificial intelligence (AI) should be considered by the CAHAI	No definition, with a legal instrument focused on the effect of AI systems on human rights, de-mocracy and the rule of law
2bis. If "other" please explain below	
3. What are the reasons for your preference?	Proper definition of ML or ADM systems is difficult. It is also changing very fast. The boundaries between AI and non-AI systems are blurred. Bulletproof legal definiton can be based on (human) interests, responsibilities. Who is the beneficiary of the system? Who are interested in the usage of the system?

4. Please select the areas in which AI systems offer the most promising opportunities for the protection of human rights, democracy and the rule of law	Social networks/media, internet intermediaries ;National security and counter-terrorism;• Education;
4bis. If other, which areas and why?	
5. Please indicate which of the following AI system applications in your view have the greatest potential to enhance/protect human rights, democracy and the rule of law?	• AI applications to prevent the commission of a criminal offence (e.g. anti-money laundry AI appli-cations);• Automated fraud detection (banking, insurance);• AI applications used for analysing the performance of pupils/students in educational institutions such as schools and universities;
6. Please briefly explain how such applications would benefit human rights, democracy and the rule of law.	Can improve and maintain transparency. Fast and precise evaluation and feedback on performance. Monitors integrity.
7. What other applications might contribute significantly to strengthening human rights, democracy and the rule of law?	NA
8. Please select the areas in which the deployment of AI systems poses the highest risk of violating human rights, democracy and the rule of law 8bis. Other	• Social networks/media, internet intermediaries ;• Banking, finance and insurance;• Employment;
9. Please briefly explain how such applications might violate human rights, democracy and the rule of law.	NA
10. Please indicate the types of AI systems that represent the greatest risk to human rights, democracy and the rule of law	☐Emotional analysis in the workplace to measure employees' level of engagement;Smart personal assistants (connected devices);• Deep fakes and cheap fakes;• Recruiting software/ AI applications used for assessing work performance ;
11. Please briefly explain how such applications might violate human rights, democracy and the rule of law.	NA
12. What other applications might represent a significant risk to human rights, democracy and the rule of law?	NA
13. In your opinion, should the development, deployment and use of AI systems that have been proven to violate human rights or undermine democracy or the rule of law be 13bis. Other	regulated research
14. In your opinion, should the development, deployment and use of AI systems that pose high risks with high probability to human rights, democracy and the rule of law be:	Regulated (binding law)

15. In your opinion, should the development, deployment and use of AI systems that pose low risks with high probability to human rights, democracy and the rule of law be:	Self-regulated (ethics guidelines, voluntary certification)
16. In your opinion, should the development, deployment and use of AI systems that pose high risks with low probability to human rights, democracy and the rule of law be:	Self-regulated (ethics guidelines, voluntary certification)
17. What are the most important legal principles, rights and interests that need to be addressed and therefore justify regulating the development, deployment and use of AI systems?	Respect for human dignity;Privacy and data protection;• Personal integrity ;• Transparency;
18. In your opinion, in what sectors/areas is a binding legal instrument needed to protect human rights, democracy and the rule of law? **18bis. Other**	Law enforcement;• Social networks/media, internet intermediaries ;Public administration;
19. Self-regulation by companies is more efficient than government regulation to prevent and mitigate the risk of violations of human rights, democracy and the rule of law.	Indifferent/no opinion
20. Self-regulation by companies is sufficient to prevent and mitigate the risk of violations of human rights, democracy and the rule of law	I rather disagree
21. Which of the following instruments of self-regulation do you consider to be the most efficient? **21bis. Other**	Voluntary certification
22. Existing international, regional and/or national binding and/or non-binding legal instruments are sufficient to regulate AI systems in order to ensure the protection of human rights, democracy and the rule of law.	I rather disagree
23. Please provide examples of existing international, regional and/or national (binding and/or non-binding) instruments that in your view are effective in guiding and regulating the design, development and use of AI systems to ensure compatibility with the standards for human rights, democracy and the rule of law	NA

24. **If you responded disagree/completely disagree to question 22, please indicate why existing international, regional and/or national (binding and/or non-binding) legal instruments are not sufficient to regulate AI systems (select all you agree with):**	They do not provide for specific rights (e.g. transparency requirements, redress mechanisms) for persons affected by AI;There are too many and they are difficult to interpret and apply in the context of AI;
25. **Please indicate other specific legal gaps that in your view need to be addressed at the level of the Council of Europe**	NA
26. **Individuals should always be informed when they interact with an AI system in any circumstances.**	I rather disagree
27. **Individuals should always be informed when a decision which affects them personally is made by an AI system.**	I rather agree
28. **Individuals should always be informed when an AI system is used in a decision-making process which affects them personally.**	Indifferent/no opinion
29. **Individuals should have a right to a meaningful explanation of algorithmic based decisions, in particular how the algorithm reached its output.**	I rather agree
30. **Individuals should always have the right that any decision taken by an AI system in the framework of judicial proceedings are reviewed by a "human" judge.**	I fully agree
31. **Individuals should have a right to demand the review of an algorithmic based decision by a human being.**	I fully agree
32. **There should always be a person responsible for reviewing algorithmic based decisions in the public sector and private companies.**	I fully agree
33. **Public institutions should not use AI systems to promote or discredit a particular way of life or opinion (e.g. "social scoring").**	I rather agree
34. **States should be obliged to design, develop and apply sustainable AI systems that respect applicable environmental protection standards.**	I rather disagree
35. **The code behind AI systems used in the public and private sectors should always be accessible to the competent**	I rather agree

283

public authorities for the purposes of external audit.	
36.　　There should be higher transparency standards for public entities using AI than for private entities.	I rather disagree
37.　　There should be higher standards for access to an effective remedy for individuals in relation to decisions informed and made by an AI system in the field of justice than in the field of consumer protection.	Indifferent/no opinion
38.　　Member States should establish public oversight mechanisms for AI systems that may breach legally binding norms in the sphere of human rights, democracy and the rule of law.	I rather agree
39.　　Errors and flaws discovered in AI systems which have led or could lead to the violation of human rights, democracy and the rule of law must be reported to the competent authorities.	I rather agree
40.　　The use of facial recognition in public spaces should be prohibited.	I rather disagree
41.　　The information obtained through the use of facial recognition systems should always be reviewed by a human being before being used for purposes that have an impact on individual freedom, such as in relation to a person boarding an airplane, upon police arrest or in the framework of judicial proceedings.	Indifferent/no opinion
42.　　The use of AI systems in democratic processes (e.g. elections) should be strictly regulated.	I fully agree
43.　　Should a future legal framework at Council of Europe level include a specific liability regime in relation to AI applications?	No opinion
44.　　If yes, what aspects should be covered?	

45. In your opinion, how useful would the following compliance mechanisms be in preventing and mitigating the risks to human rights, democracy and the rule of law arising from the design, development and application of AI? - **Human rights, democracy and rule of law impact assessments** - **Certification and quality labelling** - **Audits and intersectional audits** - **Regulatory sandboxes** **Continuous automated monitoring**	Rather useful Rather useful Not useful Rather useful Indifferent/no opinion
46. Please indicate what combination of mechanisms should be preferred to efficiently protect human rights, democracy and the rule of law **46bis. Other**	• Regulatory sandboxes;• Certification and quality labelling;
47. Please select which mechanism(s) should be part of either a binding instrument or a non-binding instrument to best protect human rights, democracy and the rule of law. - **Human rights, democracy and rule of law impact assessments** - **Certification and quality labelling** - **Audits and intersectional audits** - **Regulatory sandboxes** **Continuous automated monitoring**	Binding instrument Non-binding instrument Non-binding instrument Non-binding instrument Non-binding instrument
47.bis. Other	
48. In your opinion, how useful would the following follow-up activities be if implemented by the Council of Europe? - **Monitoring of AI legislation and policies in member States** - **Capacity building on Council of Europe instruments, including assistance to facilitate ratification and implementation of relevant Council of Europe instruments** - **AI Observatory for sharing good practices and exchanging information on legal, policy and technological**	Rather useful Indifferent/no opinion Rather useful Not useful

developments related to AI systems **Establishing a centre of expertise on AI and human rights**	
49. What other mechanisms, if any, should be considered?	
50. Are there any other issues with respect to the design, development and application of AI systems in the context of human rights, democracy and the rule of law that you wish to bring to the attention of the CAHAI?	
Date of submission	4/20/21 12:05:36

COCIR

State (where your institution is based)	**Belgium**
Institution: Name of the institution/body/company	COCIR
Personal capacity: Your socio-professional category	Higher occupations
Your stakeholder group	Private business sector
2. In view of the elaboration of a legal framework on the design, development and application of AI, based on the standards of the Council of Europe on human rights, democracy and the rule of law, what kind of definition of artificial intelligence (AI) should be considered by the CAHAI	Other
2bis. If "other" please explain below	A preference tends towards option 1 (no definition, focus on impact) and option 2 (technology neutral, simplified)
3. What are the reasons for your preference?	There is no single or simple definition that is able to cover the range and variety of AI applications. Additionally, the concept of what is considered AI is time-dependent as technology and the perception thereof change over time.
4. Please select the areas in which AI systems offer the most promising opportunities for the	• Healthcare;

protection of human rights, democracy and the rule of law	
4bis. If other, which areas and why?	
5. Please indicate which of the following AI system applications in your view have the greatest potential to enhance/protect human rights, democracy and the rule of law?	• Medical applications for faster and more accurate diagnoses;• AI applications providing support to the healthcare system (triage, treatment delivery);
6. Please briefly explain how such applications would benefit human rights, democracy and the rule of law.	AI-based applications in healthcare may positively contribute to an individual's rights to the protection of health, including more equitable access to quality care. New technologies also facilitate a shift towards a more preventive and personalised approach to care, reinforcing an individual's dignity through empowerment and improved quality of life.
7. What other applications might contribute significantly to strengthening human rights, democracy and the rule of law?	-
8. Please select the areas in which the deployment of AI systems poses the highest risk of violating human rights, democracy and the rule of law **8bis. Other**	• Justice;• Law enforcement;• National security and counter-terrorism;
9. Please briefly explain how such applications might violate human rights, democracy and the rule of law.	These have some of the highest legal impacts to a person's rights and freedoms
10. Please indicate the types of AI systems that represent the greatest risk to human rights, democracy and the rule of law	Facial recognition supporting law enforcement ;Scoring / scoring of individuals by public entities;• Deep fakes and cheap fakes;• AI applications to prevent the commission of a criminal offence;
11. Please briefly explain how such applications might violate human rights, democracy and the rule of law.	These have some of the highest impacts to a person's rights and freedoms
12. What other applications might represent a significant risk to human rights, democracy and the rule of law?	-
13. In your opinion, should the development, deployment and use of AI systems that have been proven to violate human rights or undermine democracy or the rule of law be **13bis. Other**	Not banned
14. In your opinion, should the development, deployment and use of AI systems that pose high risks with high probability to human rights, democracy and the rule of law be:	Regulated (binding law)

15. In your opinion, should the development, deployment and use of AI systems that pose low risks with high probability to human rights, democracy and the rule of law be:	Regulated (binding law)
16. In your opinion, should the development, deployment and use of AI systems that pose high risks with low probability to human rights, democracy and the rule of law be:	Regulated (binding law)
17. What are the most important legal principles, rights and interests that need to be addressed and therefore justify regulating the development, deployment and use of AI systems?	Respect for human dignity;Freedom of expression, assembly and association;• Non-discrimination;Privacy and data protection;• Personal integrity ;
18. In your opinion, in what sectors/areas is a binding legal instrument needed to protect human rights, democracy and the rule of law? **18bis. Other**	Justice;Law enforcement;Public administration;
19. Self-regulation by companies is more efficient than government regulation to prevent and mitigate the risk of violations of human rights, democracy and the rule of law.	I rather disagree
20. Self-regulation by companies is sufficient to prevent and mitigate the risk of violations of human rights, democracy and the rule of law	I rather disagree
21. Which of the following instruments of self-regulation do you consider to be the most efficient? **21bis. Other**	No opinion
22. Existing international, regional and/or national binding and/or non-binding legal instruments are sufficient to regulate AI systems in order to ensure the protection of human rights, democracy and the rule of law.	I fully agree
23. Please provide examples of existing international, regional and/or national (binding and/or non-binding) instruments that in your view are effective in guiding and regulating the design, development and use of AI systems to ensure compatibility with the standards for human rights, democracy and the rule of law	In the area of healthcare there is the EU Medical Device Regulation (and IVDR), as well as the General Data Protection Legislation and the newly proposed EU Artificial Intelligence Act

24. **If you responded disagree/completely disagree to question 22, please indicate why existing international, regional and/or national (binding and/or non-binding) legal instruments are not sufficient to regulate AI systems (select all you agree with):**	
25. **Please indicate other specific legal gaps that in your view need to be addressed at the level of the Council of Europe**	
26. **Individuals should always be informed when they interact with an AI system in any circumstances.**	I rather agree
27. **Individuals should always be informed when a decision which affects them personally is made by an AI system.**	I rather agree
28. **Individuals should always be informed when an AI system is used in a decision-making process which affects them personally.**	I rather agree
29. **Individuals should have a right to a meaningful explanation of algorithmic based decisions, in particular how the algorithm reached its output.**	I rather agree
30. **Individuals should always have the right that any decision taken by an AI system in the framework of judicial proceedings are reviewed by a "human" judge.**	Indifferent/no opinion
31. **Individuals should have a right to demand the review of an algorithmic based decision by a human being.**	I rather agree
32. **There should always be a person responsible for reviewing algorithmic based decisions in the public sector and private companies.**	I rather disagree
33. **Public institutions should not use AI systems to promote or discredit a particular way of life or opinion (e.g. "social scoring").**	Indifferent/no opinion
34. **States should be obliged to design, develop and apply sustainable AI systems that respect applicable environmental protection standards.**	Indifferent/no opinion
35. **The code behind AI systems used in the public and private sectors should always be accessible to the competent**	I rather disagree

public authorities for the purposes of external audit.	
36. There should be higher transparency standards for public entities using AI than for private entities.	I rather agree
37. There should be higher standards for access to an effective remedy for individuals in relation to decisions informed and made by an AI system in the field of justice than in the field of consumer protection.	I rather agree
38. Member States should establish public oversight mechanisms for AI systems that may breach legally binding norms in the sphere of human rights, democracy and the rule of law.	I rather agree
39. Errors and flaws discovered in AI systems which have led or could lead to the violation of human rights, democracy and the rule of law must be reported to the competent authorities.	I rather agree
40. The use of facial recognition in public spaces should be prohibited.	Indifferent/no opinion
41. The information obtained through the use of facial recognition systems should always be reviewed by a human being before being used for purposes that have an impact on individual freedom, such as in relation to a person boarding an airplane, upon police arrest or in the framework of judicial proceedings.	Indifferent/no opinion
42. The use of AI systems in democratic processes (e.g. elections) should be strictly regulated.	Indifferent/no opinion
43. Should a future legal framework at Council of Europe level include a specific liability regime in relation to AI applications?	No
44. If yes, what aspects should be covered?	

45. In your opinion, how useful would the following compliance mechanisms be in preventing and mitigating the risks to human rights, democracy and the rule of law arising from the design, development and application of AI? - **Human rights, democracy and rule of law impact assessments** - **Certification and quality labelling** - **Audits and intersectional audits** - **Regulatory sandboxes Continuous automated monitoring**	Rather not useful Indifferent/no opinion Indifferent/no opinion Highly useful Indifferent/no opinion
46. Please indicate what combination of mechanisms should be preferred to efficiently protect human rights, democracy and the rule of law **46bis. Other**	At all times a risk-based approach should be followed to determine the most adequate mechanism(s), taking into consideration several aspects like intended purpose, foreseeable use, deployment setting, existing safeguards,...;
47. Please select which mechanism(s) should be part of either a binding instrument or a non-binding instrument to best protect human rights, democracy and the rule of law. - **Human rights, democracy and rule of law impact assessments** - **Certification and quality labelling** - **Audits and intersectional audits** - **Regulatory sandboxes Continuous automated monitoring**	Non-binding instrument Non-binding instrument Non-binding instrument Non-binding instrument Non-binding instrument
47.bis. Other	-
48. In your opinion, how useful would the following follow-up activities be if implemented by the Council of Europe? - **Monitoring of AI legislation and policies in member States** - **Capacity building on Council of Europe instruments, including assistance to facilitate ratification and implementation of relevant Council of Europe instruments** - **AI Observatory for sharing good practices and exchanging information on legal, policy and technological**	Rather useful Indifferent/no opinion Rather useful Rather useful

developments related to AI systems **Establishing a centre of expertise on AI and human rights**	
49. What other mechanisms, if any, should be considered?	-
50. Are there any other issues with respect to the design, development and application of AI systems in the context of human rights, democracy and the rule of law that you wish to bring to the attention of the CAHAI?	As identified in the CAHAI feasibility study, healthcare is one of the sectors that is already heavily regulated. We believe the European framework of the Medical Devices Regulation (as well as the GDPR) provide the necessary mechanisms that safeguard the core principles of trustworthy AI. We would like to refer to our publication "Artificial Intelligence in EU Medical Device Legislation" for a more comprehensive analysis: https://www.cocir.org/fileadmin/Publications_2021/COCIR_Analysis_on_AI_in_medical_Device_Legislation_-_May_2021.pdf
Date of submission	5/7/21 18:30:38

Colegio oficial de ingenieros industriales de andalucía occidental

State (where your institution is based)	SPAIN
Institution: Name of the institution/body/company	COLEGIO OFICIAL DE INGENIEROS INDUSTRIALES DE ANDALUCÍA OCCIDENTAL
Personal capacity: Your socio-professional category	Higher occupations
Your stakeholder group	Civil society
2. In view of the elaboration of a legal framework on the design, development and application of AI, based on the standards of the Council of Europe on human rights, democracy and the rule of law, what kind of definition of artificial intelligence (AI) should be considered by the CAHAI	No definition, with a legal instrument focused on the effect of AI systems on human rights, de-mocracy and the rule of law
2bis. If "other" please explain below	
3. What are the reasons for your preference?	I don't think that the sole purpose of AI is to reproduce by a machine the cognitive abilities of a human being. But furthermore,

	the technology develops and evolves so fast that if a definition is set up, it might soon become obsolete and, consequently, most of the legal frame developed.
4. Please select the areas in which AI systems offer the most promising opportunities for the protection of human rights, democracy and the rule of law	• Education;• Healthcare;Law enforcement;
4bis. If other, which areas and why?	
5. Please indicate which of the following AI system applications in your view have the greatest potential to enhance/protect human rights, democracy and the rule of law?	• AI applications determining the allocation of educational services;• AI applications used for analysing the performance of pupils/students in educational institutions such as schools and universities;• AI applications providing support to the healthcare system (triage, treatment delivery);• AI applications aimed at predicting recidivism ;Facial recognition supporting law enforcement ;
6. Please briefly explain how such applications would benefit human rights, democracy and the rule of law.	All of the above options are true, but most of them will benefit private companies and not specifically human rights, democracy or the rule of law. To that purpose, AI applications should focus on education, health and law enforcement. These are the real pillars of an advanced and open a society. Gender equality is also of a great importance but, provided that only five choices were allowed, I consider it included as a part of the education pillar. There are several ways AI could offer significant opportunities for the advancement of human rights across many areas of life. For example, by facilitating more personalised education and assisting people in later life to live a dignified life at home. But there are also several issues that need to be considered and AI has the potential to undermine or violate human rights protections. The use of big data and AI can also threaten the right to equality, the prohibition of discrimination and the right to privacy. These rights can act as gatekeepers for the enjoyment of other fundamental rights and personal and political freedom.
7. What other applications might contribute significantly to strengthening human rights, democracy and the rule of law?	Information and transparency Gender equality Detection of contradictory laws and regulations, in order to simplify the enormous amount of legislation. To protect democracy against the uprising development of populism policies and messages, the simpler and more understandable laws and regulations, the better.
8. Please select the areas in which the deployment of AI systems poses the highest risk of violating human rights, democracy and the rule of law **8bis. Other**	• Banking, finance and insurance;• Public administration;• Justice;
9. Please briefly explain how such applications might violate human rights, democracy and the rule of law.	AI is based on data. If data is biased, the outcome of the AI algorithm will be biased and, this is the key point, will become new data taken for granted or absolute truth, but it fact is an even more biased data feeding back the system as a vicious spiral. Biased outcomes will reinforce the biased data. Can we talk about democracy if an AI algorithm closes access to credit or insurance of some groups of people due to their gender, color, race... because the historical data for those groups are biased? Same applies to justice. The risk of not treating all individuals with the same guarantees, no matter if they belong to "conflictive" groups labelled as such by an AI algorithm, is high.

	Finally, the power of the Public administration is enormous. Many citizens are not satisfied with their resolutions, but they give up claiming against it, despite they believe to be right, because it's too costly in both time and money. If a biased AI algorithm takes automatic decisions on behalf of the Public administration, the risk of disaffection is enormous, with a clear impact on democracy and human rights.
10. Please indicate the types of AI systems that represent the greatest risk to human rights, democracy and the rule of law	• Recruiting software/ AI applications used for assessing work performance ;• AI applications to prevent the commission of a criminal offence;• AI applications in the field of banking and insurance;
11. Please briefly explain how such applications might violate human rights, democracy and the rule of law.	As mentioned on point 15, the main risk associated to AI algorithm working with personal data is bias. A biased algorithm on recruiting might enlarge gaps due to gender, age, etc. The same applies to commission of criminal offence or banking/insurance services. One of the goals of AI algorithms should be to reduce the current gap in those areas due to the limitations of the human beings to consider a big amount of drivers and data. But the risk of getting the opposite (enlarging the gap) is high if the algorithms are not transparent enough, or the data are not cleaned to reduce/eliminate the bias. It's in that reduction of the bias where the legislation should focus in order to prevent violations of human rights, democracy and rule of law.
12. What other applications might represent a significant risk to human rights, democracy and the rule of law?	Recommendation algorithms are very dangerous in what concerns the way people gets informed. They tend to create "information ghettos" where people just get informations that reinforce their previous ideas and not other points of view. Democracy depends on critical thinking. If this is not trained because people are always exposed to the same "reality", democracy will end up by being in danger.
13. In your opinion, should the development, deployment and use of AI systems that have been proven to violate human rights or undermine democracy or the rule of law be **13bis. Other**	Banned
14. In your opinion, should the development, deployment and use of AI systems that pose high risks with high probability to human rights, democracy and the rule of law be:	Regulated (binding law)
15. In your opinion, should the development, deployment and use of AI systems that pose low risks with high probability to human rights, democracy and the rule of law be:	Self-regulated (ethics guidelines, voluntary certification)
16. In your opinion, should the development, deployment and use of AI systems that pose high risks with low probability to human rights, democracy and the rule of law be:	Regulated (binding law)
17. What are the most important legal principles, rights and interests that need to be addressed and therefore justify regulating the development,	• Possibility to challenge a decision made by an AI system and access to an effective remedy;• Non-discrimination;Respect for human dignity;• Transparency;• Explainability;

deployment and use of AI systems?	
18. In your opinion, in what sectors/areas is a binding legal instrument needed to protect human rights, democracy and the rule of law? 18bis. Other	Banking, finance and insurance;Justice;Public administration;
19. Self-regulation by companies is more efficient than government regulation to prevent and mitigate the risk of violations of human rights, democracy and the rule of law.	I rather disagree
20. Self-regulation by companies is sufficient to prevent and mitigate the risk of violations of human rights, democracy and the rule of law	I completely disagree
21. Which of the following instruments of self-regulation do you consider to be the most efficient? 21bis. Other	Voluntary certification
22. Existing international, regional and/or national binding and/or non-binding legal instruments are sufficient to regulate AI systems in order to ensure the protection of human rights, democracy and the rule of law.	I completely disagree
23. Please provide examples of existing international, regional and/or national (binding and/or non-binding) instruments that in your view are effective in guiding and regulating the design, development and use of AI systems to ensure compatibility with the standards for human rights, democracy and the rule of law	This article has good amount of ideas about what USA is doing/thinking about it: https://www.gibsondunn.com/artificial-intelligence-and-automated-systems-legal-update-1q21/
24. If you responded disagree/completely disagree to question 22, please indicate why existing international, regional and/or national (binding and/or non-binding) legal instruments are not sufficient to regulate AI systems (select all you agree with):	• They provide a basis but fail to provide an effective substantive protection of human rights, democracy and the rule of law against the risks posed by AI systems;• They lack specific principles for the design, development and application of AI systems;They do not provide for specific rights (e.g. transparency requirements, redress mechanisms) for persons affected by AI;
25. Please indicate other specific legal gaps that in your view need to be addressed at the level of the Council of Europe	
26. Individuals should always be informed when they interact	I fully agree

with an AI system in any circumstances.	
27. Individuals should always be informed when a decision which affects them personally is made by an AI system.	I fully agree
28. Individuals should always be informed when an AI system is used in a decision-making process which affects them personally.	I fully agree
29. Individuals should have a right to a meaningful explanation of algorithmic based decisions, in particular how the algorithm reached its output.	I fully agree
30. Individuals should always have the right that any decision taken by an AI system in the framework of judicial proceedings are reviewed by a "human" judge.	I fully agree
31. Individuals should have a right to demand the review of an algorithmic based decision by a human being.	I fully agree
32. There should always be a person responsible for reviewing algorithmic based decisions in the public sector and private companies.	I fully agree
33. Public institutions should not use AI systems to promote or discredit a particular way of life or opinion (e.g. "social scoring").	I fully agree
34. States should be obliged to design, develop and apply sustainable AI systems that respect applicable environmental protection standards.	Indifferent/no opinion
35. The code behind AI systems used in the public and private sectors should always be accessible to the competent public authorities for the purposes of external audit.	I rather agree
36. There should be higher transparency standards for public entities using AI than for private entities.	I rather disagree
37. There should be higher standards for access to an effective remedy for individuals in relation to decisions informed and made by an AI system in the field of justice than in the field of consumer protection.	I rather agree

38. Member States should establish public oversight mechanisms for AI systems that may breach legally binding norms in the sphere of human rights, democracy and the rule of law.	I fully agree
39. Errors and flaws discovered in AI systems which have led or could lead to the violation of human rights, democracy and the rule of law must be reported to the competent authorities.	I fully agree
40. The use of facial recognition in public spaces should be prohibited.	I rather disagree
41. The information obtained through the use of facial recognition systems should always be reviewed by a human being before being used for purposes that have an impact on individual freedom, such as in relation to a person boarding an airplane, upon police arrest or in the framework of judicial proceedings.	I fully agree
42. The use of AI systems in democratic processes (e.g. elections) should be strictly regulated.	I fully agree
43. Should a future legal framework at Council of Europe level include a specific liability regime in relation to AI applications?	Yes
44. If yes, what aspects should be covered?	Algorithmic Fairness Facial Recognition Medical services Justice services Banking/insurance services
45. In your opinion, how useful would the following compliance mechanisms be in preventing and mitigating the risks to human rights, democracy and the rule of law arising from the design, development and application of AI? - **Human rights, democracy and rule of law impact assessments** - **Certification and quality labelling** - **Audits and intersectional audits** - **Regulatory sandboxes** **Continuous automated monitoring**	Rather not useful Highly useful Highly useful Rather useful Rather useful

46. **Please indicate what combination of mechanisms should be preferred to efficiently protect human rights, democracy and the rule of law** **46bis. Other**	• Certification and quality labelling;• Audits and intersectional audits;• Regulatory sandboxes;
47. **Please select which mechanism(s) should be part of either a binding instrument or a non-binding instrument to best protect human rights, democracy and the rule of law.** - **Human rights, democracy and rule of law impact assessments** - **Certification and quality labelling** - **Audits and intersectional audits** - **Regulatory sandboxes** **Continuous automated monitoring**	Non-binding instrument Binding instrument Binding instrument Binding instrument Non-binding instrument
47.bis. Other	
48. **In your opinion, how useful would the following follow-up activities be if implemented by the Council of Europe?** - **Monitoring of AI legislation and policies in member States** - **Capacity building on Council of Europe instruments, including assistance to facilitate ratification and implementation of relevant Council of Europe instruments** - **AI Observatory for sharing good practices and exchanging information on legal, policy and technological developments related to AI systems** **Establishing a centre of expertise on AI and human rights**	Highly useful Highly useful Rather useful Highly useful
49. **What other mechanisms, if any, should be considered?**	
50. **Are there any other issues with respect to the design, development and application of AI systems in the context of human rights, democracy and the rule of law that you wish to bring to the attention of the CAHAI?**	
Date of submission	5/3/21 22:48:21

Conférence of European Rabbis CER

State (where your institution is based)	Tout les pays européens
Institution: Name of the institution/body/company	Conférence of European Rabbis CER
Personal capacity: Your socio-professional category	Higher occupations
Your stakeholder group	Civil society
2. In view of the elaboration of a legal framework on the design, development and application of AI, based on the standards of the Council of Europe on human rights, democracy and the rule of law, what kind of definition of artificial intelligence (AI) should be considered by the CAHAI	A technologically-neutral and simplified definition, such as "a set of sciences, theories and tech-niques whose purpose is to reproduce by a machine the cognitive abilities of a human being" (See the CAHAI feasibility study, §5)
2bis. If "other" please explain below	
3. What are the reasons for your preference?	Une définition trop restreint peut entraîner une limitation du cadre d'intervention. Il est convenable de se laisser une dimension plus large d'étude et de réflexion sur le sujet. D'autant plus que nous sommes au balbutiement de ces technologies.
4. Please select the areas in which AI systems offer the most promising opportunities for the protection of human rights, democracy and the rule of law	• Education;National security and counter-terrorism;• Healthcare;
4bis. If other, which areas and why?	
5. Please indicate which of the following AI system applications in your view have the greatest potential to enhance/protect human rights, democracy and the rule of law?	• Medical applications for faster and more accurate diagnoses;• Automated fraud detection (banking, insurance);• AI applications to predict the possible evolution of climate change and/or natural disasters;• AI applications determining the allocation of educational services;• AI applications used for analysing the performance of pupils/students in educational institutions such as schools and universities;
6. Please briefly explain how such applications would benefit human rights, democracy and the rule of law.	La surveillance pure ne peut être un facteur de renforcement des Droits de l'Homme En revanche, l'accompagnement et l'analyse des capacités pour mieux orienter, éduquer, protéger, prédire des événements globaux, ceci est de nature à permettre à chacun de bénéficier d'un accompagnement égal et d'une égalité de chance.
7. What other applications might contribute significantly to strengthening human rights,	Système d'analyse des lacunes en matière éducative et de société inclusive.

democracy and the rule of law?	
8. Please select the areas in which the deployment of AI systems poses the highest risk of violating human rights, democracy and the rule of law **8bis. Other**	Tout
9. Please briefly explain how such applications might violate human rights, democracy and the rule of law.	L'IA peut être un facteur d'amélioration et d'aide à la décision autant que cela peut être utilisé comme un moyen intrusif de surveillance et de violation des Droits des individus. Chaque domaine peut être touché par cela, sans exclusion.
10. Please indicate the types of AI systems that represent the greatest risk to human rights, democracy and the rule of law	☐Emotional analysis in the workplace to measure employees' level of engagement;• AI applications for personalised media content (recommender systems);• Recruiting software/ AI applications used for assessing work performance ;• AI applications to prevent the commission of a criminal offence;
11. Please briefly explain how such applications might violate human rights, democracy and the rule of law.	La suggestion médiatique est un choix qui se fait sans mon consentement et parfois en ma défaveur. Ce qui va à l'encontre de mes droits. En revanche, la surveillance contre la fraude, même si elle est intrusive, c'est un outil de protection contre la criminalité financière, cette intrusion est-elle néfaste ou pas ? C'est cette question qui doit guider nos choix dans la limite du droit.
12. What other applications might represent a significant risk to human rights, democracy and the rule of law?	La surveillance sans raison. On de masse.
13. In your opinion, should the development, deployment and use of AI systems that have been proven to violate human rights or undermine democracy or the rule of law be **13bis. Other**	Banned
14. In your opinion, should the development, deployment and use of AI systems that pose high risks with high probability to human rights, democracy and the rule of law be:	Regulated (binding law)
15. In your opinion, should the development, deployment and use of AI systems that pose low risks with high probability to human rights, democracy and the rule of law be:	Self-regulated (ethics guidelines, voluntary certification)
16. In your opinion, should the development, deployment and use of AI systems that pose high risks with low probability to human rights, democracy and the rule of law be:	Regulated (binding law)
17. What are the most important legal principles, rights and interests that need to be addressed and therefore justify regulating the development,	Political pluralism;• Social security;Freedom of expression, assembly and association;Privacy and data protection;• Possibility to challenge a decision made by an AI system and access to an effective remedy;

deployment and use of AI systems?	
18. In your opinion, in what sectors/areas is a binding legal instrument needed to protect human rights, democracy and the rule of law? 18bis. Other	Banking, finance and insurance;Law enforcement;Election monitoring;
19. Self-regulation by companies is more efficient than government regulation to prevent and mitigate the risk of violations of human rights, democracy and the rule of law.	Indifferent/no opinion
20. Self-regulation by companies is sufficient to prevent and mitigate the risk of violations of human rights, democracy and the rule of law	I rather disagree
21. Which of the following instruments of self-regulation do you consider to be the most efficient? 21bis. Other	Voluntary certification
22. Existing international, regional and/or national binding and/or non-binding legal instruments are sufficient to regulate AI systems in order to ensure the protection of human rights, democracy and the rule of law.	I completely disagree
23. Please provide examples of existing international, regional and/or national (binding and/or non-binding) instruments that in your view are effective in guiding and regulating the design, development and use of AI systems to ensure compatibility with the standards for human rights, democracy and the rule of law	.
24. If you responded disagree/completely disagree to question 22, please indicate why existing international, regional and/or national (binding and/or non-binding) legal instruments are not sufficient to regulate AI systems (select all you agree with):	There are too many and they are difficult to interpret and apply in the context of AI;• They lack specific principles for the design, development and application of AI systems;• They do not provide enough guidance to the designers, developers and deployers of AI systems;
25. Please indicate other specific legal gaps that in your view need to be addressed at the level of the Council of Europe	
26. Individuals should always be informed when they interact	Indifferent/no opinion

with an AI system in any circumstances.	
27. Individuals should always be informed when a decision which affects them personally is made by an AI system.	I fully agree
28. Individuals should always be informed when an AI system is used in a decision-making process which affects them personally.	I rather agree
29. Individuals should have a right to a meaningful explanation of algorithmic based decisions, in particular how the algorithm reached its output.	I rather agree
30. Individuals should always have the right that any decision taken by an AI system in the framework of judicial proceedings are reviewed by a "human" judge.	I fully agree
31. Individuals should have a right to demand the review of an algorithmic based decision by a human being.	I fully agree
32. There should always be a person responsible for reviewing algorithmic based decisions in the public sector and private companies.	I rather agree
33. Public institutions should not use AI systems to promote or discredit a particular way of life or opinion (e.g. "social scoring").	Indifferent/no opinion
34. States should be obliged to design, develop and apply sustainable AI systems that respect applicable environmental protection standards.	Indifferent/no opinion
35. The code behind AI systems used in the public and private sectors should always be accessible to the competent public authorities for the purposes of external audit.	I rather agree
36. There should be higher transparency standards for public entities using AI than for private entities.	I rather agree
37. There should be higher standards for access to an effective remedy for individuals in relation to decisions informed and made by an AI system in the field of justice than in the field of consumer protection.	I rather agree

38. Member States should establish public oversight mechanisms for AI systems that may breach legally binding norms in the sphere of human rights, democracy and the rule of law.	I rather agree
39. Errors and flaws discovered in AI systems which have led or could lead to the violation of human rights, democracy and the rule of law must be reported to the competent authorities.	I rather agree
40. The use of facial recognition in public spaces should be prohibited.	I rather disagree
41. The information obtained through the use of facial recognition systems should always be reviewed by a human being before being used for purposes that have an impact on individual freedom, such as in relation to a person boarding an airplane, upon police arrest or in the framework of judicial proceedings.	I rather agree
42. The use of AI systems in democratic processes (e.g. elections) should be strictly regulated.	I rather agree
43. Should a future legal framework at Council of Europe level include a specific liability regime in relation to AI applications?	No opinion
44. If yes, what aspects should be covered?	
45. In your opinion, how useful would the following compliance mechanisms be in preventing and mitigating the risks to human rights, democracy and the rule of law arising from the design, development and application of AI? - Human rights, democracy and rule of law impact assessments - Certification and quality labelling - Audits and intersectional audits - Regulatory sandboxes Continuous automated monitoring	Indifferent/no opinion Indifferent/no opinion Indifferent/no opinion Indifferent/no opinion Indifferent/no opinion
46. Please indicate what combination of mechanisms should be preferred to efficiently	• Human rights, democracy and rule of law impact assessments ;• Certification and quality labelling;• Audits and intersectional audits;

protect human rights, democracy and the rule of law 46bis. Other	
47. Please select which mechanism(s) should be part of either a binding instrument or a non-binding instrument to best protect human rights, democracy and the rule of law. - Human rights, democracy and rule of law impact assessments - Certification and quality labelling - Audits and intersectional audits - Regulatory sandboxes Continuous automated monitoring	No opinion No opinion No opinion No opinion No opinion
47.bis. Other	
48. In your opinion, how useful would the following follow-up activities be if implemented by the Council of Europe? - Monitoring of AI legislation and policies in member States - Capacity building on Council of Europe instruments, including assistance to facilitate ratification and implementation of relevant Council of Europe instruments - AI Observatory for sharing good practices and exchanging information on legal, policy and technological developments related to AI systems Establishing a centre of expertise on AI and human rights	Rather useful Rather useful Rather useful Indifferent/no opinion
49. What other mechanisms, if any, should be considered?	
50. Are there any other issues with respect to the design, development and application of AI systems in the context of human rights, democracy and the rule of law that you wish to bring to the attention of the CAHAI?	
Date of submission	4/8/21 12:06:50

Conference of INGOs of the Council of Europe

State (where your institution is based)	**Europe**
Institution: Name of the institution/body/company	Conference of INGOs of the Council of Europe
Personal capacity: Your socio-professional category	Higher occupations
Your stakeholder group	Civil society
2. In view of the elaboration of a legal framework on the design, development and application of AI, based on the standards of the Council of Europe on human rights, democracy and the rule of law, what kind of definition of artificial intelligence (AI) should be considered by the CAHAI	A definition focusing on automated decision-making
2bis. If "other" please explain below	
3. What are the reasons for your preference?	Defining artificial intelligence is incredibly tricky. For the purpose of a regulatory instrument, we need to strike the right balance between a term that is broad enough to include many AI systems, while being specific enough to provide for effective remedy when those who are subjected to the AI system want to contest it. Option 1 has the advantage of being widely applicable and focusing on the human rights impacts of AI systems rather than the technology itself, but also risks diluting the impact of the convention as it fails to consider the intricate features of AI systems and the need for adequate safeguards, measures and remedy. Option 2 has a similar large scope but is also excessively vague and imprecise. Conversely, Option 3 is excessively narrow and includes machine learning systems only, which are one subset of AI categories. INGO Conference recommends selecting Option 4, i.e. "a definition focusing on automated decision-making", to bring home the specific human rights risks of AI systems and steer away from more misleading or vague terms. While this definition has the downside of being quite narrow and thus risks excluding other harmful technologies, it would provide much-needed regulation for the AI systems that have the most significant human rights impacts today.
4. Please select the areas in which AI systems offer the most promising opportunities for the protection of human rights, democracy and the rule of law	• Education;• Healthcare;• Environment and climate
4bis. If other, which areas and why?	Searching and sorting through information (e.g., search engines that use automation to suggest the most relevant information), provided that they prioritise news worthiness, elevate minority and marginalised voices, downgrade mis/disinformation and take measures to mitigate bias in algorithms. As with all AI systems, algorithmic-driven search engines often perpetuate biases and stereotypes ("garbage in, garbage out"), disproportionately impacting minority and marginalised groups.
5. Please indicate which of the following AI system applications in your view have the	• Medical applications for faster and more accurate diagnoses;• AI applications to predict the possible evolution of climate change

greatest potential to enhance/protect human rights, democracy and the rule of law?	and/or natural disasters;• AI applications to promote gender equality (e.g. analytical tools);
6. Please briefly explain how such applications would benefit human rights, democracy and the rule of law.	There is a strong imbalance of power between those that develop and deploy AI systems and the communities that are subjected to them, especially historically marginalized and under-represented groups. When considering potential opportunities that can arise from AI systems, it's important to begin with a power analysis and focus on the needs of the most at-risk communities.
	1. Who will benefit from these systems (specifically, which demographic groups and/or sectors) and who will be harmed?
	2. Is the root cause of a (social, economic, political or other) issue effectively being addressed by deploying the AI system, or are we merely offering performative and superficial solutions?
	In reality, there are no systems that only present opportunities or risks from a binary perspective, but instead systems that provide different opportunities or risks depending on the targeted population, context and situation in which they are deployed.
	1) Medical applications for faster and more accurate diagnoses: Provided that the data-sets on which these are based include sufficient relevant information on vulnerable and marginalized groups and are not based on a homogeneous group, AI systems can potentially enable faster and more accurate diagnoses. This could in turn allow for more timely and cost-effective access and possible remedy for a wider group of people, thereby increasing access to healthcare. Effective public health policies must be implemented alongside any deployment of AI systems in healthcare must not unduly remove funding and resources from other health-related budgets.
	2) AI applications to predict the possible evolution of climate change and/or natural disasters: AI systems could potentially help better understand the effects of current policies on the climate and/or ecosystem. As such, they could potentially contribute to better decision-making related to protecting the climate and mitigating the effects of natural disasters. Keeping in mind that those affected mostly today are the communities that are already most vulnerable and marginalized, it is important to ensure that these systems equally benefit everyone and do not perpetuate or exacerbate inequality.
	3) AI applications for personalized media content (recommender systems): AI-driven systems have the potential to promote human rights by moderating and curating incredibly large amounts of content that is posted daily. Algorithmic content moderation and curation can make the experience more enjoyable for users by dealing with harmful or problematic content that human moderators cannot manage at such a large scale. Unfortunately, the way that AI-driven content moderation is done today often harms users instead of benefiting them. For these systems to be truly beneficial, they must instead be optimized for promoting human rights, rule of law, and democracy (e.g. by amplifying human rights campaigns, minority and marginalized voices, press and media, plurality of views, etc.). Social media platforms must urgently provide meaningful transparency into how these systems operate and make decisions, reduce data collection and processing, invest in better training content moderators and data labellers, improve the efficiency of these systems for non-dominant Western languages and contexts, and take measures to reduce bias and discriminatory outcomes which perpetuate stereotypes.
	4) AI applications to promote gender equality: Provided that other non-technical strategies to raise awareness against gender

	inequality are taken, and that gender includes trans-persons and gender non-conforming persons, AI applications could potentially promote gender equality via affirmative action in a few narrowly-scoped situations. Data is rarely collected about women and gender non-conforming persons, especially women who are BIPOC (black, indigenous and people of colour), migrants or refugees, members of religious minorities, LGBTQ, disabled, or of lower socioeconomic class, among others.
7. What other applications might contribute significantly to strengthening human rights, democracy and the rule of law?	NA
8. Please select the areas in which the deployment of AI systems poses the highest risk of violating human rights, democracy and the rule of law **8bis. Other**	• Justice;• Law enforcement;• Customs and border control;•
9. Please briefly explain how such applications might violate human rights, democracy and the rule of law.	For the purpose of this questionnaire, the Conference of INGOs focused on the most severe and salient human rights impacts and identified the areas that can lead to greatest physical harm, arbitrary detention, and potentially torture or death, as well as those that can prevent people from accessing life-saving opportunities: justice; law enforcement and customs and border control. There is a strong imbalance of power between those that develop and deploy these systems and the communities that are subjected to them, especially already vulnerable groups and marginalized groups. When considering potential risks that can arise from AI systems, it is important to begin with a power analysis and focus on the risks of AI systems to the most marginalized communities, as they are often disproportionately harmed. AI-driven surveillance technologies in the hands of powerful actors such as judicial bodies or law enforcement officials have the potential to do great harm, with minorities and marginalized groups, human rights defenders, activists and journalists bearing the most significant risk. Indeed, the use of AI systems risks further exacerbating existing racial and ethnic, gender, and social and economic inequalities (among others). Given the severe impacts that judicial systems, law enforcement (including national security and counter-terrorism) and customs and border control have on human rights institutional discrimination, any AI systems deployed in these sectors have the potential to cause great harm. This is especially worrisome given the institutional racism and other forms of discrimination that shape our social and political systems. Many of the policies and practices that are already entrenched with racial biases and often target already vulnerable and marginalized groups, especially black, indigenous and people of color (BIPOC), will be coded into AI systems. This will make processes and the outcomes even more opaque, while falsely appearing to be 'objective'. Mass surveillance systems, such as facial recognition and other indiscriminate bio-metric surveillance tools, are fundamentally incompatible with human rights. These symptoms severely impact people's right to privacy, non-discrimination, freedom of expression, assembly and association, human dignity and life, liberty and security, among others. Human rights defenders, activists, journalists and political dissidents are particularly at risk. AI-driven surveillance technologies have also been used to track, survey and

| | at times arrest, detain and deport refugees and migrants. Algorithmic risk assessment tools or predictive policing, which are also biased against racial and ethnic minorities, lead to increased incarceration of BIPOC.

Having no red lines and/or binding regulation and meaningful oversight of these applications will most likely result in further deterioration of human rights, putting individuals (especially BIPOC) at risk of significant harm thus eroding the core principles of democracy and rule of law. Yet these systems are often developed and deployed without including BIPOC and other marginalized groups in the process.

Besides justice, law enforcement, and border control, there are many more than the three areas prioritized above that can adversely impact human rights, democracy and rule of law. The use of AI systems in welfare systems, for example, is particularly problematic as it can lock out the most vulnerable people from accessing social care. These systems have often been used to criminalize poor and lower socio-economic people (disproportionately impacting BIPOC and other minorities), by surveying, targeting, harassing and punishing beneficiaries. Promoted as tools to fight against fraud detesting or to optimize distribution, there are many examples where AI systems have actually exacerbated socio-economic inequalities and impacted people's right to housing, food, employment, education, social assistance, and even life. |
|---|---|
| **10.   Please indicate the types of AI systems that represent the greatest risk to human rights, democracy and the rule of law** | Facial recognition supporting law enforcement ;• Emotional analysis in the workplace to measure employees' level of engagement;Scoring / scoring of individuals by public entities;• AI applications to prevent the commission of a criminal offence;AI applications aimed at predicting recidivism ; |
| **11.   Please briefly explain how such applications might violate human rights, democracy and the rule of law.** | As mentioned under question 15, the use of AI systems risks further exacerbate existing racial and ethnic, gender, and social and economic inequalities (among others). When considering potential risks that can arise form AI systems, it is important to begin with a power analysis and focus the risks of AI systems to the most marginalized communities, as they are often disproportionately harmed. AI-driven surveillance technologies in the hands of powerful actors such as judicial bodies or law enforcement officials have the potential to do great harm, with minorities and marginalized groups, human rights defenders, activists and journalists bearing the most significant risk.

Besides justice, law enforcement, and border control, there are many more than the three areas prioritized below by can adversely impact human rights, democracy and rule of law. The use of AI systems in welfare systems, for examples, is particularly problematic as it can lock out the most vulnerable people from accessing social care. These systems have often been used to criminalize poor andlower socio-economic people (disproportionately impacting BIPOC and other minorities), by surveying, targeting, harassing, and punishing beneficiaries. Promoted as tools to fight against fraud testing or to optimize distribution, there are many examples where AI systems have instead exacerbated socio-economic inequalities and impacted people's right to housing, food, employment, education, social security and even life.

1. Facial recognition supporting law enforcement – Allows for mass |

surveillance, has highly discriminatory outcomes (especially for women and gender non-conforming persons and BIPOC) and is fundamentally incompatible with human rights. Evidence shows that uses of bio-metric mass surveillance in Europe have resulted in violations of EU data protection law and unduly restricted people's rights including their privacy, right to free speech, right to protest and not to be discriminated against. The widespread use of bio-metric surveillance, profiling and prediction is a threat to the rule of law and our most basic freedoms.

2. Scoring / scoring of individuals by public entities – Can increase inequality in access to and enjoyment of basic social and economic rights. Persons from lower socioeconomic classes and/or marginalized groups are disproportionately at risk, as AI-driven scoring systems impact their right to education (e.g. AI applications determining the allocation of educational services; AI applications used for analysing the performance of pupils/students in educational institutions such as schools and universities), right to work (e.g. algorithmic-driven hiring tools or performance assessment tools; emotional analysis in the workplace to measure employees' level of engagement, which has also a deep impact on personal self determination etc.), and right to social security, among others.

3. AI applications to prevent the commission of a criminal offences and AI applications aimed at predicting recidivism can lead to incarceration and limit people's freedom. Given institutional racism and biased AI systems, the use of algorithmic tools in the context of criminal justice risks perpetuating disproportionate harm to BIPOC and other vulnerable groups.

4. AI applications determining the allocation of social services – Allocating social services without proper human oversight that looks at particular circumstances of each case can lead to misjudge a person's situation. Such error disproportionately impacts already marginalized persons, especially those of lower socioeconomic class, as access to social services is often necessary for their survival.

12. What other applications might represent a significant risk to human rights, democracy and the rule of law?	Autonomous weapons; algorithmic-driven risk assessment tools for criminal justice
13. In your opinion, should the development, deployment and use of AI systems that have been proven to violate human rights or undermine democracy or the rule of law be **13bis. Other**	Banned
14. In your opinion, should the development, deployment and use of AI systems that pose high risks with high probability to human rights, democracy and the rule of law be:	Banned
15. In your opinion, should the development, deployment and use of AI systems that pose low risks with high probability to human rights, democracy and the rule of law be:	Regulated (binding law)

16. In your opinion, should the development, deployment and use of AI systems that pose high risks with low probability to human rights, democracy and the rule of law be:	Subject to moratorium
17. What are the most important legal principles, rights and interests that need to be addressed and therefore justify regulating the development, deployment and use of AI systems?	Respect for human dignity;Freedom of expression, assembly and association;Privacy and data protection;• Possibility to challenge a decision made by an AI system and access to an effective remedy;• Non-discrimination;
18. In your opinion, in what sectors/areas is a binding legal instrument needed to protect human rights, democracy and the rule of law? **18bis. Other**	Justice;Law enforcement;Public administration;
19. Self-regulation by companies is more efficient than government regulation to prevent and mitigate the risk of violations of human rights, democracy and the rule of law.	I completely disagree
20. Self-regulation by companies is sufficient to prevent and mitigate the risk of violations of human rights, democracy and the rule of law	I completely disagree
21. Which of the following instruments of self-regulation do you consider to be the most efficient? **21bis. Other**	Continuous, inclusive, and transparent human rights due diligence
22. Existing international, regional and/or national binding and/or non-binding legal instruments are sufficient to regulate AI systems in order to ensure the protection of human rights, democracy and the rule of law.	I rather disagree
23. Please provide examples of existing international, regional and/or national (binding and/or non-binding) instruments that in your view are effective in guiding and regulating the design, development and use of AI systems to ensure compatibility with the standards for human rights, democracy and the rule of law	Non-exhaustive list: - UDHR, ICCPR, ICESCR (and optional protocols) - ICERD, CEDAW, CAT, CRC, ICMW, CPED, CRPD (and optional protocols) - UNGPs, OECD Due Diligence Guidance for Responsible Business Conduct, Guidelines on Multinational Enterprises - ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy, ILO Conventions - ECHR, Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data
24. If you responded disagree/completely disagree to question 22, please indicate why existing international, regional and/or national (binding and/or non-binding) legal instruments are	There are too many and they are difficult to interpret and apply in the context of AI;• They provide a basis but fail to provide an effective substantive protection of human rights, democracy and the rule of law against the risks posed by AI systems;• They lack specific principles for the design, development and application of AI systems;• They do not provide enough guidance to the designers,

not sufficient to regulate AI systems (select all you agree with):	developers and deployers of AI systems; They do not provide for specific rights (e.g. transparency requirements, redress mechanisms) for persons affected by AI;
25. Please indicate other specific legal gaps that in your view need to be addressed at the level of the Council of Europe	While existing international human rights law provides us with a legal framework to promote and seek remedy for violations of our fundamental rights, the intricate features of algorithmic systems (especially lack of transparency and accountability, large scale, etc.) require a new legal instrument - especially as the existing international human rights law is often not upheld and has very few hard repercussions for violators. Specific legal gaps include (non-exhaustive list): a) Requiring public registers documenting the use of AI systems in public spaces and/or by public authorities. b) Establishing rigorous transparency requirements for AI designers, developers and end-users. c) Banning facial recognition and other indiscriminate or arbitrarily-targeted uses of bio-metrics, which can lead to unlawful mass surveillance; risk assessment tools for criminal justice and autonomous weapons. d) Providing a right to refusal of being subjected to an AI system (including the right to opt-out and to have alternative means to access or achieve a given objective). e) Requiring that private sector companies take measures to respect human rights (e.g. mandatory human rights due diligence laws). This is especially important for AI systems as they are mainly designed, developed(and often deployed by private sector companies.
26. Individuals should always be informed when they interact with an AI system in any circumstances.	I fully agree
27. Individuals should always be informed when a decision which affects them personally is made by an AI system.	I fully agree
28. Individuals should always be informed when an AI system is used in a decision-making process which affects them personally.	I fully agree
29. Individuals should have a right to a meaningful explanation of algorithmic based decisions, in particular how the algorithm reached its output.	I fully agree
30. Individuals should always have the right that any decision taken by an AI system in the framework of judicial proceedings are reviewed by a "human" judge.	I fully agree
31. Individuals should have a right to demand the review of an algorithmic based decision by a human being.	I fully agree
32. There should always be a person responsible for reviewing algorithmic based decisions in the public sector and private companies.	I fully agree

33. **Public institutions should not use AI systems to promote or discredit a particular way of life or opinion (e.g. "social scoring").**	I fully agree
34. **States should be obliged to design, develop and apply sustainable AI systems that respect applicable environmental protection standards.**	I fully agree
35. **The code behind AI systems used in the public and private sectors should always be accessible to the competent public authorities for the purposes of external audit.**	I fully agree
36. **There should be higher transparency standards for public entities using AI than for private entities.**	I fully agree
37. **There should be higher standards for access to an effective remedy for individuals in relation to decisions informed and made by an AI system in the field of justice than in the field of consumer protection.**	I fully agree
38. **Member States should establish public oversight mechanisms for AI systems that may breach legally binding norms in the sphere of human rights, democracy and the rule of law.**	I fully agree
39. **Errors and flaws discovered in AI systems which have led or could lead to the violation of human rights, democracy and the rule of law must be reported to the competent authorities.**	I fully agree
40. **The use of facial recognition in public spaces should be prohibited.**	I fully agree
41. **The information obtained through the use of facial recognition systems should always be reviewed by a human being before being used for purposes that have an impact on individual freedom, such as in relation to a person boarding an airplane, upon police arrest or in the framework of judicial proceedings.**	I fully agree
42. **The use of AI systems in democratic processes (e.g. elections) should be strictly regulated.**	I fully agree

43. Should a future legal framework at Council of Europe level include a specific liability regime in relation to AI applications?	Yes
44. If yes, what aspects should be covered?	a) To the extent possible, restore the victim's situation to the situation preceding any intervention of/by an AI system. b) Provide monetary compensation to victims harmed by AI systems. c) Establish sanctions of AI designers/developers/deployers for the harm caused by using the AI system. Sanctions should include the prohibition of further deploying the AI system unless significant changes are made to ensure that the design and/or use of the AI system is rights-respecting. d) Establish sanctions of AI designers/developers/deployers for the failure to conduct thorough human rights due diligence before and during the use of an AI system, or for failure to effectively monitor the use of the AI system. e) Sanctions of AI designers/developers/deployers for deploying an AI system that has been banned.
45. In your opinion, how useful would the following compliance mechanisms be in preventing and mitigating the risks to human rights, democracy and the rule of law arising from the design, development and application of AI? - Human rights, democracy and rule of law impact assessments - Certification and quality labelling - Audits and intersectional audits - Regulatory sandboxes Continuous automated monitoring	Highly useful Rather useful Highly useful Highly useful Highly useful
46. Please indicate what combination of mechanisms should be preferred to efficiently protect human rights, democracy and the rule of law 46bis. Other	• Human rights, democracy and rule of law impact assessments ;• Audits and intersectional audits;Continuous automated monitoring;
47. Please select which mechanism(s) should be part of either a binding instrument or a non-binding instrument to best protect human rights, democracy and the rule of law. - Human rights, democracy and rule of law impact assessments - Certification and quality labelling - Audits and intersectional audits - Regulatory sandboxes Continuous automated monitoring	Binding instrument Non-binding instrument Binding instrument Binding instrument Binding instrument

47.bis. Other	Human rights due diligence requirements, as consistent with the UN Guiding Principles on Business and Human Rights
48. In your opinion, how useful would the following follow-up activities be if implemented by the Council of Europe? - Monitoring of AI legislation and policies in member States - Capacity building on Council of Europe instruments, including assistance to facilitate ratification and implementation of relevant Council of Europe instruments - AI Observatory for sharing good practices and exchanging information on legal, policy and technological developments related to AI systems Establishing a centre of expertise on AI and human rights	Highly useful Highly useful Rather useful Highly useful
49. What other mechanisms, if any, should be considered?	Create a platform or forum providing the opportunity to effectively engage external stakeholders, especially civil society organizations and marginalized groups. Importantly, provide them with the tools, training, resources, and information necessary to meaningfully participate in AI governance and AI accountability.
50. Are there any other issues with respect to the design, development and application of AI systems in the context of human rights, democracy and the rule of law that you wish to bring to the attention of the CAHAI?	Proactively ensure inclusion of civil society (especially under-represented groups) throughout the process cycle. Establish feedback mechanisms and shared decision-making processes to ensure participatory mechanisms. This should be a (binding) legal obligation.
Date of submission	5/7/21 8:37:39

Conseil Européen des Fédérations WIZO

State (where your institution is based)	France
Institution: Name of the institution/body/company	Conseil Européen des Fédérations WIZO
Personal capacity: Your socio-professional category	Higher occupations
Your stakeholder group	Civil society
2. In view of the elaboration of a legal framework on the design, development and application of AI, based on the standards of the Council of	A technologically-neutral and simplified definition, such as "a set of sciences, theories and tech-niques whose purpose is to reproduce by a machine the cognitive abilities of a human being" (See the CAHAI feasibility study, §5)

Europe on human rights, democracy and the rule of law, what kind of definition of artificial intelligence (AI) should be considered by the CAHAI	
2bis. If "other" please explain below	
3. What are the reasons for your preference?	La définition doit être suffisamment large et neutre pour pouvoir englober tous les aspects et applications de l'AI, y compris les développements à venir.
4. Please select the areas in which AI systems offer the most promising opportunities for the protection of human rights, democracy and the rule of law	• Healthcare;National security and counter-terrorism;• Environment and climate;
4bis. If other, which areas and why?	
5. Please indicate which of the following AI system applications in your view have the greatest potential to enhance/protect human rights, democracy and the rule of law?	• Medical applications for faster and more accurate diagnoses;• AI applications to predict the possible evolution of climate change and/or natural disasters;• Automated fraud detection (banking, insurance);Facial recognition supporting law enforcement ;• AI applications to prevent the commission of a criminal offence (e.g. anti-money laundry AI appli-cations);
6. Please briefly explain how such applications would benefit human rights, democracy and the rule of law.	Reconnaissance faciale, détection de fraude et prévention d'infraction pénale: lutte contre le terrorisme, protection de la population Applications médicales: aide au diagnostic, recherche médicale Anticipation des catastrophes naturelles et évolution (sismologie, eau, climat) pour des applications dans les domaines de l'agriculture, de l'urbanisme, de l'industrie etc...
7. What other applications might contribute significantly to strengthening human rights, democracy and the rule of law?	Lutte contre la haine en ligne détection des fake news et de la manipulation Protection de la jeunesse en ligne lutte contre le plagiat et protection du droit d'auteur
8. Please select the areas in which the deployment of AI systems poses the highest risk of violating human rights, democracy and the rule of law **8bis. Other**	• Welfare;• Employment;• Education;
9. Please briefly explain how such applications might violate human rights, democracy and the rule of law.	Protection sociale: risque de transmission des données à des tiers - assurances, banque, employeur.. Éducation: la transmission passe par l'humain, de maître à élève ou entre élèves. L'échange est un enrichissement mutuel qui peut changer le cours des choses. L'IA qui conduirait à la classification des élèves et à leur orientation automatique leur supprimerait l'initiative et les possibilités de progrès. Emploi: flicage
10. Please indicate the types of AI systems that represent the greatest risk to human rights, democracy and the rule of law	☐Emotional analysis in the workplace to measure employees' level of engagement;Scoring / scoring of individuals by public entities;• Deep fakes and cheap fakes;• AI applications determining the allocation of educational services;• AI applications used for analysing the performance of pupils/students in educational institutions such as schools and universities;
11. Please briefly explain how such applications might violate	Pour moi, l'AI se justifie quand elle peut être une aide au bénéfice de l'individu. Pas quand elle est mise en œuvre à des fins de

human rights, democracy and the rule of law.	classement qui vont par la suite limiter ses alternatives, ni si elle permet la manipulation.
12. What other applications might represent a significant risk to human rights, democracy and the rule of law?	-
13. In your opinion, should the development, deployment and use of AI systems that have been proven to violate human rights or undermine democracy or the rule of law be **13bis. Other**	C'est plus compliqué que ça...il faut tenir compte des circonstances et encadrer leur utilisation
14. In your opinion, should the development, deployment and use of AI systems that pose high risks with high probability to human rights, democracy and the rule of law be:	Regulated (binding law)
15. In your opinion, should the development, deployment and use of AI systems that pose low risks with high probability to human rights, democracy and the rule of law be:	Regulated (binding law)
16. In your opinion, should the development, deployment and use of AI systems that pose high risks with low probability to human rights, democracy and the rule of law be:	Regulated (binding law)
17. What are the most important legal principles, rights and interests that need to be addressed and therefore justify regulating the development, deployment and use of AI systems?	Respect for human dignity;• Non-discrimination;Privacy and data protection;• Personal integrity ;• Legal certainty;
18. In your opinion, in what sectors/areas is a binding legal instrument needed to protect human rights, democracy and the rule of law? **18bis. Other**	Banking, finance and insurance;Justice;• Healthcare;•
19. Self-regulation by companies is more efficient than government regulation to prevent and mitigate the risk of violations of human rights, democracy and the rule of law.	I fully agree
20. Self-regulation by companies is sufficient to prevent and mitigate the risk of violations of human rights, democracy and the rule of law	I completely disagree
21. Which of the following instruments of self-regulation do you consider to be the most efficient?	Voluntary certification

21bis. Other	
22. Existing international, regional and/or national binding and/or non-binding legal instruments are sufficient to regulate AI systems in order to ensure the protection of human rights, democracy and the rule of law.	I completely disagree
23. Please provide examples of existing international, regional and/or national (binding and/or non-binding) instruments that in your view are effective in guiding and regulating the design, development and use of AI systems to ensure compatibility with the standards for human rights, democracy and the rule of law	Je ne les connais pas.
24. If you responded disagree/completely disagree to question 22, please indicate why existing international, regional and/or national (binding and/or non-binding) legal instruments are not sufficient to regulate AI systems (select all you agree with):	• They provide a basis but fail to provide an effective substantive protection of human rights, democracy and the rule of law against the risks posed by AI systems;
25. Please indicate other specific legal gaps that in your view need to be addressed at the level of the Council of Europe	Je ne sais pas
26. Individuals should always be informed when they interact with an AI system in any circumstances.	I fully agree
27. Individuals should always be informed when a decision which affects them personally is made by an AI system.	I fully agree
28. Individuals should always be informed when an AI system is used in a decision-making process which affects them personally.	I fully agree
29. Individuals should have a right to a meaningful explanation of algorithmic based decisions, in particular how the algorithm reached its output.	I fully agree
30. Individuals should always have the right that any decision taken by an AI system in the framework of judicial proceedings are reviewed by a "human" judge.	I fully agree

31. Individuals should have a right to demand the review of an algorithmic based decision by a human being.	I fully agree
32. There should always be a person responsible for reviewing algorithmic based decisions in the public sector and private companies.	I fully agree
33. Public institutions should not use AI systems to promote or discredit a particular way of life or opinion (e.g. "social scoring").	I fully agree
34. States should be obliged to design, develop and apply sustainable AI systems that respect applicable environmental protection standards.	I rather disagree
35. The code behind AI systems used in the public and private sectors should always be accessible to the competent public authorities for the purposes of external audit.	I rather disagree
36. There should be higher transparency standards for public entities using AI than for private entities.	I fully agree
37. There should be higher standards for access to an effective remedy for individuals in relation to decisions informed and made by an AI system in the field of justice than in the field of consumer protection.	I rather agree
38. Member States should establish public oversight mechanisms for AI systems that may breach legally binding norms in the sphere of human rights, democracy and the rule of law.	I fully agree
39. Errors and flaws discovered in AI systems which have led or could lead to the violation of human rights, democracy and the rule of law must be reported to the competent authorities.	I fully agree
40. The use of facial recognition in public spaces should be prohibited.	I completely disagree
41. The information obtained through the use of facial recognition systems should always be reviewed by a human being before being used for purposes that have an impact on individual freedom, such as in relation to a person boarding an	I fully agree

airplane, upon police arrest or in the framework of judicial proceedings.	
42. The use of AI systems in democratic processes (e.g. elections) should be strictly regulated.	I fully agree
43. Should a future legal framework at Council of Europe level include a specific liability regime in relation to AI applications?	Yes
44. If yes, what aspects should be covered?	Quelles données peuvent être traitées par l'AI La protection et la conservation des données à l'intérieur de l'Europe (pas en Chine, en Russie ou aux USA ni par des entreprises étrangères) Les contrats avec les fournisseurs d'AI et les entreprises de stockage des données La durée de conservation des données L'accès du public à ses données personnelles
45. In your opinion, how useful would the following compliance mechanisms be in preventing and mitigating the risks to human rights, democracy and the rule of law arising from the design, development and application of AI? - **Human rights, democracy and rule of law impact assessments** - **Certification and quality labelling** - **Audits and intersectional audits** - **Regulatory sandboxes** **Continuous automated monitoring**	Rather useful Highly useful Rather useful Rather useful Highly useful
46. Please indicate what combination of mechanisms should be preferred to efficiently protect human rights, democracy and the rule of law **46bis. Other**	• Certification and quality labelling;Continuous automated monitoring;• Audits and intersectional audits;
47. Please select which mechanism(s) should be part of either a binding instrument or a non-binding instrument to best protect human rights, democracy and the rule of law. - **Human rights, democracy and rule of law impact assessments** - **Certification and quality labelling** - **Audits and intersectional audits** - **Regulatory sandboxes** **Continuous automated monitoring**	Non-binding instrument Binding instrument Non-binding instrument Non-binding instrument Binding instrument

47.bis. Other	
48. In your opinion, how useful would the following follow-up activities be if implemented by the Council of Europe? - **Monitoring of AI legislation and policies in member States** - **Capacity building on Council of Europe instruments, including assistance to facilitate ratification and implementation of relevant Council of Europe instruments** - **AI Observatory for sharing good practices and exchanging information on legal, policy and technological developments related to AI systems** **Establishing a centre of expertise on AI and human rights**	Highly useful Rather useful Highly useful Rather useful
49. What other mechanisms, if any, should be considered?	
50. Are there any other issues with respect to the design, development and application of AI systems in the context of human rights, democracy and the rule of law that you wish to bring to the attention of the CAHAI?	
Date of submission	4/30/21 22:54:02

Conseil national des barreaux (France)

State (where your institution is based)	France
Institution: Name of the institution/body/company	Conseil national des barreaux
Personal capacity: Your socio-professional category	Higher occupations
Your stakeholder group	Government & public administration
2. In view of the elaboration of a legal framework on the design, development and application of AI, based on the standards of the Council of Europe on human rights, democracy and the rule of law,	A technologically-neutral and simplified definition, such as "a set of sciences, theories and tech-niques whose purpose is to reproduce by a machine the cognitive abilities of a human being" (See the CAHAI feasibility study, §5)

what kind of definition of artificial intelligence (AI) should be considered by the CAHAI	
2bis. If "other" please explain below	
3. What are the reasons for your preference?	Le Conseil national des barreaux estime qu'une définition de l'intelligence artificielle est nécessaire dans l'instrument juridique qui amènera à réguler les pratiques en lien. Néanmoins, une définition trop précise amènerait des difficultés conduisant à l'obsolescence de l'instrument juridique suivant les évolutions technologiques. En conséquence, une définition technologiquement neutre est préférable. La définition ainsi proposée semble correspondre à cet objectif : l'intelligence artificielle y est définie par rapport à l'objectif recherché par ses concepteurs lesquels recherchent à reproduire le raisonnement d'un cerveau humain à grande échelle. Concernant la jurimétrie à proprement parler, cette technique d'ingénierie basée sur l'intelligence artificielle vise à systématiser la reproduction de l'analyse juridique d'un juge ou d'un professionnel du droit.
	Le Conseil national des barreaux estime, au surplus, que les autres définitions proposées sont trop restrictives et devraient plutôt intégrer la dimension plus générique ou constituer des sous-définitions eu égard aux méthodes employées ou aux objectifs poursuivis par l'exploitation de la technologie d'Intelligence artificielle.
4. Please select the areas in which AI systems offer the most promising opportunities for the protection of human rights, democracy and the rule of law	• Other;
4bis. If other, which areas and why?	Sur ce point, le côté prometteur dépend du cadre légal et des usages. Trop tôt à ce stade pour répondre à cette question car il faut partir du postulat que l'IA aura des effets prometteurs. Or nous l'ignorons encore. Seule l'utilisation et l'encadrement de l'IA pourra induire une promotion de la protection des droits de l'homme, la démocratie et l'Etat de droit.
5. Please indicate which of the following AI system applications in your view have the greatest potential to enhance/protect human rights, democracy and the rule of law?	N/A
6. Please briefly explain how such applications would benefit human rights, democracy and the rule of law.	N/A
7. What other applications might contribute significantly to strengthening human rights, democracy and the rule of law?	N/A
8. Please select the areas in which the deployment of AI systems poses the highest risk of violating human rights, democracy and the rule of law	• Justice;• Law enforcement;• Healthcare;

8bis. Other	
9. Please briefly explain how such applications might violate human rights, democracy and the rule of law.	Le Conseil national des barreaux a exprimé ses préoccupations concernant le développement de l'intelligence artificielle dans le cadre de sa contribution à la consultation sur le Livre blanc IA de la Commission européenne. Cette contribution est jointe pour apporter des éléments d'éclairage supplémentaires. Dans ce cadre, le Conseil national des barreaux a identifié quatre préoccupations majeures s'agissant de l'emploi de l'Intelligence artificielle en matière juridique et judiciaire, qui s'appliquent également au domaine du maintien de l'Ordre.

Préserver les droits de la défense et garantir la transparence des outils

Dans l'hypothèse où le juge s'appuierait sur l'IA pour éclairer sa prise de décision, la technologie devrait donc être expliquée à l'avocat afin qu'il puisse remplir pleinement son rôle car la mission de l'avocat ne peut être effective dans le cas contraire. Un manque de transparence porterait nécessairement atteinte au principe de la contradiction, les avocats n'étant pas mis en mesure de pouvoir discuter utilement des éléments retenus par le juge à l'aune de l'exploitation d'une technologie d'IA.

Assurer le respect du procès équitable et lutter contre l'introduction des biais

A cet égard, le CNB rappelle régulièrement la nécessité de faire application, au stade de la conception de l'algorithme, des principes fondamentaux définis par la Charte éthique d'utilisation de l'intelligence artificielle dans les systèmes judiciaires et leur environnement établie par la CEPEJ du Conseil de l'Europe le 4 décembre 2018 .

Le Conseil national des barreaux a en outre travaillé à la mise en place d'une charte éthique de la réutilisation de la donnée judiciaire, adoptée en Assemblée générale le 8 octobre 2020.

Affirmer l'importance du respect de l'égalité des armes et lutter contre la fracture numérique

Une utilisation asymétrique des technologies d'IA pourrait remettre en cause le principe de l'égalité des armes. En effet, si seuls les magistrats peuvent en bénéficier, alors les avocats ne seront pas en mesure d'apporter une défense suffisamment efficace et éclairée des justiciables.

En outre, le CNB a attiré l'attention de la Commission concernant la fracture numérique entre les citoyens de l'Union, en ce compris les avocats.

Rappeler le droit d'accès effectif à un juge et garantir son appréciation souveraine

Le CNB relève que l'utilisation de ces outils ne doit, en aucun cas, lier le juge. Si ce dernier devrait pouvoir employer ces technologies pour apporter un jour nouveau sur certains éléments, il faudrait assurer qu'ils ne se substitueront à son appréciation souveraine. |

	En outre et concernant le domaine de la santé, le Conseil national des barreaux a pris position concernant la mise en place du Health Data Hub (Plateforme des données de santé), instauré par la loi du 24 juillet 2019 relative à l'organisation et à la transformation du système de santé et mis en place par l'arrêté du 29 novembre 2019.
	Dans ce cadre, le Conseil national des barreaux s'est alarmé des risques d'exploitation détournée des données de santé à caractère personnel, et notamment des risques de profilage de personnes ou catégories de personnes ainsi que du stockage de ces données sensibles hors de contrôle et de souveraineté nationale et européenne notamment par le jeu de législations nationales moins protectrices.
	En conséquence, le Conseil national des barreaux a exigé la mise en place de garanties et notamment, un contrôle strict de la pertinence et de l'éthique des recherches en vue desquelles il sera demandé d'accéder à ces données.
	Dès lors et concernant l'exploitation de l'Intelligence artificielle en matière de santé, le Conseil national des barreaux invite à la plus grande vigilance et à la mise en place de contrôle strict concernant les outils compte-tenu des risques importants qui pourraient en résulter pour les patients.
10. Please indicate the types of AI systems that represent the greatest risk to human rights, democracy and the rule of law	Facial recognition supporting law enforcement ;• Emotional analysis in the workplace to measure employees' level of engagement;Scoring / scoring of individuals by public entities;• AI applications to prevent the commission of a criminal offence;AI applications aimed at predicting recidivism ;
11. Please briefly explain how such applications might violate human rights, democracy and the rule of law.	A titre liminaire et d'après les études récentes, les développements de l'Intelligence artificielle connus à ce jour reprennent et s'appuient sur des biais cognitifs importants, tenant notamment à leur concepteur ou à la source des données exploitées dans le cadre de l'apprentissage de l'algorithme. A ce stade, il n'existe pas de garanties de contrôle ou de vérifications, permettant d'assurer la neutralisation des biais. Aussi, le Conseil national des barreaux identifie un risque majeur pour l'ensemble des applications d'intelligence artificielle citées ci-dessus tenant notamment à la reproduction de facteurs de discriminations notamment de genre et d'origine ethnique.
	Concernant la reconnaissance faciale au service du maintien de l'ordre, le Conseil national des barreaux exclut cette possibilité dans la mesure où les technologies ne permettent pas de garantir l'absence de discrimination entre les citoyens. Il en est de même pour les applications d'IA visant à prédire la récidive. Sur ce point, le Conseil national des barreaux attire l'attention du CAHAI sur les évènements dramatiques auxquels l'utilisation de l'intelligence artificielle avait donné lieu aux Etats-Unis et en Grande Bretagne (COMPAS et ProPublica aux États-Unis ou de Big Brother Watch en Grande Bretagne). En raison des limites des méthodes employées, cette approche purement statistique a conduit à des résultats erronés : au constat que certains individus afro-américains seraient plus souvent impliqués dans des faits criminels, il en a été déduit un facteur de risque plus élevé pour toute la population afro-américaine. Donc, même pour des faits mineurs, ces systèmes ont pondéré négativement des accusés afro-américains et ont conduit à un injuste alourdissement du quantum de leurs peines. Compte-tenu de ces risques, le Conseil national des barreaux s'associe à la CEPEJ du Conseil de

l'Europe. Ainsi, une orientation différente, plus respecteuse des standards européens concernant la sanction pénale, et qui doit offrir des chances de réhabilitation et de réintégration à tout individu, doit remplacer cette approche aux effets discriminatoires et déterministes. Si des systèmes algorithmiques arrivent à contribuer à une meilleure collecte d'information au profit des services de probation par exemple, et à leur offrir de manière plus rapide les informations pertinentes pour un traitement respectueux des droits de l'Homme, de telles initiatives peuvent être utiles (notamment pour les procédures de jugement rapide). Toute autre utilisation est en revanche sujette à des biais qui heurteront de nombreux principes fondamentaux nationaux et supranationaux.

Concernant les applications d'IA visant à empêcher la commission d'une infraction pénale, le Conseil national des barreaux estime qu'il convient d'être particulièrement prudent sur l'utilisation de ces outils. L'empêchement de l'individu de commettre ou non une infraction, quand bien même elle apparaitrait séduisante, pose la question de la réduction de la sphère décisionnelle au profit d'un contrôle à priori qui aboutit et pose donc in fine la question de la responsabilité des personnes. Ainsi, en réduisant le champ des possibles concernant la prise de décision (répréhensible ou non), les citoyens sont amenés à moins se questionner, à prendre moins de décision et à être de moins en moins responsables des choix réalisés, ces derniers étant guidés largement. In fine et en lien avec le concept de la responsabilité, c'est le concept de liberté qui peut être atteint.

Concernant la notation des individus par les entités publiques, le Conseil national des barreaux s'interroge sur la pertinence et les modalités de mise en œuvre d'une telle application. Il n'apparaît ni pertinent ni souhaitable de laisser aux entités publiques la possibilité de tirer des conséquences d'une somme de comportement ayant pu donner lieu à une notation. En outre, se pose la question de l'échelle et donc de la modélisation du système de notation. En complément, le Conseil national des barreaux s'interroge sur les conséquences de la notation qui pourrait être mise en œuvre. Si ses effets, seuls ou par combinaisons avec d'autres, amènent à limiter les droits d'un individu (voir de l'en priver), la notation des individus ne doit pas être envisagée par les entités publiques. Le Conseil national des barreaux ajoute que, dans cette hypothèse, la limitation ou la privation de droit pourrait être réalisée par la même entité publique, ce qui pose nécessairement la question de l'impartialité et de l'accès à un juge. En conséquence, le Conseil national des barreaux estime qu'une telle application pourraient avoir des impacts désastreux pour les droits et libertés fondamentaux.

Concernant l'analyse émotionnelle, le Conseil national des barreaux estime qu'elle pose une difficulté en son principe. En effet, il apparait dangereux de tirer des conclusions sur la base de l'analyse des émotions ressenties à un instant T et qui peuvent être influencées par des facteurs extérieurs. En outre, il est nécessaire de ne pas s'appuyer uniquement sur les émotions ressentis car il serait dangereux de réduire l'être humain à la somme des émotions ressenties quand celles-ci sont, très souvent, contrebalancer par la raison : réduire l'individu aux émotions ressentis à un instant T peut aboutir à le priver de sa part de réflexion, d'objectivité et d'intelligence. Du point de vue du Conseil national des barreaux, l'application de l'IA dans ce cadre doit être extrêmement prudente.

12. What other applications might represent a significant risk to human rights, democracy and the rule of law?	A titre liminaire, le Conseil national des barreaux relève que tout exploitation de l'IA susceptible d'avoir un impact sur les droits et libertés présente nécessairement un risqué important. Parmi les autres applications, non identifiées dans la question précédente, le Conseil national des barreaux dresse la liste, non exhaustive, suivante : - Application de l'IA pour rendre des décisions de justice, même en tant que simple outil d'aide à la décision ; - Application de l'IA pour l'évaluation de la peine, même en tant que simple outil d'aide à la décision ; - Application de l'IA pour l'évaluation des préjudices, même en tant que simple outil d'aide à la décision ; - Application de l'IA pour l'évaluation des prestations compensatoires, même en tant que simple outil d'aide à la décision. Dans chacune de ces situations, ce sont le droit d'accès effectif à un juge, le droit à un procès équitable, l'égalité des armes et les droits de la défense qui peuvent être dangereusement atteint.
13. In your opinion, should the development, deployment and use of AI systems that have been proven to violate human rights or undermine democracy or the rule of law be **13bis. Other**	Banned
14. In your opinion, should the development, deployment and use of AI systems that pose high risks with high probability to human rights, democracy and the rule of law be:	Banned
15. In your opinion, should the development, deployment and use of AI systems that pose low risks with high probability to human rights, democracy and the rule of law be:	Banned
16. In your opinion, should the development, deployment and use of AI systems that pose high risks with low probability to human rights, democracy and the rule of law be:	Banned
17. What are the most important legal principles, rights and interests that need to be addressed and therefore justify regulating the development, deployment and use of AI systems?	Respect for human dignity;• Non-discrimination;Privacy and data protection;• Personal integrity ;• Legal certainty;
18. In your opinion, in what sectors/areas is a binding legal instrument needed to protect human rights, democracy and the rule of law? **18bis. Other**	Justice;Law enforcement;Le Conseil national des barreaux attire l'attention du CAHAI sur le fait l'ensemble des domaines doivent faire l'objet d'un instrument juridique contraignant dans la mesure où des droits fondamentaux sont en jeux pour chacun d'eux. En priorité, le Conseil national des barreaux identifie les domaines de la Justice, du maintien de l'ordre et des administrations publiques pour les raisons d'ores et déjà exposées ci-avant. ;

19. Self-regulation by companies is more efficient than government regulation to prevent and mitigate the risk of violations of human rights, democracy and the rule of law.	I rather disagree
20. Self-regulation by companies is sufficient to prevent and mitigate the risk of violations of human rights, democracy and the rule of law	I rather disagree
21. Which of the following instruments of self-regulation do you consider to be the most efficient? **21bis. Other**	Ethics guidelines
22. Existing international, regional and/or national binding and/or non-binding legal instruments are sufficient to regulate AI systems in order to ensure the protection of human rights, democracy and the rule of law.	I completely disagree
23. Please provide examples of existing international, regional and/or national (binding and/or non-binding) instruments that in your view are effective in guiding and regulating the design, development and use of AI systems to ensure compatibility with the standards for human rights, democracy and the rule of law	Le Conseil national des barreaux s'appuie particulièrement sur la Charte éthique européenne d'utilisation de l'intelligence artificielle dans les systèmes judiciaires de la CEPEJ du Conseil de l'Europe, du 4 décembre 2018, pour guider ses travaux et ses réflexions en lien avec l'intelligence artificielle. Malgré sa grande qualité, le Conseil national des barreaux regretted le caractère non contraignant de cette charte.
24. If you responded disagree/completely disagree to question 22, please indicate why existing international, regional and/or national (binding and/or non-binding) legal instruments are not sufficient to regulate AI systems (select all you agree with):	There are too many and they are difficult to interpret and apply in the context of AI;They do not provide for specific rights (e.g. transparency requirements, redress mechanisms) for persons affected by AI;
25. Please indicate other specific legal gaps that in your view need to be addressed at the level of the Council of Europe	A ce stade, de nombreux textes nationaux et européens sont susceptibles de s'appliquer à l'Intelligence artificielle. La plupart n'ont pas été conçu pour inclure la question de l'intelligence artificielle, les questions relatives à son exploitation étant relativement récentes. En outre, et même lorsqu'ils existent, aucun n'a été pensée en vue d'établir un contrôle de cette méthode. L'intelligence artificielle y est souvent traitée comme un outil et non comme l'élément central devant guider la réflexion et donc être au centre de la règlementation. Le Conseil national des barreaux estime qu'un instrument juridiquement contraignant est nécessaire au niveau européen pour combler ces lacunes et ainsi aligner les traitements nationaux. Le Conseil national des barreaux relève que la Charte éthique européenne d'utilisation de l'intelligence artificielle dans les systèmes judiciaires de la CEPEJ du Conseil de l'Europe, du 4

	décembre 2018 devrait avoir un caractère contraignant pour participer à la préservation des droits et libertés des individus. Le Conseil national des barreaux étudie, enfin, la proposition de règlement européen publié par la Commission européenne afin de déterminer si l'approche par les risques permet bien de traiter le cas de l'utilisation de l'IA en matière juridique et judiciaire. A ce stade de l'analyse, le Conseil national des barreaux se félicitent de la prise en compte du secteur de la justice, comme secteur à haut risque par nature.
26. Individuals should always be informed when they interact with an AI system in any circumstances.	I fully agree
27. Individuals should always be informed when a decision which affects them personally is made by an AI system.	I fully agree
28. Individuals should always be informed when an AI system is used in a decision-making process which affects them personally.	I fully agree
29. Individuals should have a right to a meaningful explanation of algorithmic based decisions, in particular how the algorithm reached its output.	I fully agree
30. Individuals should always have the right that any decision taken by an AI system in the framework of judicial proceedings are reviewed by a "human" judge.	I fully agree
31. Individuals should have a right to demand the review of an algorithmic based decision by a human being.	I fully agree
32. There should always be a person responsible for reviewing algorithmic based decisions in the public sector and private companies.	I fully agree
33. Public institutions should not use AI systems to promote or discredit a particular way of life or opinion (e.g. "social scoring").	I fully agree
34. States should be obliged to design, develop and apply sustainable AI systems that respect applicable environmental protection standards.	I fully agree
35. The code behind AI systems used in the public and private sectors should always be accessible to the competent public authorities for the purposes of external audit.	I fully agree

36. There should be higher transparency standards for public entities using AI than for private entities.	I rather disagree
37. There should be higher standards for access to an effective remedy for individuals in relation to decisions informed and made by an AI system in the field of justice than in the field of consumer protection.	I rather agree
38. Member States should establish public oversight mechanisms for AI systems that may breach legally binding norms in the sphere of human rights, democracy and the rule of law.	I fully agree
39. Errors and flaws discovered in AI systems which have led or could lead to the violation of human rights, democracy and the rule of law must be reported to the competent authorities.	I fully agree
40. The use of facial recognition in public spaces should be prohibited.	I fully agree
41. The information obtained through the use of facial recognition systems should always be reviewed by a human being before being used for purposes that have an impact on individual freedom, such as in relation to a person boarding an airplane, upon police arrest or in the framework of judicial proceedings.	I fully agree
42. The use of AI systems in democratic processes (e.g. elections) should be strictly regulated.	I fully agree
43. Should a future legal framework at Council of Europe level include a specific liability regime in relation to AI applications?	Yes
44. If yes, what aspects should be covered?	Selon l'analyse du Conseil national des barreaux, l'un des points spécifiques à inclure dans le régime de responsabilité applicable à l'IA concerne la définition de la personne qui pourra engager sa responsabilité si un dommage est subi par une personne concernée. Comme indiqué précédemment, le Conseil national des barreaux considère que l'usage des applications d'IA est susceptible d'avoir un impact potentiellement dangereux sur les droits et libertés fondamentaux. Il n'est pas exclu que des personnes subissent un dommage du fait d'une défectuosité de l'algorithme, du choix des données d'apprentissage ou de l'interprétation des résultats par une personne humaine. Dans toutes ces hypothèses, plusieurs

	responsabilités pourraient être retenues : celle du concepteur d'abord, à savoir la personne définit sa logique décisionnelle, celle du producteur, à savoir la personne Qui est responsable ? Auteur de l'algorithme Développeur de l'algorithme Producteur de l'algorithme Utilisateur de l'algorithme. Insister sur ce point. Tesla Musk a sauvé une vie. Ajouter une phrase : meilleure responsabilité dans ces outils renforcerait la confiance des usagers => et donc meilleure utilisation.
45. In your opinion, how useful would the following compliance mechanisms be in preventing and mitigating the risks to human rights, democracy and the rule of law arising from the design, development and application of AI? - **Human rights, democracy and rule of law impact assessments** - **Certification and quality labelling** - **Audits and intersectional audits** - **Regulatory sandboxes** **Continuous automated monitoring**	Highly useful Rather useful Rather useful Indifferent/no opinion Rather useful
46. Please indicate what combination of mechanisms should be preferred to efficiently protect human rights, democracy and the rule of law **46bis. Other**	• Human rights, democracy and rule of law impact assessments ;• Audits and intersectional audits;Continuous automated monitoring;
47. Please select which mechanism(s) should be part of either a binding instrument or a non-binding instrument to best protect human rights, democracy and the rule of law. - **Human rights, democracy and rule of law impact assessments** - **Certification and quality labelling** - **Audits and intersectional audits** - **Regulatory sandboxes** **Continuous automated monitoring**	Binding instrument Binding instrument Binding instrument No opinion Binding instrument
47.bis. Other	N/A

48. In your opinion, how useful would the following follow-up activities be if implemented by the Council of Europe? - **Monitoring of AI legislation and policies in member States** - **Capacity building on Council of Europe instruments, including assistance to facilitate ratification and implementation of relevant Council of Europe instruments** - **AI Observatory for sharing good practices and exchanging information on legal, policy and technological developments related to AI systems** **Establishing a centre of expertise on AI and human rights**	Highly useful Highly useful Highly useful Highly useful
49. What other mechanisms, if any, should be considered?	Position CNB IA Libre blanc
50. Are there any other issues with respect to the design, development and application of AI systems in the context of human rights, democracy and the rule of law that you wish to bring to the attention of the CAHAI?	Reprendre toute l'argumentation IA Justice.
Date of submission	5/17/21 21:51:29

Council of Bars and Law Societies of Europe (CCBE)

State (where your institution is based)	**Belgique**
Institution: Name of the institution/body/company	Council of Bars and Law Societies of Europe (CCBE)
Personal capacity: Your socio-professional category	Intermediate occupations
Your stakeholder group	Private business sector
2. In view of the elaboration of a legal framework on the design, development and application of AI, based on the standards of the Council of Europe on human rights, democracy and the rule of law, what kind of definition of artificial intelligence (AI) should be considered by the CAHAI	A technologically-neutral and simplified definition, such as "a set of sciences, theories and tech-niques whose purpose is to reproduce by a machine the cognitive abilities of a human being" (See the CAHAI feasibility study, §5)

2bis. If "other" please explain below	
3. What are the reasons for your preference?	There is no certainty about the abilities of AI in the future. A technologically-neutral definition encompasses its general attributes. Therefore, choosing this kind of definition allows to have specific laws for AI systems regardless its possible evolution. Furthermore, the CCBE stresses that having different definitions of AI in several European instruments will lead to controversy debates and may not be unenforceable. Furthermore, the definition chosen can be completed because AI has different abilities which are not represented in this definition. For example, AI is capable of performing complex tasks as long as they are based on predetermined rules and standards. Any definition should take into account existing or proposed definition, such as the one presented by the European Commission in the proposal for a regulation on a European Framework for Artificial Intelligence. The CCBE agrees that it is necessary to provide a clear definition of AI for the purposes of the prospective legal framework. The CCBE considers that the need for a tailored approach should also be emphasized, stressing that, whereas some general safeguards may be applicable to all AI tools, it is necessary to establish specific precautions for high risk sectors such as the area of justice. The CCBE is concerned that an exercise of categorising risk as "high" or "low" on the basis of abstract criteria is too simplistic and will lead to structurally defective regulation. It is not appropriate to give the same legal treatment to things which are technically different, for example, artificial intelligence, the internet of things and other digital technologies, even although they sometimes share common features. A more targeted approach is called for.
4. Please select the areas in which AI systems offer the most promising opportunities for the protection of human rights, democracy and the rule of law	Justice;
4bis. If other, which areas and why?	
5. Please indicate which of the following AI system applications in your view have the greatest potential to enhance/protect human rights, democracy and the rule of law?	• AI applications to promote gender equality (e.g. analytical tools);
6. Please briefly explain how such applications would benefit human rights, democracy and the rule of law.	There are potential benefits to the use of AI systems in the field of justice. For many lower value civil disputes, where professional assistance may not be sought, or where legal aid is not available, there may be benefits to the development of smart personal assistants. An example of this approach may be interactive help in the claim submission process, particularly as more types of civil dispute can be raised online. AI systems may also improve the accessibility of court and other proceedings, through the use of live close captioning, interpretation and translation. These are features currently available, for instance, in some videoconferencing platforms, though the accuracy of such services currently may not be optimal.

7. **What other applications might contribute significantly to strengthening human rights, democracy and the rule of law?**	N/A
8. **Please select the areas in which the deployment of AI systems poses the highest risk of violating human rights, democracy and the rule of law** **8bis. Other**	• Justice;• Law enforcement;• Customs and border control;
9. **Please briefly explain how such applications might violate human rights, democracy and the rule of law.**	From the CCBE's point of view, the right to a fair trial is a key point of concern. While issues pertaining to the use of AI in court and in criminal proceedings will be identified below, also a right to a human judge is part of the right to a fair trial. Besides, potential bias of the data sets which AI uses to learn is also a clear example of an issue affecting the fairness of a trial. AI systems do not understand the entire context of our complex societies. Their input data is the only context in which they operate and if the data provided to train AI is incomplete or include (even non-intentional) bias, then the output of AI can be expected to be incomplete and biased as well. Also, at the current development stage, AI systems often lack transparency in their conclusions. They lack explainability, i.e. the ability to explain both the technical processes of an AI system and the related human decisions (e.g. application areas of a system). Therefore, humans do not understand or have doubts regarding how AI systems reach conclusions. These conclusions can be harmless in ordinary use, but when used before a court, the conclusions may interfere with the fairness of the proceedings. The right to freedom of expression and information may be affected as well – AI will allow for more scrutiny and control of the way in which people can express themselves both online and offline. While positive uses can be seen when fighting against hate speech and fake news, the line between the beneficial use of AI and its misuse appears to be tenuous. Similarly, the right to freedom of assembly and association comes into consideration when using AI to identify participants of assemblies, protests or of any other large gathering. While useful in some situations to protect public order, such tools can easily be misused against political opponents. Systems capable of automated recognition of individuals (face or movement recognition) and analysis of their behaviour are already available. It may well be that these tools will influence the participation of people in assemblies, thus tempering the right to freedom of assembly and association. The right to a protected life, in the context of smart weapons and algorithmically operated drones will also be affected by AI. The right to protection against discrimination may be inflicted when employers use AI to automate parts of employee recruiting processes. Even today, systems capable of preselection of workplace candidates are available. AI lives on data and its ability to work with the data and combine them is immense. The right to privacy and data protection is therefore clearly at stake. Democratic principles and the rule of law are closely linked to human rights as they complement each other. When noting the right to privacy, gathering of information from people's social

	networks profiles on their political and then (mis)using them to affect voting preferences and elections, not only tampers with the right to privacy, but also may be considered as an interference with one of the principles of democratic society and has a direct impact on public order. Some of the police forces' work in the prevention of crimes – including all forms of technical surveillance such as intercepting, collecting and analysing data and analysis of physical evidence (DNA samples, cybercrime, witness statements, …) – can potentially be technically supported by the use of AI. This also gives rise to various issues; for example, inherent bias in tools used for predicting crime or assessing the risk of re-offending and tools like facial recognition technology being inaccurate at identifying people of different races. Such forms of discrimination pose a threat to civil rights. Additionally, the use of AI in the field of digital forensic work and re-offence risk assessment faces challenges, given that the specific ways the algorithms work is usually not disclosed to the persons affected by the result of their use.
10. Please indicate the types of AI systems that represent the greatest risk to human rights, democracy and the rule of law	Facial recognition supporting law enforcement ;• AI applications to prevent the commission of a criminal offence;AI applications aimed at predicting recidivism ;
11. Please briefly explain how such applications might violate human rights, democracy and the rule of law.	As regards the use of facial recognition and other technical surveillance measures (Biometric identification systems), especially in publicly accessible spaces, the CCBE considers that such systems tend to have serious flaws that endanger civil rights. It has been proven in multiple studies to be inaccurate at identifying people of different races. Also, there are grave concerns that the trigger words which are used by national security agencies are not sufficiently refined and thus the phone conversations of millions of people are monitored without a legal basis. Further, the widespread use of Biometric identification systems may pose severe risks for an open and pluralistic society if not used proportionately with a proportionate intended aim such as ensuring public safety. In many situations, anonymity is the most important safeguard of freedom, and Biometric identification techniques that cover major areas in the public space endanger this freedom. The more accurate they are and the more widespread their use, the more dangerous they become.
12. What other applications might represent a significant risk to human rights, democracy and the rule of law?	N/A
13. In your opinion, should the development, deployment and use of AI systems that have been proven to violate human rights or undermine democracy or the rule of law be **13bis. Other**	Banned
14. In your opinion, should the development, deployment and use of AI systems that pose high risks with high probability to human rights, democracy and the rule of law be:	Regulated (binding law)

15. In your opinion, should the development, deployment and use of AI systems that pose low risks with high probability to human rights, democracy and the rule of law be:	Regulated (binding law)
16. In your opinion, should the development, deployment and use of AI systems that pose high risks with low probability to human rights, democracy and the rule of law be:	Regulated (binding law)
17. What are the most important legal principles, rights and interests that need to be addressed and therefore justify regulating the development, deployment and use of AI systems?	Respect for human dignity;Freedom of expression, assembly and association;• Non-discrimination;• Transparency;• Possibility to challenge a decision made by an AI system and access to an effective remedy;
18. In your opinion, in what sectors/areas is a binding legal instrument needed to protect human rights, democracy and the rule of law? **18bis. Other**	Justice;Law enforcement;Customs and border control;
19. Self-regulation by companies is more efficient than government regulation to prevent and mitigate the risk of violations of human rights, democracy and the rule of law.	I completely disagree
20. Self-regulation by companies is sufficient to prevent and mitigate the risk of violations of human rights, democracy and the rule of law	I completely disagree
21. Which of the following instruments of self-regulation do you consider to be the most efficient? **21bis. Other**	Ethics guidelines
22. Existing international, regional and/or national binding and/or non-binding legal instruments are sufficient to regulate AI systems in order to ensure the protection of human rights, democracy and the rule of law.	I completely disagree
23. Please provide examples of existing international, regional and/or national (binding and/or non-binding) instruments that in your view are effective in guiding and regulating the design, development and use of AI systems to ensure compatibility with the standards for human rights, democracy and the rule of law	N/A

24. If you responded disagree/completely disagree to question 22, please indicate why existing international, regional and/or national (binding and/or non-binding) legal instruments are not sufficient to regulate AI systems (select all you agree with):	There are too many and they are difficult to interpret and apply in the context of AI;• They provide a basis but fail to provide an effective substantive protection of human rights, democracy and the rule of law against the risks posed by AI systems;• They lack specific principles for the design, development and application of AI systems;• They do not provide enough guidance to the designers, developers and deployers of AI systems;
25. Please indicate other specific legal gaps that in your view need to be addressed at the level of the Council of Europe	The CCBE considers that the following mandatory requirements are important for the establishment of a future regulatory framework for AI: • The quality of training data sets • The keeping of records and data • Information on the purpose and the nature of AI systems • Robustness and accuracy of AI systems • Human oversight • Clear liability and safety rules In addition, the CCBE also stresses that the requirement of explainability is of particular importance for the justice environment, i.e. the ability to explain both the technical processes of an AI system and the related human decisions. Regarding the fields concerned, for some areas there might be a need for new legislation, whereas for others not, or only further clarifications are needed as to how existing rules apply to new circumstances resulting from the use of AI.
26. Individuals should always be informed when they interact with an AI system in any circumstances.	I rather agree
27. Individuals should always be informed when a decision which affects them personally is made by an AI system.	I fully agree
28. Individuals should always be informed when an AI system is used in a decision-making process which affects them personally.	I fully agree
29. Individuals should have a right to a meaningful explanation of algorithmic based decisions, in particular how the algorithm reached its output.	I fully agree
30. Individuals should always have the right that any decision taken by an AI system in the framework of judicial proceedings are reviewed by a "human" judge.	I fully agree
31. Individuals should have a right to demand the review of an algorithmic based decision by a human being.	I fully agree
32. There should always be a person responsible for reviewing algorithmic based decisions in the public sector and private companies.	I rather agree

33. **Public institutions should not use AI systems to promote or discredit a particular way of life or opinion (e.g. "social scoring").**	I fully agree
34. **States should be obliged to design, develop and apply sustainable AI systems that respect applicable environmental protection standards.**	I fully agree
35. **The code behind AI systems used in the public and private sectors should always be accessible to the competent public authorities for the purposes of external audit.**	I fully agree
36. **There should be higher transparency standards for public entities using AI than for private entities.**	I fully agree
37. **There should be higher standards for access to an effective remedy for individuals in relation to decisions informed and made by an AI system in the field of justice than in the field of consumer protection.**	I fully agree
38. **Member States should establish public oversight mechanisms for AI systems that may breach legally binding norms in the sphere of human rights, democracy and the rule of law.**	I fully agree
39. **Errors and flaws discovered in AI systems which have led or could lead to the violation of human rights, democracy and the rule of law must be reported to the competent authorities.**	I fully agree
40. **The use of facial recognition in public spaces should be prohibited.**	I fully agree
41. **The information obtained through the use of facial recognition systems should always be reviewed by a human being before being used for purposes that have an impact on individual freedom, such as in relation to a person boarding an airplane, upon police arrest or in the framework of judicial proceedings.**	I fully agree
42. **The use of AI systems in democratic processes (e.g. elections) should be strictly regulated.**	I fully agree

43. **Should a future legal framework at Council of Europe level include a specific liability regime in relation to AI applications?**	Yes
44. **If yes, what aspects should be covered?**	The notion of "fault" and "liability" might struggle to find its place in this new environment as an AI system may cause damage as a consequence of its own autonomous actions determined by data and algorithms, without any "defect" in the traditional sense. In this regard, issues regarding the burden of proof, strict liability and product liability will all need to be reconsidered to a certain extent. In order to avoid a responsibility gap, the most reasonable way forward in civil liability might be, at least for the time being, that strict liability (with reconsidered defences and statutory exceptions) and liability based on fault should continue to coexist.
45. **In your opinion, how useful would the following compliance mechanisms be in preventing and mitigating the risks to human rights, democracy and the rule of law arising from the design, development and application of AI?** - **Human rights, democracy and rule of law impact assessments** - **Certification and quality labelling** - **Audits and intersectional audits** - **Regulatory sandboxes** **Continuous automated monitoring**	Highly useful Highly useful Highly useful Highly useful Indifferent/no opinion
46. **Please indicate what combination of mechanisms should be preferred to efficiently protect human rights, democracy and the rule of law** **46bis. Other**	• Human rights, democracy and rule of law impact assessments ;• Audits and intersectional audits;• Regulatory sandboxes;
47. **Please select which mechanism(s) should be part of either a binding instrument or a non-binding instrument to best protect human rights, democracy and the rule of law.** - **Human rights, democracy and rule of law impact assessments** - **Certification and quality labelling** - **Audits and intersectional audits** - **Regulatory sandboxes** **Continuous automated monitoring**	Binding instrument Non-binding instrument Binding instrument Binding instrument Non-binding instrument
47.bis. Other	The CCBE considers that interaction amongst all sectors, private and public, is essential for ensuring that the ethical values that guide the various actors are designed into the AI systems themselves. Lawyers need to be provided with access to testing and reference facilities to be able to fully exercise their role and

337

	responsibilities in ensuring the proper deployment and review of AI tools.
48. In your opinion, how useful would the following follow-up activities be if implemented by the Council of Europe? - **Monitoring of AI legislation and policies in member States** - **Capacity building on Council of Europe instruments, including assistance to facilitate ratification and implementation of relevant Council of Europe instruments** - **AI Observatory for sharing good practices and exchanging information on legal, policy and technological developments related to AI systems** **Establishing a centre of expertise on AI and human rights**	Highly useful Indifferent/no opinion Highly useful Indifferent/no opinion
49. What other mechanisms, if any, should be considered?	The creation of specific ethics committee regarding the use of AI. Furthermore, the CCBE is calling for the creation of a high level expert group in the field of justice, gathering all actors of our justice systems (judges, lawyers, judicial staffs, clercs, bailiffs, ...) in order to monitore the impact of the digitalisation of justice.
50. Are there any other issues with respect to the design, development and application of AI systems in the context of human rights, democracy and the rule of law that you wish to bring to the attention of the CAHAI?	The use of Artificial Intelligence raises many questions, especially with regard to fundamental rights and the rule of law, and thus constitutes a real challenge for both judicial institutions and lawyers. When considering the different possible uses of AI in the judicial process, its introduction within court systems could undermine many of the foundations on which justice is based, as the CCBE stressed in its response on the European Commission's Whiter Paper on Artificial Intelligence. Much debate is still needed to critically assess what role, if any, AI tools should play in our justice systems. Change should be embraced where it improves or at least does not worsen the quality of our justice systems. However, fundamental rights and adherence to ethical standards that underpin institutions based on the rule of law, cannot be subordinated to mere efficiency gains or cost-saving benefits, whether for court users or judicial authorities. Also, AI systems should be introduced only when there are sufficient safeguards against any form of bias or discrimination. Any deployment of such tools should therefore be strictly regulated and be preceded by in-depth evaluation and impact assessments with the involvement of all relevant actors and stakeholders. Therefore, it is important that, if deployed, AI tools are properly adapted to the justice environment, taking into account the principles and procedural architecture underpinning judicial proceedings. Before AI tools (or any kind of automated decision-making tools) are implemented in judicial systems, the CCBE considers that a set of rules and principles governing the use of AI must be defined and adopted. The European Commission underlines that the final decision-making must remain a human-driven activity and decision. While the CCBE welcomes this statement in general, the approach needs

	to be strengthened. Any tendency that AI-made judgements are purely signed off by a judge has to be avoided. Such a risk is real at a time when budgetary constraints increasingly weigh on the judicial system. The CCBE calls on the Commission to further underline the right to a human judge in their actions and accordingly foresee explicit safeguards. In addition, the following minimum safeguards and principles should be upheld to counter the potential risks and impact of AI tools within court systems: • The possibility to identify the use of AI (Principle of identification): all parties involved in a judicial process should always be able to identify, prior to and within a judicial decision, the elements resulting from the implementation of an AI tool. • Non-delegation of the judge's decision-making power (Principle of non-delegation): under no circumstances should the judge delegate all or part of his/her decision-making power to an AI tool. In any case, a right to a human judge should be guaranteed at any stage of the proceedings. • The possibility for the parties to verify the data input and reasoning of the AI tool (Principle of transparency). • The possibility for the parties to discuss and contest AI outcomes (Principle of discussion) in an adversarial manner outside the deliberation phase and with a reasonable timeframe. • The neutrality and objectivity of AI tools (Principle of neutrality) used by the judicial system should be guaranteed and verifiable.
Date of submission	5/7/21 16:56:25

Council of Europe - European Commission against Racism and Intolerance (ECRI)

State (where your institution is based)	**Strasbourg, France**
Institution: Name of the institution/body/company	Council of Europe - European Commission against Racism and Intolerance (ECRI)
Personal capacity: Your socio-professional category	Intermediate occupations
Your stakeholder group	Government & public administration
2. In view of the elaboration of a legal framework on the design, development and application of AI, based on the standards of the Council of Europe on human rights, democracy and the rule of law, what kind of definition of artificial intelligence (AI) should be considered by the CAHAI	A technologically-neutral and simplified definition, such as "a set of sciences, theories and tech-niques whose purpose is to reproduce by a machine the cognitive abilities of a human being" (See the CAHAI feasibility study, §5)
2bis. If "other" please explain below	

3. What are the reasons for your preference?	In view of rapid change in AI systems and their development and deployment, a technologically-neutral, simplified and flexible definitions are more useful since they would allow for their "reinterpretation" when new issues appear and hence, offer more durable understanding of concepts.
4. Please select the areas in which AI systems offer the most promising opportunities for the protection of human rights, democracy and the rule of law	• Healthcare;• Public administration;Social networks/media, internet intermediaries ;
4bis. If other, which areas and why?	
5. Please indicate which of the following AI system applications in your view have the greatest potential to enhance/protect human rights, democracy and the rule of law?	• Medical applications for faster and more accurate diagnoses;• Deep fakes and cheap fakes;• AI applications providing support to the healthcare system (triage, treatment delivery);• AI applications used for analysing the performance of pupils/students in educational institutions such as schools and universities;
6. Please briefly explain how such applications would benefit human rights, democracy and the rule of law.	These applications can facilitate access to rights and services in key areas of life such as health and education. While their use holds risks with respect to ensuring the principle of non-discrimination, under certain circumstances and in some areas, using AI tools can positively contribute by reducing bias and stereotyping. They may produce results that could dispel prejudicial attitudes.
7. What other applications might contribute significantly to strengthening human rights, democracy and the rule of law?	Applications that are developed to detect online hate speech might contribute to this effect.
8. Please select the areas in which the deployment of AI systems poses the highest risk of violating human rights, democracy and the rule of law 8bis. Other	• Law enforcement;• Welfare;• Employment;
9. Please briefly explain how such applications might violate human rights, democracy and the rule of law.	Often, the quality of the data and biases within it are the source of potential discrimination and unfair treatment.
10. Please indicate the types of AI systems that represent the greatest risk to human rights, democracy and the rule of law	Facial recognition supporting law enforcement ;Scoring / scoring of individuals by public entities;• AI applications to prevent the commission of a criminal offence;• AI applications determining the allocation of educational services;• AI applications determining the allocation of social services;
11. Please briefly explain how such applications might violate human rights, democracy and the rule of law.	Most of the above-listed applications pose problems with regards to equality and non-discrimination. Some variables used in AI modelling can be proxies for "race", ethnicity, gender and other protected categories. The complexity of the algorithms makes it harder to identify and remove such biases.
12. What other applications might represent a significant risk to human rights, democracy and the rule of law?	No opinion
13. In your opinion, should the development, deployment and use of AI systems that have been proven to violate human rights or	Should be strongly regulated and be closely monitored. Must also be subject to human rights impact assessment before their deployment.

undermine democracy or the rule of law be **13bis. Other**	
14. In your opinion, should the development, deployment and use of AI systems that pose high risks with high probability to human rights, democracy and the rule of law be:	Regulated (binding law)
15. In your opinion, should the development, deployment and use of AI systems that pose low risks with high probability to human rights, democracy and the rule of law be:	Regulated (binding law)
16. In your opinion, should the development, deployment and use of AI systems that pose high risks with low probability to human rights, democracy and the rule of law be:	Regulated (binding law)
17. What are the most important legal principles, rights and interests that need to be addressed and therefore justify regulating the development, deployment and use of AI systems?	Respect for human dignity;Equality;• Non-discrimination;• Transparency;• Explainability;
18. In your opinion, in what sectors/areas is a binding legal instrument needed to protect human rights, democracy and the rule of law? **18bis. Other**	Justice;Law enforcement;Employment;
19. Self-regulation by companies is more efficient than government regulation to prevent and mitigate the risk of violations of human rights, democracy and the rule of law.	I completely disagree
20. Self-regulation by companies is sufficient to prevent and mitigate the risk of violations of human rights, democracy and the rule of law	I completely disagree
21. Which of the following instruments of self-regulation do you consider to be the most efficient? **21bis. Other**	Ethics charters with independent complaint mechanisms and strong enforcement mechanisms, such as penalties.
22. Existing international, regional and/or national binding and/or non-binding legal instruments are sufficient to regulate AI systems in order to ensure the protection of human rights, democracy and the rule of law.	I rather disagree

23. Please provide examples of existing international, regional and/or national (binding and/or non-binding) instruments that in your view are effective in guiding and regulating the design, development and use of AI systems to ensure compatibility with the standards for human rights, democracy and the rule of law	The EU General Data Protection Regulation (GDPR) is a source of inspiration.
24. If you responded disagree/completely disagree to question 22, please indicate why existing international, regional and/or national (binding and/or non-binding) legal instruments are not sufficient to regulate AI systems (select all you agree with):	• They provide a basis but fail to provide an effective substantive protection of human rights, democracy and the rule of law against the risks posed by AI systems;• They lack specific principles for the design, development and application of AI systems;• They do not provide enough guidance to the designers, developers and deployers of AI systems;
25. Please indicate other specific legal gaps that in your view need to be addressed at the level of the Council of Europe	Reversal of the burden of proof in cases of discrimination.
26. Individuals should always be informed when they interact with an AI system in any circumstances.	I fully agree
27. Individuals should always be informed when a decision which affects them personally is made by an AI system.	I fully agree
28. Individuals should always be informed when an AI system is used in a decision-making process which affects them personally.	I fully agree
29. Individuals should have a right to a meaningful explanation of algorithmic based decisions, in particular how the algorithm reached its output.	I fully agree
30. Individuals should always have the right that any decision taken by an AI system in the framework of judicial proceedings are reviewed by a "human" judge.	I fully agree
31. Individuals should have a right to demand the review of an algorithmic based decision by a human being.	I fully agree
32. There should always be a person responsible for reviewing algorithmic based decisions in the public sector and private companies.	I fully agree
33. Public institutions should not use AI systems to promote or discredit a particular way of life or	I fully agree

opinion (e.g. "social scoring").	
34. States should be obliged to design, develop and apply sustainable AI systems that respect applicable environmental protection standards.	Indifferent/no opinion
35. The code behind AI systems used in the public and private sectors should always be accessible to the competent public authorities for the purposes of external audit.	I fully agree
36. There should be higher transparency standards for public entities using AI than for private entities.	I completely disagree
37. There should be higher standards for access to an effective remedy for individuals in relation to decisions informed and made by an AI system in the field of justice than in the field of consumer protection.	I fully agree
38. Member States should establish public oversight mechanisms for AI systems that may breach legally binding norms in the sphere of human rights, democracy and the rule of law.	I fully agree
39. Errors and flaws discovered in AI systems which have led or could lead to the violation of human rights, democracy and the rule of law must be reported to the competent authorities.	I fully agree
40. The use of facial recognition in public spaces should be prohibited.	I rather agree
41. The information obtained through the use of facial recognition systems should always be reviewed by a human being before being used for purposes that have an impact on individual freedom, such as in relation to a person boarding an airplane, upon police arrest or in the framework of judicial proceedings.	I fully agree
42. The use of AI systems in democratic processes (e.g. elections) should be strictly regulated.	Indifferent/no opinion
43. Should a future legal framework at Council of Europe level include a specific liability	No opinion

regime in relation to AI applications?	
44. If yes, what aspects should be covered?	
45. In your opinion, how useful would the following compliance mechanisms be in preventing and mitigating the risks to human rights, democracy and the rule of law arising from the design, development and application of AI? - **Human rights, democracy and rule of law impact assessments** - **Certification and quality labelling** - **Audits and intersectional audits** - **Regulatory sandboxes** **Continuous automated monitoring**	Highly useful Rather useful Highly useful Indifferent/no opinion Rather useful
46. Please indicate what combination of mechanisms should be preferred to efficiently protect human rights, democracy and the rule of law **46bis. Other**	• Human rights, democracy and rule of law impact assessments ;• Certification and quality labelling;• Audits and intersectional audits;
47. Please select which mechanism(s) should be part of either a binding instrument or a non-binding instrument to best protect human rights, democracy and the rule of law. - **Human rights, democracy and rule of law impact assessments** - **Certification and quality labelling** - **Audits and intersectional audits** - **Regulatory sandboxes** **Continuous automated monitoring**	Binding instrument Binding instrument Binding instrument No opinion Binding instrument
47.bis. Other	
48. In your opinion, how useful would the following follow-up activities be if implemented by the Council of Europe? - **Monitoring of AI legislation and policies in member States** - **Capacity building on Council of Europe instruments, including assistance to facilitate ratification and**	Highly useful Highly useful Rather useful Highly useful

implementation of relevant Council of Europe instruments - **AI Observatory for sharing good practices and exchanging information on legal, policy and technological developments related to AI systems** **Establishing a centre of expertise on AI and human rights**	
49. What other mechanisms, if any, should be considered?	Education of business actors, designers of AI in particular, is critically important in raising awareness about issues of non-discrimination and inequality. In addition, equality bodies should also be equipped with knowledge on AI and perceived risks in order to be able to carry out investigations into AI-driven discrimination.
50. Are there any other issues with respect to the design, development and application of AI systems in the context of human rights, democracy and the rule of law that you wish to bring to the attention of the CAHAI?	
Date of submission	5/6/21 9:27:49

Creme Global

State (where your institution is based)	Ireland
Institution: Name of the institution/body/company	Creme Global
Personal capacity: Your socio-professional category	Higher occupations
Your stakeholder group	Private business sector
2. In view of the elaboration of a legal framework on the design, development and application of AI, based on the standards of the Council of Europe on human rights, democracy and the rule of law, what kind of definition of artificial intelligence (AI) should be considered by the CAHAI	A definition focusing on machine learning systems
2bis. If "other" please explain below	
3. What are the reasons for your preference?	Most appropriate from a technical point of view in my opinion.
4. Please select the areas in which AI systems offer the most	• Employment;• Environment and climate;Banking, finance and insurance;

promising opportunities for the protection of human rights, democracy and the rule of law	
4bis. If other, which areas and why?	
5. Please indicate which of the following AI system applications in your view have the greatest potential to enhance/protect human rights, democracy and the rule of law?	• Smart personal assistants (connected devices);• Medical applications for faster and more accurate diagnoses;• Automated fraud detection (banking, insurance);• AI applications providing support to the healthcare system (triage, treatment delivery);• AI applications determining the allocation of educational services;
6. Please briefly explain how such applications would benefit human rights, democracy and the rule of law.	I focussed on applications where there are clear benefits to the end user and which minimised the risk of over reach by government or private organisations.
7. What other applications might contribute significantly to strengthening human rights, democracy and the rule of law?	Not sure, sometimes technologies that protect human rights may not protect rule of law and vice versa.
8. Please select the areas in which the deployment of AI systems poses the highest risk of violating human rights, democracy and the rule of law **8bis. Other**	• Banking, finance and insurance;• Justice;• Law enforcement;•
9. Please briefly explain how such applications might violate human rights, democracy and the rule of law.	These can have high impact on human rights and could result in discrimination and over reach in important areas of our lives.
10. Please indicate the types of AI systems that represent the greatest risk to human rights, democracy and the rule of law	Facial recognition supporting law enforcement ;Scoring / scoring of individuals by public entities;• Deep fakes and cheap fakes;• AI applications to prevent the commission of a criminal offence;• Recruiting software/ AI applications used for assessing work performance ;
11. Please briefly explain how such applications might violate human rights, democracy and the rule of law.	Again, possible over-reach in areas that can disproportionately affect people.
12. What other applications might represent a significant risk to human rights, democracy and the rule of law?	Not sure.
13. In your opinion, should the development, deployment and use of AI systems that have been proven to violate human rights or undermine democracy or the rule of law be **13bis. Other**	Not banned
14. In your opinion, should the development, deployment and use of AI systems that pose high risks with high probability to human rights, democracy and the rule of law be:	Regulated (binding law)
15. In your opinion, should the development, deployment and use of AI systems that pose low risks	Self-regulated (ethics guidelines, voluntary certification)

with high probability to human rights, democracy and the rule of law be:	
16. In your opinion, should the development, deployment and use of AI systems that pose high risks with low probability to human rights, democracy and the rule of law be:	Self-regulated (ethics guidelines, voluntary certification)
17. What are the most important legal principles, rights and interests that need to be addressed and therefore justify regulating the development, deployment and use of AI systems?	Equality;Freedom of expression, assembly and association;• Non-discrimination;Privacy and data protection;Respect for human dignity;•
18. In your opinion, in what sectors/areas is a binding legal instrument needed to protect human rights, democracy and the rule of law? **18bis. Other**	Justice;Law enforcement;Customs and border control;
19. Self-regulation by companies is more efficient than government regulation to prevent and mitigate the risk of violations of human rights, democracy and the rule of law.	I rather agree
20. Self-regulation by companies is sufficient to prevent and mitigate the risk of violations of human rights, democracy and the rule of law	Indifferent/no opinion
21. Which of the following instruments of self-regulation do you consider to be the most efficient? **21bis. Other**	Voluntary certification
22. Existing international, regional and/or national binding and/or non-binding legal instruments are sufficient to regulate AI systems in order to ensure the protection of human rights, democracy and the rule of law.	Indifferent/no opinion
23. Please provide examples of existing international, regional and/or national (binding and/or non-binding) instruments that in your view are effective in guiding and regulating the design, development and use of AI systems to ensure compatibility with the standards for human rights, democracy and the rule of law	Gdpr
24. If you responded disagree/completely disagree to question 22, please indicate why	

existing international, regional and/or national (binding and/or non-binding) legal instruments are not sufficient to regulate AI systems (select all you agree with):	
25. Please indicate other specific legal gaps that in your view need to be addressed at the level of the Council of Europe	
26. Individuals should always be informed when they interact with an AI system in any circumstances.	I completely disagree
27. Individuals should always be informed when a decision which affects them personally is made by an AI system.	I rather agree
28. Individuals should always be informed when an AI system is used in a decision-making process which affects them personally.	I rather agree
29. Individuals should have a right to a meaningful explanation of algorithmic based decisions, in particular how the algorithm reached its output.	I rather agree
30. Individuals should always have the right that any decision taken by an AI system in the framework of judicial proceedings are reviewed by a "human" judge.	I fully agree
31. Individuals should have a right to demand the review of an algorithmic based decision by a human being.	I rather agree
32. There should always be a person responsible for reviewing algorithmic based decisions in the public sector and private companies.	I fully agree
33. Public institutions should not use AI systems to promote or discredit a particular way of life or opinion (e.g. "social scoring").	I fully agree
34. States should be obliged to design, develop and apply sustainable AI systems that respect applicable environmental protection standards.	I rather agree
35. The code behind AI systems used in the public and private sectors should always be accessible to the competent public authorities for the purposes of external audit.	Indifferent/no opinion

36. There should be higher transparency standards for public entities using AI than for private entities.	I fully agree
37. There should be higher standards for access to an effective remedy for individuals in relation to decisions informed and made by an AI system in the field of justice than in the field of consumer protection.	I fully agree
38. Member States should establish public oversight mechanisms for AI systems that may breach legally binding norms in the sphere of human rights, democracy and the rule of law.	I rather agree
39. Errors and flaws discovered in AI systems which have led or could lead to the violation of human rights, democracy and the rule of law must be reported to the competent authorities.	I rather agree
40. The use of facial recognition in public spaces should be prohibited.	I fully agree
41. The information obtained through the use of facial recognition systems should always be reviewed by a human being before being used for purposes that have an impact on individual freedom, such as in relation to a person boarding an airplane, upon police arrest or in the framework of judicial proceedings.	I fully agree
42. The use of AI systems in democratic processes (e.g. elections) should be strictly regulated.	I rather agree
43. Should a future legal framework at Council of Europe level include a specific liability regime in relation to AI applications?	No opinion
44. If yes, what aspects should be covered?	

45. In your opinion, how useful would the following compliance mechanisms be in preventing and mitigating the risks to human rights, democracy and the rule of law arising from the design, development and application of AI? - **Human rights, democracy and rule of law impact assessments** - **Certification and quality labelling** - **Audits and intersectional audits** - **Regulatory sandboxes** **Continuous automated monitoring**	Rather useful Indifferent/no opinion Indifferent/no opinion Rather useful Rather useful
46. Please indicate what combination of mechanisms should be preferred to efficiently protect human rights, democracy and the rule of law **46bis. Other**	• Human rights, democracy and rule of law impact assessments ;• Regulatory sandboxes;• Audits and intersectional audits;
47. Please select which mechanism(s) should be part of either a binding instrument or a non-binding instrument to best protect human rights, democracy and the rule of law. - **Human rights, democracy and rule of law impact assessments** - **Certification and quality labelling** - **Audits and intersectional audits** - **Regulatory sandboxes** **Continuous automated monitoring**	Binding instrument Non-binding instrument Non-binding instrument Non-binding instrument Non-binding instrument
47.bis. Other	
48. In your opinion, how useful would the following follow-up activities be if implemented by the Council of Europe? - **Monitoring of AI legislation and policies in member States** - **Capacity building on Council of Europe instruments, including assistance to facilitate ratification and implementation of relevant Council of Europe instruments** - **AI Observatory for sharing good practices and exchanging information on legal, policy and technological**	Rather useful Rather useful Rather useful Rather useful

developments related to AI systems **Establishing a centre of expertise on AI and human rights**	
49. What other mechanisms, if any, should be considered?	
50. Are there any other issues with respect to the design, development and application of AI systems in the context of human rights, democracy and the rule of law that you wish to bring to the attention of the CAHAI?	
Date of submission	4/15/21 11:11:06

Danish Institute for Human Rights

State (where your institution is based)	**Denmark**
Institution: Name of the institution/body/company	Danish Institute for Human Rights
Personal capacity: Your socio-professional category	Intermediate occupations
Your stakeholder group	Civil society
2. In view of the elaboration of a legal framework on the design, development and application of AI, based on the standards of the Council of Europe on human rights, democracy and the rule of law, what kind of definition of artificial intelligence (AI) should be considered by the CAHAI	A definition focusing on automated decision-making
2bis. If "other" please explain below	
3. What are the reasons for your preference?	It provides sufficient clarity for the convention to be able to address the risk with the technology.
4. Please select the areas in which AI systems offer the most promising opportunities for the protection of human rights, democracy and the rule of law	• Healthcare;• Environment and climate;• Public administration;

351

4bis. If other, which areas and why?	
5. Please indicate which of the following AI system applications in your view have the greatest potential to enhance/protect human rights, democracy and the rule of law?	• Medical applications for faster and more accurate diagnoses;• AI applications to predict the possible evolution of climate change and/or natural disasters;• AI applications to promote gender equality (e.g. analytical tools);• AI applications determining the allocation of educational services;
6. Please briefly explain how such applications would benefit human rights, democracy and the rule of law.	Provided that additional safeguards are taken, and that these systems are developed by putting human rights in the center of the development (which is rarely the case today), the selected areas appear to have a lower risk of exacerbating existing power imbalances in our societies that result in, among others, growing economic and social inequalities. The use of AI systems in a few limited sectors can arguably contribute to closing or limiting these imbalances. That being said, there are no systems that only present opportunities or risks from a binary perspective, but instead systems that provide different opportunities or risks depending on the targeted population, context and situation in which they are deployed. As such, it's important to consider first who will benefit from these systems (specifically, which demographic groups and/or sectors) and who will be harmed? Who might not even be considered or included? Second, is the root cause of a (social, economic, political or other) issue effectively being addressed by deploying the AI system, or are we merely offering performative and superficial solutions?
7. What other applications might contribute significantly to strengthening human rights, democracy and the rule of law?	More efficient information gathering, data accumulation and storage might contribute to more informed decision making and access to information

Ability of working with big data might contribute to more in depth understanding of root causes of inequalities, social vulnerability, marginalisation of certain groups etc.

User driven data collection/tracing allow for "usually invisible groups" to become visible; become empowered to make their voices heard

If designed properly, AI solutions can help police avoid ethnic (or other) profiling

If designed properly, AI solutions can help with early detection and prevention of abuse and/or home-based violence

Accessibility of information might contribute to empowerment of rights-holders and enhance their ability to claim their rights

E-justice systems might contribute to more effective access to remedy and access to justice |
| **8. Please select the areas in which the deployment of AI systems poses the highest risk of violating human rights, democracy and the rule of law**
8bis. Other | • Justice;• Law enforcement;• National security and counter-terrorism; |
| **9. Please briefly explain how such applications might violate human rights, democracy and the rule of law.** | The use of AI systems risks further exacerbate existing racial and ethnic, gender, and social and economic inequalities (among others). Given the severe impacts that judicial systems, law enforcement (including national security and counter-terrorism) and |

	national security and counter-terrorism have on human rights institutional discrimination, any AI systems deployed in these sectors have the potential to cause great harm. This is especially worrisome given the institutional racism and other forms of discrimination that shape our social and political systems. Many of the policies and practices that are already entrenched with racial biases and often target already vulnerable and marginalised groups, will be coded into AI systems. This will make processes and the outcomes even more opaque, while falsely appearing to be 'objective'.
	Mass surveillance systems, such as facial recognition and other indiscriminate biometric surveillance tools, are fundamentally incompatible with human rights. These symptoms severely impact people's right to privacy, non-discrimination, freedom of expression, assembly and association, human dignity and life, liberty and security, among others. Human rights defenders, activists, journalists and political dissidents are particularly at risk. AI-driven surveillance technologies have also been used to track, surveil and at times arrest, detail and deport refugees and migrants. Algorithmic risk assessment tools or predictive policing, which are also biased against racial and ethnic minorities, lead to increased incarceration of those same individuals.
	Having no red lines and/or binding regulation and meaningful oversight of these applications will most likely result in further deterioration of human rights, putting individuals (especially vulnerable groups) at risk of significant harm thus eroding the core principles of democracy and rule of law. Yet these systems are often developed and deployed without including marginalised groups in the process.
10. Please indicate the types of AI systems that represent the greatest risk to human rights, democracy and the rule of law	Facial recognition supporting law enforcement ;Scoring / scoring of individuals by public entities;• Recruiting software/ AI applications used for assessing work performance ;• AI applications to prevent the commission of a criminal offence;• AI applications determining the allocation of educational services;
11. Please briefly explain how such applications might violate human rights, democracy and the rule of law.	The use of AI systems risks further exacerbate existing racial and ethnic, gender, and social and economic inequalities (among others). When considering potential risks that can arise form AI systems, it is important to begin with a power analysis and focus the risks of AI systems to the most marginalised communities, as they are often disproportionately harmed. AI-driven surveillance technologies in the hands of powerful actors such as judicial bodies or law enforcement officials have the potential to do great harm, with minorities and marginalised groups, human rights defenders, activists and journalists bearing the most significant risk.
	Besides justice, law enforcement, and national security, there are many more than the three areas prioritized above that can adversely impact human rights, democracy and rule of law. The use of AI systems in welfare systems and public service delivery, for example, is particularly problematic as it can lock out/stigmatize/etc the most vulnerable people. These systems have often been used to criminalize poor individuals/individuals from and lower socio-economic status by surveilling, targeting, harassing, and punishing beneficiaries. Promoted as tools to fight against fraud testing or to optimize distribution, there are many examples where AI systems have instead exacerbated socioeconomic inequalities and impacted people's right to housing, food, employment, education, social security and even life.

	The same can be said for the labour market, where power imbalances between employees and employers are already significant, and vulnerable groups may be severely disadvantaged but seemingly "objective" AI tools.
12. What other applications might represent a significant risk to human rights, democracy and the rule of law?	Autonomous weapons; algorithmic-driven risk assessment tools for criminal justice; tracing and information harvesting on social media; systems for electronic elections; biometrics and other bio/medical information harvesting and cross referencing; billing/GPS data accumulation and cross database checks.
13. In your opinion, should the development, deployment and use of AI systems that have been proven to violate human rights or undermine democracy or the rule of law be **13bis. Other**	They might be able to be corrected, but should be banned in case that is not possible.
14. In your opinion, should the development, deployment and use of AI systems that pose high risks with high probability to human rights, democracy and the rule of law be:	Banned
15. In your opinion, should the development, deployment and use of AI systems that pose low risks with high probability to human rights, democracy and the rule of law be:	Regulated (binding law)
16. In your opinion, should the development, deployment and use of AI systems that pose high risks with low probability to human rights, democracy and the rule of law be:	Regulated (binding law)
17. What are the most important legal principles, rights and interests that need to be addressed and therefore justify regulating the development, deployment and use of AI systems?	Respect for human dignity;Equality;Freedom of expression, assembly and association;Privacy and data protection;• Possibility to challenge a decision made by an AI system and access to an effective remedy;
18. In your opinion, in what sectors/areas is a binding legal instrument needed to protect human rights, democracy and the rule of law? **18bis. Other**	Justice;Law enforcement;Public administration;
19. Self-regulation by companies is more efficient than government regulation to prevent and mitigate the risk of violations of human rights, democracy and the rule of law.	I completely disagree
20. Self-regulation by companies is sufficient to prevent and mitigate the risk of violations of human rights, democracy and the rule of law	I completely disagree

21. Which of the following instruments of self-regulation do you consider to be the most efficient? **21bis. Other**	ongoing and transparent human rights due diligence
22. Existing international, regional and/or national binding and/or non-binding legal instruments are sufficient to regulate AI systems in order to ensure the protection of human rights, democracy and the rule of law.	I rather disagree
23. Please provide examples of existing international, regional and/or national (binding and/or non-binding) instruments that in your view are effective in guiding and regulating the design, development and use of AI systems to ensure compatibility with the standards for human rights, democracy and the rule of law	Canada's Algorithmic Impact Assessment tool; Danish Institute for Human Rights' 'Guidance on human rights impact assessment of digital activities'; EU Commission regulation proposal on Artificial Intelligence
24. If you responded disagree/completely disagree to question 22, please indicate why existing international, regional and/or national (binding and/or non-binding) legal instruments are not sufficient to regulate AI systems (select all you agree with):	• They provide a basis but fail to provide an effective substantive protection of human rights, democracy and the rule of law against the risks posed by AI systems;• They lack specific principles for the design, development and application of AI systems;• They do not provide enough guidance to the designers, developers and deployers of AI systems;They do not provide for specific rights (e.g. transparency requirements, redress mechanisms) for persons affected by AI;
25. Please indicate other specific legal gaps that in your view need to be addressed at the level of the Council of Europe	* Requiring public registers documenting the use of AI systems in public spaces and/or by public authorities. * Establishing rigorous transparency requirements for AI designers, developers and end-users. * Banning facial recognition and other indiscriminate or arbitrarily-targeted uses of biometrics, which can lead to unlawful mass surveillance; risk assessment tools for criminal justice and autonomous weapons. * Requiring that private sector companies take measures to respect human rights (e.g. mandatory human rights due diligence laws). This is especially important for AI systems as they are mainly designed, developed(and often deployed by private sector companies.
26. Individuals should always be informed when they interact with an AI system in any circumstances.	I fully agree
27. Individuals should always be informed when a decision which affects them personally is made by an AI system.	I fully agree
28. Individuals should always be informed when an AI system is used in a decision-making process which affects them personally.	I fully agree

29. Individuals should have a right to a meaningful explanation of algorithmic based decisions, in particular how the algorithm reached its output.	I fully agree
30. Individuals should always have the right that any decision taken by an AI system in the framework of judicial proceedings are reviewed by a "human" judge.	I fully agree
31. Individuals should have a right to demand the review of an algorithmic based decision by a human being.	I fully agree
32. There should always be a person responsible for reviewing algorithmic based decisions in the public sector and private companies.	I fully agree
33. Public institutions should not use AI systems to promote or discredit a particular way of life or opinion (e.g. "social scoring").	I fully agree
34. States should be obliged to design, develop and apply sustainable AI systems that respect applicable environmental protection standards.	I rather agree
35. The code behind AI systems used in the public and private sectors should always be accessible to the competent public authorities for the purposes of external audit.	I fully agree
36. There should be higher transparency standards for public entities using AI than for private entities.	I rather agree
37. There should be higher standards for access to an effective remedy for individuals in relation to decisions informed and made by an AI system in the field of justice than in the field of consumer protection.	I fully agree
38. Member States should establish public oversight mechanisms for AI systems that may breach legally binding norms in the sphere of human rights, democracy and the rule of law.	I fully agree
39. Errors and flaws discovered in AI systems which have led or could lead to the violation of human rights, democracy and the rule of law must be reported to the competent authorities.	I rather agree

40. **The use of facial recognition in public spaces should be prohibited.**	I rather agree
41. **The information obtained through the use of facial recognition systems should always be reviewed by a human being before being used for purposes that have an impact on individual freedom, such as in relation to a person boarding an airplane, upon police arrest or in the framework of judicial proceedings.**	Indifferent/no opinion
42. **The use of AI systems in democratic processes (e.g. elections) should be strictly regulated.**	I rather agree
43. **Should a future legal framework at Council of Europe level include a specific liability regime in relation to AI applications?**	Yes
44. **If yes, what aspects should be covered?**	
45. **In your opinion, how useful would the following compliance mechanisms be in preventing and mitigating the risks to human rights, democracy and the rule of law arising from the design, development and application of AI?** - **Human rights, democracy and rule of law impact assessments** - **Certification and quality labelling** - **Audits and intersectional audits** - **Regulatory sandboxes** **Continuous automated monitoring**	Highly useful Rather not useful Rather useful Highly useful Rather useful
46. **Please indicate what combination of mechanisms should be preferred to efficiently protect human rights, democracy and the rule of law** **46bis. Other**	• Human rights, democracy and rule of law impact assessments ;• Audits and intersectional audits;Continuous automated monitoring;

47. Please select which mechanism(s) should be part of either a binding instrument or a non-binding instrument to best protect human rights, democracy and the rule of law. - **Human rights, democracy and rule of law impact assessments** - **Certification and quality labelling** - **Audits and intersectional audits** - **Regulatory sandboxes** **Continuous automated monitoring**	Binding instrument No opinion Non-binding instrument Non-binding instrument Binding instrument
47.bis. Other	
48. In your opinion, how useful would the following follow-up activities be if implemented by the Council of Europe? - **Monitoring of AI legislation and policies in member States** - **Capacity building on Council of Europe instruments, including assistance to facilitate ratification and implementation of relevant Council of Europe instruments** - **AI Observatory for sharing good practices and exchanging information on legal, policy and technological developments related to AI systems** **Establishing a centre of expertise on AI and human rights**	Highly useful Highly useful Indifferent/no opinion Rather useful
49. What other mechanisms, if any, should be considered?	
50. Are there any other issues with respect to the design, development and application of AI systems in the context of human rights, democracy and the rule of law that you wish to bring to the attention of the CAHAI?	That ideally whatever CAHAI does takes into consideration the work on AI from EU Fundamental Rights Agency, the work on Human Rights Impact Assessment of Digital Activities from the Danish Institute for Human Rights; the work from the Human Rights, Big Data and Technology project. Any convention should also fully consider the interplay between this potential convention, the EU Digital Services Act, the GDPR and similar data protection regimes, the EU Commission regulations on AI, and the potential future mandatory human rights due diligence regulation from the EU. All of these instruments (and probably more) will all require some form of impact assessment that implicitly or explicitly looks at human rights. As such, there needs to be policy and regulatory coherence.
Date of submission	5/7/21 15:12:55

Danubius University, Faculty of Law

State (where your institution is based)	**Slovakia**
Institution: Name of the institution/body/company	Danubius University, Faculty of Law
Personal capacity: Your socio-professional category	Higher occupations
Your stakeholder group	Academic and scientific community
2. In view of the elaboration of a legal framework on the design, development and application of AI, based on the standards of the Council of Europe on human rights, democracy and the rule of law, what kind of definition of artificial intelligence (AI) should be considered by the CAHAI	No definition, with a legal instrument focused on the effect of AI systems on human rights, de-mocracy and the rule of law
2bis. If "other" please explain below	
3. What are the reasons for your preference?	A goal of AI as a technology must be to create value for the society and this value can act as a measure of its success. Technology is neither good nor bad; nor is it neutral.
4. Please select the areas in which AI systems offer the most promising opportunities for the protection of human rights, democracy and the rule of law	• Election monitoring;Social networks/media, internet intermediaries ;National security and counter-terrorism;
4bis. If other, which areas and why?	
5. Please indicate which of the following AI system applications in your view have the greatest potential to enhance/protect human rights, democracy and the rule of law?	• Smart personal assistants (connected devices);• AI applications for personalised media content (recommender systems);• AI applications to prevent the commission of a criminal offence (e.g. anti-money laundry AI appli-cations);• Deep fakes and cheap fakes;• Recruiting software/ AI applications used for assessing work performance ;
6. Please briefly explain how such applications would benefit human rights, democracy and the rule of law.	Increased reliance upon AI by governments and the private sector have led to rising concern about potential negative implications for human dignity and democratic accountability We need a global governance framework to address the wide range of challenges associated with AI. This include threats to privacy and/or the right to equal protection and nondiscrimination.
7. What other applications might contribute significantly to strengthening human rights, democracy and the rule of law?	AI In Chatbots, AI In Autonomous Vehicles, AI In Marketing
8. Please select the areas in which the deployment of AI systems poses the highest risk of	• Social networks/media, internet intermediaries ;• Justice;• Election monitoring;

violating human rights, democracy and the rule of law 8bis. Other	
9. Please briefly explain how such applications might violate human rights, democracy and the rule of law.	Using big data together with AI can threaten the right to privacy due to a risk of increased surveillance and monitoring. Malicious bots that produce fake news may cause havoc online.
10. Please indicate the types of AI systems that represent the greatest risk to human rights, democracy and the rule of law	• Deep fakes and cheap fakes;• AI applications to promote gender equality (e.g. analytical tools);• AI applications to prevent the commission of a criminal offence;• AI applications for personalised media content (recommender systems);• Recruiting software/ AI applications used for assessing work performance ;
11. Please briefly explain how such applications might violate human rights, democracy and the rule of law.	See above.
12. What other applications might represent a significant risk to human rights, democracy and the rule of law?	See above.
13. In your opinion, should the development, deployment and use of AI systems that have been proven to violate human rights or undermine democracy or the rule of law be 13bis. Other	Not banned
14. In your opinion, should the development, deployment and use of AI systems that pose high risks with high probability to human rights, democracy and the rule of law be:	Regulated (binding law)
15. In your opinion, should the development, deployment and use of AI systems that pose low risks with high probability to human rights, democracy and the rule of law be:	Regulated (binding law)
16. In your opinion, should the development, deployment and use of AI systems that pose high risks with low probability to human rights, democracy and the rule of law be:	Regulated (binding law)
17. What are the most important legal principles, rights and interests that need to be addressed and therefore justify regulating the development, deployment and use of AI systems?	Political pluralism;Privacy and data protection;• Legal certainty;• Transparency;• Explainability;
18. In your opinion, in what sectors/areas is a binding legal instrument needed to protect human rights, democracy and the rule of law? 18bis. Other	Election monitoring;• Social networks/media, internet intermediaries ;Law enforcement;

19. **Self-regulation by companies is more efficient than government regulation to prevent and mitigate the risk of violations of human rights, democracy and the rule of law.**	I rather agree
20. **Self-regulation by companies is sufficient to prevent and mitigate the risk of violations of human rights, democracy and the rule of law**	Indifferent/no opinion
21. **Which of the following instruments of self-regulation do you consider to be the most efficient?** **21bis. Other**	Ethics guidelines
22. **Existing international, regional and/or national binding and/or non-binding legal instruments are sufficient to regulate AI systems in order to ensure the protection of human rights, democracy and the rule of law.**	I rather agree
23. **Please provide examples of existing international, regional and/or national (binding and/or non-binding) instruments that in your view are effective in guiding and regulating the design, development and use of AI systems to ensure compatibility with the standards for human rights, democracy and the rule of law**	United Nations Law and Policy, Council of Europe
24. **If you responded disagree/completely disagree to question 22, please indicate why existing international, regional and/or national (binding and/or non-binding) legal instruments are not sufficient to regulate AI systems (select all you agree with):**	• They lack specific principles for the design, development and application of AI systems;• They do not provide enough guidance to the designers, developers and deployers of AI systems;They do not provide for specific rights (e.g. transparency requirements, redress mechanisms) for persons affected by AI;
25. **Please indicate other specific legal gaps that in your view need to be addressed at the level of the Council of Europe**	
26. **Individuals should always be informed when they interact with an AI system in any circumstances.**	I rather agree
27. **Individuals should always be informed when a decision which affects them personally is made by an AI system.**	I fully agree
28. **Individuals should always be informed when an AI system is used in a decision-making**	I fully agree

process which affects them personally.	
29. Individuals should have a right to a meaningful explanation of algorithmic based decisions, in particular how the algorithm reached its output.	I rather agree
30. Individuals should always have the right that any decision taken by an AI system in the framework of judicial proceedings are reviewed by a "human" judge.	I rather agree
31. Individuals should have a right to demand the review of an algorithmic based decision by a human being.	I rather agree
32. There should always be a person responsible for reviewing algorithmic based decisions in the public sector and private companies.	Indifferent/no opinion
33. Public institutions should not use AI systems to promote or discredit a particular way of life or opinion (e.g. "social scoring").	Indifferent/no opinion
34. States should be obliged to design, develop and apply sustainable AI systems that respect applicable environmental protection standards.	I rather agree
35. The code behind AI systems used in the public and private sectors should always be accessible to the competent public authorities for the purposes of external audit.	I rather agree
36. There should be higher transparency standards for public entities using AI than for private entities.	Indifferent/no opinion
37. There should be higher standards for access to an effective remedy for individuals in relation to decisions informed and made by an AI system in the field of justice than in the field of consumer protection.	I rather agree
38. Member States should establish public oversight mechanisms for AI systems that may breach legally binding norms in the sphere of human rights, democracy and the rule of law.	I rather agree
39. Errors and flaws discovered in AI systems which have led or could lead to the violation of human rights, democracy and the rule of law	I rather agree

must be reported to the competent authorities.	
40. The use of facial recognition in public spaces should be prohibited.	Indifferent/no opinion
41. The information obtained through the use of facial recognition systems should always be reviewed by a human being before being used for purposes that have an impact on individual freedom, such as in relation to a person boarding an airplane, upon police arrest or in the framework of judicial proceedings.	I rather agree
42. The use of AI systems in democratic processes (e.g. elections) should be strictly regulated.	I fully agree
43. Should a future legal framework at Council of Europe level include a specific liability regime in relation to AI applications?	Yes
44. If yes, what aspects should be covered?	Whether new liability rules should be introduced or not and how these rules should be designed hinges on the function of liability rules. They have to take into account who is able to exercise control.
45. In your opinion, how useful would the following compliance mechanisms be in preventing and mitigating the risks to human rights, democracy and the rule of law arising from the design, development and application of AI? - **Human rights, democracy and rule of law impact assessments** - **Certification and quality labelling** - **Audits and intersectional audits** - **Regulatory sandboxes** **Continuous automated monitoring**	Highly useful Rather useful Highly useful Rather useful Highly useful
46. Please indicate what combination of mechanisms should be preferred to efficiently protect human rights, democracy and the rule of law **46bis. Other**	Continuous automated monitoring;• Audits and intersectional audits;• Human rights, democracy and rule of law impact assessments ;

47. Please select which mechanism(s) should be part of either a binding instrument or a non-binding instrument to best protect human rights, democracy and the rule of law. - Human rights, democracy and rule of law impact assessments - Certification and quality labelling - Audits and intersectional audits - Regulatory sandboxes Continuous automated monitoring	Binding instrument Non-binding instrument Binding instrument Non-binding instrument Binding instrument
47.bis. Other	
48. In your opinion, how useful would the following follow-up activities be if implemented by the Council of Europe? - Monitoring of AI legislation and policies in member States - Capacity building on Council of Europe instruments, including assistance to facilitate ratification and implementation of relevant Council of Europe instruments - AI Observatory for sharing good practices and exchanging information on legal, policy and technological developments related to AI systems Establishing a centre of expertise on AI and human rights	Rather useful Rather useful Indifferent/no opinion Rather useful
49. What other mechanisms, if any, should be considered?	
50. Are there any other issues with respect to the design, development and application of AI systems in the context of human rights, democracy and the rule of law that you wish to bring to the attention of the CAHAI?	
Date of submission	4/21/21 18:31:29

DARE Network

State (where your institution is based)	CoE countries
Institution: Name of the institution/body/company	DARE Network
Personal capacity: Your socio-professional category	Higher occupations
Your stakeholder group	Civil society
2. In view of the elaboration of a legal framework on the design, development and application of AI, based on the standards of the Council of Europe on human rights, democracy and the rule of law, what kind of definition of artificial intelligence (AI) should be considered by the CAHAI	No opinion
2bis. If "other" please explain below	
3. What are the reasons for your preference?	We are more interested in the support systems for the implementation of AI in education than a definition We believe with or without a definition the main elements to consider will be described. And that is more important than a definition.
4. Please select the areas in which AI systems offer the most promising opportunities for the protection of human rights, democracy and the rule of law	• Education;Justice;• Healthcare;
4bis. If other, which areas and why?	
5. Please indicate which of the following AI system applications in your view have the greatest potential to enhance/protect human rights, democracy and the rule of law?	• Smart personal assistants (connected devices);• Medical applications for faster and more accurate diagnoses;• AI applications to prevent the commission of a criminal offence (e.g. anti-money laundry AI appli-cations);• AI applications providing support to the healthcare system (triage, treatment delivery);
6. Please briefly explain how such applications would benefit human rights, democracy and the rule of law.	Supporting personal identity and mental health while improving democracy through lowering corruption and bureaucracy
7. What other applications might contribute significantly to strengthening human rights, democracy and the rule of law?	AI for public contracts and procurements
8. Please select the areas in which the deployment of AI systems poses the highest risk of violating human rights, democracy and the rule of law 8bis. Other	• Employment;• Social networks/media, internet intermediaries ;

9. Please briefly explain how such applications might violate human rights, democracy and the rule of law.	Personal interests and discrimination
10. Please indicate the types of AI systems that represent the greatest risk to human rights, democracy and the rule of law	☐Emotional analysis in the workplace to measure employees' level of engagement;Scoring / scoring of individuals by public entities;
11. Please briefly explain how such applications might violate human rights, democracy and the rule of law.	When the AI aim goes from support of the citizen to control it becomes scary distopian
12. What other applications might represent a significant risk to human rights, democracy and the rule of law?	More than the application the concern is on the aim of the users. That is why we need to aim for transparency and prevention of abuse
13. In your opinion, should the development, deployment and use of AI systems that have been proven to violate human rights or undermine democracy or the rule of law be **13bis. Other**	Who violates the human rights, the AI or the user?
14. In your opinion, should the development, deployment and use of AI systems that pose high risks with high probability to human rights, democracy and the rule of law be:	Regulated (binding law)
15. In your opinion, should the development, deployment and use of AI systems that pose low risks with high probability to human rights, democracy and the rule of law be:	Regulated (binding law)
16. In your opinion, should the development, deployment and use of AI systems that pose high risks with low probability to human rights, democracy and the rule of law be:	Regulated (binding law)
17. What are the most important legal principles, rights and interests that need to be addressed and therefore justify regulating the development, deployment and use of AI systems?	Respect for human dignity;Equality;• Social security;• Legal certainty;
18. In your opinion, in what sectors/areas is a binding legal instrument needed to protect human rights, democracy and the rule of law? **18bis. Other**	• Social networks/media, internet intermediaries ;Public administration;Justice;
19. Self-regulation by companies is more efficient than government regulation to prevent and mitigate the risk of violations of human rights, democracy and the rule of law.	I completely disagree

20. **Self-regulation by companies is sufficient to prevent and mitigate the risk of violations of human rights, democracy and the rule of law**	I rather disagree
21. **Which of the following instruments of self-regulation do you consider to be the most efficient?** **21bis. Other**	Nothing non binding is efficient. It is based on trust
22. **Existing international, regional and/or national binding and/or non-binding legal instruments are sufficient to regulate AI systems in order to ensure the protection of human rights, democracy and the rule of law.**	Indifferent/no opinion
23. **Please provide examples of existing international, regional and/or national (binding and/or non-binding) instruments that in your view are effective in guiding and regulating the design, development and use of AI systems to ensure compatibility with the standards for human rights, democracy and the rule of law**	.
24. **If you responded disagree/completely disagree to question 22, please indicate why existing international, regional and/or national (binding and/or non-binding) legal instruments are not sufficient to regulate AI systems (select all you agree with):**	They do not provide for specific rights (e.g. transparency requirements, redress mechanisms) for persons affected by AI;
25. **Please indicate other specific legal gaps that in your view need to be addressed at the level of the Council of Europe**	
26. **Individuals should always be informed when they interact with an AI system in any circumstances.**	I rather disagree
27. **Individuals should always be informed when a decision which affects them personally is made by an AI system.**	I rather agree
28. **Individuals should always be informed when an AI system is used in a decision-making process which affects them personally.**	I rather agree
29. **Individuals should have a right to a meaningful explanation of algorithmic based decisions, in particular how the algorithm reached its output.**	I fully agree

30. Individuals should always have the right that any decision taken by an AI system in the framework of judicial proceedings are reviewed by a "human" judge.	I rather agree
31. Individuals should have a right to demand the review of an algorithmic based decision by a human being.	Indifferent/no opinion
32. There should always be a person responsible for reviewing algorithmic based decisions in the public sector and private companies.	Indifferent/no opinion
33. Public institutions should not use AI systems to promote or discredit a particular way of life or opinion (e.g. "social scoring").	I rather disagree
34. States should be obliged to design, develop and apply sustainable AI systems that respect applicable environmental protection standards.	I fully agree
35. The code behind AI systems used in the public and private sectors should always be accessible to the competent public authorities for the purposes of external audit.	I fully agree
36. There should be higher transparency standards for public entities using AI than for private entities.	I completely disagree
37. There should be higher standards for access to an effective remedy for individuals in relation to decisions informed and made by an AI system in the field of justice than in the field of consumer protection.	I rather disagree
38. Member States should establish public oversight mechanisms for AI systems that may breach legally binding norms in the sphere of human rights, democracy and the rule of law.	I fully agree
39. Errors and flaws discovered in AI systems which have led or could lead to the violation of human rights, democracy and the rule of law must be reported to the competent authorities.	I fully agree
40. The use of facial recognition in public spaces should be prohibited.	Indifferent/no opinion
41. The information obtained through the use of facial recognition systems should	Indifferent/no opinion

always be reviewed by a human being before being used for purposes that have an impact on individual freedom, such as in relation to a person boarding an airplane, upon police arrest or in the framework of judicial proceedings.	
42. The use of AI systems in democratic processes (e.g. elections) should be strictly regulated.	I rather agree
43. Should a future legal framework at Council of Europe level include a specific liability regime in relation to AI applications?	Yes
44. If yes, what aspects should be covered?	Design, application and protection
45. In your opinion, how useful would the following compliance mechanisms be in preventing and mitigating the risks to human rights, democracy and the rule of law arising from the design, development and application of AI? - **Human rights, democracy and rule of law impact assessments** - **Certification and quality labelling** - **Audits and intersectional audits** - **Regulatory sandboxes** **Continuous automated monitoring**	Rather useful Rather useful Highly useful Rather useful Rather useful
46. Please indicate what combination of mechanisms should be preferred to efficiently protect human rights, democracy and the rule of law **46bis. Other**	• Audits and intersectional audits;• Human rights, democracy and rule of law impact assessments ;• Certification and quality labelling;
47. Please select which mechanism(s) should be part of either a binding instrument or a non-binding instrument to best protect human rights, democracy and the rule of law. - **Human rights, democracy and rule of law impact assessments** - **Certification and quality labelling** - **Audits and intersectional audits** - **Regulatory sandboxes** **Continuous automated monitoring**	No opinion No opinion No opinion No opinion No opinion

47.bis. Other	
48. In your opinion, how useful would the following follow-up activities be if implemented by the Council of Europe? - **Monitoring of AI legislation and policies in member States** - **Capacity building on Council of Europe instruments, including assistance to facilitate ratification and implementation of relevant Council of Europe instruments** - **AI Observatory for sharing good practices and exchanging information on legal, policy and technological developments related to AI systems** **Establishing a centre of expertise on AI and human rights**	Highly useful Indifferent/no opinion Rather useful Indifferent/no opinion
49. What other mechanisms, if any, should be considered?	Guidelines for implementation and a consequential process to support and monitor those implementations
50. Are there any other issues with respect to the design, development and application of AI systems in the context of human rights, democracy and the rule of law that you wish to bring to the attention of the CAHAI?	Most of the experts deciding the ethics of AI are not involved in real work with AI. We made that mistake with decisions on most fields. If the person is not engaged in AI work that goes beyond theory, we should question if there is real expertise. In our case, it was easy to enter these ethical consultation processes and very hard to get practical with AI so we could contribute in meaningful ways.
Date of submission	4/29/21 21:11:41

Data Research Institute of the Institute of the Hungarian Chamber of Civil Law Notaries

State (where your institution is based)	**Hungary**
Institution: Name of the institution/body/company	Data Research Institute of the Institute of the Hungarian Chamber of Civil Law Notaries
Personal capacity: Your socio-professional category	Higher occupations
Your stakeholder group	Government & public administration
2. In view of the elaboration of a legal framework on the design, development and application of AI, based on the	A technologically-neutral and simplified definition, such as "a set of sciences, theories and tech-niques whose purpose is to reproduce by a machine the cognitive abilities of a human being" (See the CAHAI feasibility study, §5)

standards of the Council of Europe on human rights, democracy and the rule of law, what kind of definition of artificial intelligence (AI) should be considered by the CAHAI	
2bis. If "other" please explain below	
3. What are the reasons for your preference?	-
4. Please select the areas in which AI systems offer the most promising opportunities for the protection of human rights, democracy and the rule of law	Justice;Law enforcement;• Public administration;
4bis. If other, which areas and why?	
5. Please indicate which of the following AI system applications in your view have the greatest potential to enhance/protect human rights, democracy and the rule of law?	• Automated fraud detection (banking, insurance);• Medical applications for faster and more accurate diagnoses;• AI applications to prevent the commission of a criminal offence (e.g. anti-money laundry AI appli-cations);• AI applications in the field of banking and insurance;
6. Please briefly explain how such applications would benefit human rights, democracy and the rule of law.	-
7. What other applications might contribute significantly to strengthening human rights, democracy and the rule of law?	-
8. Please select the areas in which the deployment of AI systems poses the highest risk of violating human rights, democracy and the rule of law 8bis. Other	• Banking, finance and insurance;• Election monitoring;• Social networks/media, internet intermediaries ;
9. Please briefly explain how such applications might violate human rights, democracy and the rule of law.	-
10. Please indicate the types of AI systems that represent the greatest risk to human rights, democracy and the rule of law	• Deep fakes and cheap fakes;
11. Please briefly explain how such applications might violate human rights, democracy and the rule of law.	-
12. What other applications might represent a significant risk to human rights, democracy and the rule of law?	-
13. In your opinion, should the development, deployment and use of AI systems that have been	Banned

proven to violate human rights or undermine democracy or the rule of law be 13bis. Other	
14. In your opinion, should the development, deployment and use of AI systems that pose high risks with high probability to human rights, democracy and the rule of law be:	Subject to moratorium
15. In your opinion, should the development, deployment and use of AI systems that pose low risks with high probability to human rights, democracy and the rule of law be:	Regulated (binding law)
16. In your opinion, should the development, deployment and use of AI systems that pose high risks with low probability to human rights, democracy and the rule of law be:	Self-regulated (ethics guidelines, voluntary certification)
17. What are the most important legal principles, rights and interests that need to be addressed and therefore justify regulating the development, deployment and use of AI systems?	• Legal certainty;Privacy and data protection;• Transparency;
18. In your opinion, in what sectors/areas is a binding legal instrument needed to protect human rights, democracy and the rule of law? 18bis. Other	Justice;Law enforcement;
19. Self-regulation by companies is more efficient than government regulation to prevent and mitigate the risk of violations of human rights, democracy and the rule of law.	Indifferent/no opinion
20. Self-regulation by companies is sufficient to prevent and mitigate the risk of violations of human rights, democracy and the rule of law	Indifferent/no opinion
21. Which of the following instruments of self-regulation do you consider to be the most efficient? 21bis. Other	Ethics guidelines
22. Existing international, regional and/or national binding and/or non-binding legal instruments are sufficient to regulate AI systems in order to ensure the protection of human rights, democracy and the rule of law.	I rather agree

23. **Please provide examples of existing international, regional and/or national (binding and/or non-binding) instruments that in your view are effective in guiding and regulating the design, development and use of AI systems to ensure compatibility with the standards for human rights, democracy and the rule of law**	-
24. **If you responded disagree/completely disagree to question 22, please indicate why existing international, regional and/or national (binding and/or non-binding) legal instruments are not sufficient to regulate AI systems (select all you agree with):**	
25. **Please indicate other specific legal gaps that in your view need to be addressed at the level of the Council of Europe**	-
26. **Individuals should always be informed when they interact with an AI system in any circumstances.**	I fully agree
27. **Individuals should always be informed when a decision which affects them personally is made by an AI system.**	I fully agree
28. **Individuals should always be informed when an AI system is used in a decision-making process which affects them personally.**	I fully agree
29. **Individuals should have a right to a meaningful explanation of algorithmic based decisions, in particular how the algorithm reached its output.**	I rather agree
30. **Individuals should always have the right that any decision taken by an AI system in the framework of judicial proceedings are reviewed by a "human" judge.**	I fully agree
31. **Individuals should have a right to demand the review of an algorithmic based decision by a human being.**	I fully agree
32. **There should always be a person responsible for reviewing algorithmic based decisions in the public sector and private companies.**	I fully agree
33. **Public institutions should not use AI systems to promote or discredit a particular way of life or**	Indifferent/no opinion

opinion (e.g. "social scoring").	
34. States should be obliged to design, develop and apply sustainable AI systems that respect applicable environmental protection standards.	Indifferent/no opinion
35. The code behind AI systems used in the public and private sectors should always be accessible to the competent public authorities for the purposes of external audit.	I fully agree
36. There should be higher transparency standards for public entities using AI than for private entities.	Indifferent/no opinion
37. There should be higher standards for access to an effective remedy for individuals in relation to decisions informed and made by an AI system in the field of justice than in the field of consumer protection.	I rather agree
38. Member States should establish public oversight mechanisms for AI systems that may breach legally binding norms in the sphere of human rights, democracy and the rule of law.	I rather agree
39. Errors and flaws discovered in AI systems which have led or could lead to the violation of human rights, democracy and the rule of law must be reported to the competent authorities.	I fully agree
40. The use of facial recognition in public spaces should be prohibited.	Indifferent/no opinion
41. The information obtained through the use of facial recognition systems should always be reviewed by a human being before being used for purposes that have an impact on individual freedom, such as in relation to a person boarding an airplane, upon police arrest or in the framework of judicial proceedings.	I fully agree
42. The use of AI systems in democratic processes (e.g. elections) should be strictly regulated.	Indifferent/no opinion
43. Should a future legal framework at Council of Europe level include a specific liability	Yes

regime in relation to AI applications?	
44. If yes, what aspects should be covered?	-
45. In your opinion, how useful would the following compliance mechanisms be in preventing and mitigating the risks to human rights, democracy and the rule of law arising from the design, development and application of AI? - **Human rights, democracy and rule of law impact assessments** - **Certification and quality labelling** - **Audits and intersectional audits** - **Regulatory sandboxes** **Continuous automated monitoring**	Rather useful Rather useful Rather useful Rather useful Highly useful
46. Please indicate what combination of mechanisms should be preferred to efficiently protect human rights, democracy and the rule of law **46bis. Other**	• Human rights, democracy and rule of law impact assessments ;• Regulatory sandboxes;Continuous automated monitoring;
47. Please select which mechanism(s) should be part of either a binding instrument or a non-binding instrument to best protect human rights, democracy and the rule of law. - **Human rights, democracy and rule of law impact assessments** - **Certification and quality labelling** - **Audits and intersectional audits** - **Regulatory sandboxes** **Continuous automated monitoring**	No opinion No opinion No opinion No opinion No opinion
47.bis. Other	-
48. In your opinion, how useful would the following follow-up activities be if implemented by the Council of Europe? - **Monitoring of AI legislation and policies in member States** - **Capacity building on Council of Europe instruments, including assistance to facilitate ratification and**	Rather useful Indifferent/no opinion Highly useful Highly useful

implementation of relevant Council of Europe instruments - **AI Observatory for sharing good practices and exchanging information on legal, policy and technological developments related to AI systems** **Establishing a centre of expertise on AI and human rights**	
49. What other mechanisms, if any, should be considered?	-
50. Are there any other issues with respect to the design, development and application of AI systems in the context of human rights, democracy and the rule of law that you wish to bring to the attention of the CAHAI?	-
Date of submission	4/29/21 21:23:26

Decentralized administration of Crete

State (where your institution is based)	**GREECE**
Institution: Name of the institution/body/company	DECENTRALIZED ADMINISTRATION OF CRETE
Personal capacity: Your socio-professional category	Intermediate occupations
Your stakeholder group	Government & public administration
2. In view of the elaboration of a legal framework on the design, development and application of AI, based on the standards of the Council of Europe on human rights, democracy and the rule of law, what kind of definition of artificial intelligence (AI) should be considered by the CAHAI	A definition focusing on machine learning systems
2bis. If "other" please explain below	
3. What are the reasons for your preference?	AI should be "modelling" Human I as accuratelly as possible.
4. Please select the areas in which AI systems offer the most promising opportunities for the protection of human rights, democracy and the rule of law	• Education;• Healthcare;• Environment and climate;

4bis. If other, which areas and why?	
5. Please indicate which of the following AI system applications in your view have the greatest potential to enhance/protect human rights, democracy and the rule of law?	• Medical applications for faster and more accurate diagnoses;
6. Please briefly explain how such applications would benefit human rights, democracy and the rule of law.	Humans benefit the most by applications for faster and more accurate diagnoses, without breaching human rights and democratic issues.
7. What other applications might contribute significantly to strengthening human rights, democracy and the rule of law?	AI applications for continuous environmental quality measurements (i.e., water, soil and environmental quality measurements) covering broad populated areas connected to AI early warning systems.
8. Please select the areas in which the deployment of AI systems poses the highest risk of violating human rights, democracy and the rule of law **8bis. Other**	• Justice;• Law enforcement;
9. Please briefly explain how such applications might violate human rights, democracy and the rule of law.	Justice and law enforcement are areas with the highest sensitivity in decision making taking into consideration that many and various parameters should be evaluated at best by humans only., in order to minimize the possibility of violating human rights, democracy and/or the law.
10. Please indicate the types of AI systems that represent the greatest risk to human rights, democracy and the rule of law	☐Emotional analysis in the workplace to measure employees' level of engagement;
11. Please briefly explain how such applications might violate human rights, democracy and the rule of law.	AI in emotional analysis is the most difficult analysis and its conclutions probably represent the greatest risk to human rights, democracy and the law.
12. What other applications might represent a significant risk to human rights, democracy and the rule of law?	N/A
13. In your opinion, should the development, deployment and use of AI systems that have been proven to violate human rights or undermine democracy or the rule of law be **13bis. Other**	changed in order not to violate HR/D/RoL
14. In your opinion, should the development, deployment and use of AI systems that pose high risks with high probability to human rights, democracy and the rule of law be:	Self-regulated (ethics guidelines, voluntary certification)
15. In your opinion, should the development, deployment and use of AI systems that pose low risks with high probability to human rights, democracy and the rule of law be:	Self-regulated (ethics guidelines, voluntary certification)

16. In your opinion, should the development, deployment and use of AI systems that pose high risks with low probability to human rights, democracy and the rule of law be:	Self-regulated (ethics guidelines, voluntary certification)
17. What are the most important legal principles, rights and interests that need to be addressed and therefore justify regulating the development, deployment and use of AI systems?	Equality;• Social security;• Non-discrimination;• Transparency;Privacy and data protection;
18. In your opinion, in what sectors/areas is a binding legal instrument needed to protect human rights, democracy and the rule of law? 18bis. Other	Public administration;
19. Self-regulation by companies is more efficient than government regulation to prevent and mitigate the risk of violations of human rights, democracy and the rule of law.	Indifferent/no opinion
20. Self-regulation by companies is sufficient to prevent and mitigate the risk of violations of human rights, democracy and the rule of law	I rather disagree
21. Which of the following instruments of self-regulation do you consider to be the most efficient? 21bis. Other	Ethics guidelines
22. Existing international, regional and/or national binding and/or non-binding legal instruments are sufficient to regulate AI systems in order to ensure the protection of human rights, democracy and the rule of law.	Indifferent/no opinion
23. Please provide examples of existing international, regional and/or national (binding and/or non-binding) instruments that in your view are effective in guiding and regulating the design, development and use of AI systems to ensure compatibility with the standards for human rights, democracy and the rule of law	N/A
24. If you responded disagree/completely disagree to question 22, please indicate why existing international, regional and/or national (binding and/or non-binding) legal instruments are	

not sufficient to regulate AI systems (select all you agree with):	
25. Please indicate other specific legal gaps that in your view need to be addressed at the level of the Council of Europe	N/A
26. Individuals should always be informed when they interact with an AI system in any circumstances.	I fully agree
27. Individuals should always be informed when a decision which affects them personally is made by an AI system.	I fully agree
28. Individuals should always be informed when an AI system is used in a decision-making process which affects them personally.	I fully agree
29. Individuals should have a right to a meaningful explanation of algorithmic based decisions, in particular how the algorithm reached its output.	I fully agree
30. Individuals should always have the right that any decision taken by an AI system in the framework of judicial proceedings are reviewed by a "human" judge.	I fully agree
31. Individuals should have a right to demand the review of an algorithmic based decision by a human being.	I fully agree
32. There should always be a person responsible for reviewing algorithmic based decisions in the public sector and private companies.	Indifferent/no opinion
33. Public institutions should not use AI systems to promote or discredit a particular way of life or opinion (e.g. "social scoring").	Indifferent/no opinion
34. States should be obliged to design, develop and apply sustainable AI systems that respect applicable environmental protection standards.	Indifferent/no opinion
35. The code behind AI systems used in the public and private sectors should always be accessible to the competent public authorities for the purposes of external audit.	I fully agree
36. There should be higher transparency standards for public entities using AI than for private entities.	I rather disagree

37. **There should be higher standards for access to an effective remedy for individuals in relation to decisions informed and made by an AI system in the field of justice than in the field of consumer protection.**	I completely disagree
38. **Member States should establish public oversight mechanisms for AI systems that may breach legally binding norms in the sphere of human rights, democracy and the rule of law.**	Indifferent/no opinion
39. **Errors and flaws discovered in AI systems which have led or could lead to the violation of human rights, democracy and the rule of law must be reported to the competent authorities.**	I fully agree
40. **The use of facial recognition in public spaces should be prohibited.**	Indifferent/no opinion
41. **The information obtained through the use of facial recognition systems should always be reviewed by a human being before being used for purposes that have an impact on individual freedom, such as in relation to a person boarding an airplane, upon police arrest or in the framework of judicial proceedings.**	I fully agree
42. **The use of AI systems in democratic processes (e.g. elections) should be strictly regulated.**	I fully agree
43. **Should a future legal framework at Council of Europe level include a specific liability regime in relation to AI applications?**	No opinion
44. **If yes, what aspects should be covered?**	
45. **In your opinion, how useful would the following compliance mechanisms be in preventing and mitigating the risks to human rights, democracy and the rule of law arising from the design, development and application of AI?** - **Human rights, democracy and rule of law impact assessments** - **Certification and quality labelling**	Highly useful Rather useful Rather useful Rather useful Highly useful

- **Audits and intersectional audits** - **Regulatory sandboxes** **Continuous automated monitoring**	
46. Please indicate what combination of mechanisms should be preferred to efficiently protect human rights, democracy and the rule of law **46bis. Other**	• Human rights, democracy and rule of law impact assessments ;• Audits and intersectional audits;Continuous automated monitoring;
47. Please select which mechanism(s) should be part of either a binding instrument or a non-binding instrument to best protect human rights, democracy and the rule of law. - **Human rights, democracy and rule of law impact assessments** - **Certification and quality labelling** - **Audits and intersectional audits** - **Regulatory sandboxes** **Continuous automated monitoring**	Binding instrument Non-binding instrument Binding instrument Non-binding instrument Binding instrument
47.bis. Other	N/A
48. In your opinion, how useful would the following follow-up activities be if implemented by the Council of Europe? - **Monitoring of AI legislation and policies in member States** - **Capacity building on Council of Europe instruments, including assistance to facilitate ratification and implementation of relevant Council of Europe instruments** - **AI Observatory for sharing good practices and exchanging information on legal, policy and technological developments related to AI systems** **Establishing a centre of expertise on AI and human rights**	Highly useful Indifferent/no opinion Highly useful Indifferent/no opinion

49. What other mechanisms, if any, should be considered?	N/A
50. Are there any other issues with respect to the design, development and application of AI systems in the context of human rights, democracy and the rule of law that you wish to bring to the attention of the CAHAI?	N/A
Date of submission	5/7/21 13:44:38

Decrypt Media

State (where your institution is based)	**Washington, DC**
Institution: Name of the institution/body/company	Decrypt Media
Personal capacity: Your socio-professional category	Higher occupations
Your stakeholder group	Private business sector
2. In view of the elaboration of a legal framework on the design, development and application of AI, based on the standards of the Council of Europe on human rights, democracy and the rule of law, what kind of definition of artificial intelligence (AI) should be considered by the CAHAI	A technologically-neutral and simplified definition, such as "a set of sciences, theories and tech-niques whose purpose is to reproduce by a machine the cognitive abilities of a human being" (See the CAHAI feasibility study, §5)
2bis. If "other" please explain below	
3. What are the reasons for your preference?	A technologically neutral, simple definition is the best foundation upon which to build a legal and civil framework.
4. Please select the areas in which AI systems offer the most promising opportunities for the protection of human rights, democracy and the rule of law	No opinion;
4bis. If other, which areas and why?	
5. Please indicate which of the following AI system applications in your view have the greatest potential to enhance/protect human rights, democracy and the rule of law?	• Medical applications for faster and more accurate diagnoses;

6. Please briefly explain how such applications would benefit human rights, democracy and the rule of law.	While there are AI applications that are indeed useful, including some on your list such as recommender systems and healthcare diagnosis, none of the above—at least given the current state of AI—would benefit human rights, democracy or the rule of law.
7. What other applications might contribute significantly to strengthening human rights, democracy and the rule of law?	You're barking up the wrong tree. It's hard to imagine a sufficiently advanced AI that can do this. In science fiction, we've seen AI's that can tell whether someone is lying with 100% accuracy. In the unlikely event that such an AI could be developed, it could conceivably fundamental change democracy, the rule of law, all of politics, government, the criminal justice system and points in between. Barring that, you're asking a question about an undefined black box. If we are talking about the current state of AI, these questions are laughable.
8. Please select the areas in which the deployment of AI systems poses the highest risk of violating human rights, democracy and the rule of law **8bis. Other**	• Banking, finance and insurance;• Justice;• Law enforcement;•
9. Please briefly explain how such applications might violate human rights, democracy and the rule of law.	AI, in its current state, shows enormous bias. Humans are inherently biased and therein lies the problem. There are no sufficient training models that eliminate this.
10. Please indicate the types of AI systems that represent the greatest risk to human rights, democracy and the rule of law	Facial recognition supporting law enforcement ;• Emotional analysis in the workplace to measure employees' level of engagement;Scoring / scoring of individuals by public entities;• Recruiting software/ AI applications used for assessing work performance ;• AI applications to prevent the commission of a criminal offence;
11. Please briefly explain how such applications might violate human rights, democracy and the rule of law.	See answer to 15., above
12. What other applications might represent a significant risk to human rights, democracy and the rule of law?	AI helpdesk support. I hate that stuff. This is a ridiculous question to make mandatory.
13. In your opinion, should the development, deployment and use of AI systems that have been proven to violate human rights or undermine democracy or the rule of law be **13bis. Other**	Banned
14. In your opinion, should the development, deployment and use of AI systems that pose high risks with high probability to human rights, democracy and the rule of law be:	Banned
15. In your opinion, should the development, deployment and use of AI systems that pose low risks with high probability to human rights, democracy and the rule of law be:	Self-regulated (ethics guidelines, voluntary certification)
16. In your opinion, should the development, deployment and use of AI systems that pose high risks with low probability to human	None of the above

rights, democracy and the rule of law be:	
17. What are the most important legal principles, rights and interests that need to be addressed and therefore justify regulating the development, deployment and use of AI systems?	• Possibility to challenge a decision made by an AI system and access to an effective remedy;• Explainability;• Transparency;Respect for human dignity;
18. In your opinion, in what sectors/areas is a binding legal instrument needed to protect human rights, democracy and the rule of law? 18bis. Other	Law enforcement;Education;Banking, finance and insurance;
19. Self-regulation by companies is more efficient than government regulation to prevent and mitigate the risk of violations of human rights, democracy and the rule of law.	I rather disagree
20. Self-regulation by companies is sufficient to prevent and mitigate the risk of violations of human rights, democracy and the rule of law	I rather disagree
21. Which of the following instruments of self-regulation do you consider to be the most efficient? 21bis. Other	Voluntary certification
22. Existing international, regional and/or national binding and/or non-binding legal instruments are sufficient to regulate AI systems in order to ensure the protection of human rights, democracy and the rule of law.	Indifferent/no opinion
23. Please provide examples of existing international, regional and/or national (binding and/or non-binding) instruments that in your view are effective in guiding and regulating the design, development and use of AI systems to ensure compatibility with the standards for human rights, democracy and the rule of law	no idea
24. If you responded disagree/completely disagree to question 22, please indicate why existing international, regional and/or national (binding and/or non-binding) legal instruments are not sufficient to regulate AI systems (select all you agree with):	

25. Please indicate other specific legal gaps that in your view need to be addressed at the level of the Council of Europe	
26. Individuals should always be informed when they interact with an AI system in any circumstances.	I fully agree
27. Individuals should always be informed when a decision which affects them personally is made by an AI system.	I fully agree
28. Individuals should always be informed when an AI system is used in a decision-making process which affects them personally.	I fully agree
29. Individuals should have a right to a meaningful explanation of algorithmic based decisions, in particular how the algorithm reached its output.	I fully agree
30. Individuals should always have the right that any decision taken by an AI system in the framework of judicial proceedings are reviewed by a "human" judge.	I fully agree
31. Individuals should have a right to demand the review of an algorithmic based decision by a human being.	I fully agree
32. There should always be a person responsible for reviewing algorithmic based decisions in the public sector and private companies.	I fully agree
33. Public institutions should not use AI systems to promote or discredit a particular way of life or opinion (e.g. "social scoring").	I fully agree
34. States should be obliged to design, develop and apply sustainable AI systems that respect applicable environmental protection standards.	I fully agree
35. The code behind AI systems used in the public and private sectors should always be accessible to the competent public authorities for the purposes of external audit.	I fully agree
36. There should be higher transparency standards for public entities using AI than for private entities.	I fully agree
37. There should be higher standards for access to an effective remedy for individuals in relation to decisions informed and	I fully agree

made by an AI system in the field of justice than in the field of consumer protection.	
38. Member States should establish public oversight mechanisms for AI systems that may breach legally binding norms in the sphere of human rights, democracy and the rule of law.	I fully agree
39. Errors and flaws discovered in AI systems which have led or could lead to the violation of human rights, democracy and the rule of law must be reported to the competent authorities.	I fully agree
40. The use of facial recognition in public spaces should be prohibited.	I fully agree
41. The information obtained through the use of facial recognition systems should always be reviewed by a human being before being used for purposes that have an impact on individual freedom, such as in relation to a person boarding an airplane, upon police arrest or in the framework of judicial proceedings.	I fully agree
42. The use of AI systems in democratic processes (e.g. elections) should be strictly regulated.	I fully agree
43. Should a future legal framework at Council of Europe level include a specific liability regime in relation to AI applications?	No opinion
44. If yes, what aspects should be covered?	
45. In your opinion, how useful would the following compliance mechanisms be in preventing and mitigating the risks to human rights, democracy and the rule of law arising from the design, development and application of AI? - **Human rights, democracy and rule of law impact assessments** - **Certification and quality labelling** - **Audits and intersectional audits** - **Regulatory sandboxes** **Continuous automated monitoring**	Rather useful Rather useful Highly useful Rather useful Rather useful

46. **Please indicate what combination of mechanisms should be preferred to efficiently protect human rights, democracy and the rule of law** **46bis. Other**	• Human rights, democracy and rule of law impact assessments ;• Certification and quality labelling;• Audits and intersectional audits;
47. **Please select which mechanism(s) should be part of either a binding instrument or a non-binding instrument to best protect human rights, democracy and the rule of law.** - **Human rights, democracy and rule of law impact assessments** - **Certification and quality labelling** - **Audits and intersectional audits** - **Regulatory sandboxes** **Continuous automated monitoring**	Binding instrument Binding instrument Binding instrument Non-binding instrument Binding instrument
47.bis. Other	
48. **In your opinion, how useful would the following follow-up activities be if implemented by the Council of Europe?** - **Monitoring of AI legislation and policies in member States** - **Capacity building on Council of Europe instruments, including assistance to facilitate ratification and implementation of relevant Council of Europe instruments** - **AI Observatory for sharing good practices and exchanging information on legal, policy and technological developments related to AI systems** **Establishing a centre of expertise on AI and human rights**	Rather useful Rather useful Rather useful Rather useful
49. **What other mechanisms, if any, should be considered?**	
50. **Are there any other issues with respect to the design, development and application of AI systems in the context of human rights, democracy and the rule of law that you wish to bring to the attention of the CAHAI?**	
Date of submission	4/28/21 4:26:57

Defend Digital Me

State (where your institution is based)	UK
Institution: Name of the institution/body/company	Defend Digital Me
Personal capacity: Your socio-professional category	Higher occupations
Your stakeholder group	Civil society
2. In view of the elaboration of a legal framework on the design, development and application of AI, based on the standards of the Council of Europe on human rights, democracy and the rule of law, what kind of definition of artificial intelligence (AI) should be considered by the CAHAI	A technologically-neutral and simplified definition, such as "a set of sciences, theories and tech-niques whose purpose is to reproduce by a machine the cognitive abilities of a human being" (See the CAHAI feasibility study, §5)
2bis. If "other" please explain below	
3. What are the reasons for your preference?	The lay term 'AI' is ill defined and changing over time. The technical terms are too opaque to be broadly understood and meaningful. No definition would be ineffective since the boundaries of application would be impossible to set. Whatever definition is reached, should try to be stable over time.
4. Please select the areas in which AI systems offer the most promising opportunities for the protection of human rights, democracy and the rule of law	• Other;
4bis. If other, which areas and why?	The premise of the question does not permit an assessment of the value judgment of how "the most promising" is defined for whom— 'for the protection of human rights, democracy and the rule of law' conflated together, and used in a policing context, "the most promising" may be very different seen from the perspectives of the data analytics officers wanting to apply AI and facial recognition to mass databases to uphold the rule of law, from the general public perspective who are neither victim nor criminal but whose human rights to freedom of association, freedom of speech or privacy may be infringed through the deployment of the tools; and when the tools themselves may be detrimental to rights especially when it comes to racial discrimination and equality.
5. Please indicate which of the following AI system applications in your view have the greatest potential to enhance/protect human rights, democracy and the rule of law?	• AI applications to predict the possible evolution of climate change and/or natural disasters;

6. Please briefly explain how such applications would benefit human rights, democracy and the rule of law.	Question 11 is fundamentally flawed. There is the risk in every application of technology of unintended consequences and the absolutist positions in a pick list carry an assumption that such an application can only enhance/protect human rights and the rule of law and is wrong. Every application here could have the potential not to benefit but to harm human rights, democracy and the rule of law. The question should be what is necessary within the areas of application to be able to see, understand, scrutinise and hold accountable the human responsible owners for any such harms.
7. What other applications might contribute significantly to strengthening human rights, democracy and the rule of law?	Enforcement of existing law and regulations and a required public register of the application of AI and machine learning at scale by public authorities, in order to be able to trace the application and identify harms from emerging technologies that are scattered geographically but similar across different countries.
8. Please select the areas in which the deployment of AI systems poses the highest risk of violating human rights, democracy and the rule of law **8bis. Other**	• Employment;• Law enforcement;• Education;
9. Please briefly explain how such applications might violate human rights, democracy and the rule of law.	Question 14 only permits 3 choices from areas that may be equally weighted. "The highest risk" is problematic to define. Is this the greatest percentage risk that when applied is most often harmful— ie to all the ten children that AI suggests in one year should be removed from a family and taken into state social care, or not permitted entry to a certain school course, if the AI is wrong? Or is "the highest risk" in deployment of AI systems to human rights, democracy and the rule of law found in those applied at scale that will result in intervention with the greatest number of people? Ie employment screening prevents 20% of all job applicants reaching interview stage when a human model may have rejected 20% as well? And is the risk "higher" when the system is racist and a greater number within the 20% are black candidates? AI used at scale in any environment can be high risk and do harm to individuals and communities, for example those in which all Travellers may be identified as at 'higher risk' of committing crime in a police database and individuals more likely to fit risk profiles, simply because they match the characteristics of historical records of criminal prosecution. The "high risk" may also come from wrongly identifying where to target resources and reduce policing for example, simply due to what has or has not been successfully prosecuted in the past. Such heat maps are self-reinforcing but negative outcomes (doing nothing) as a result of the AI is rarely seen as high risk, when it could have significant detrimental effect on rights to justice.
10. Please indicate the types of AI systems that represent the greatest risk to human rights, democracy and the rule of law	Facial recognition supporting law enforcement ;• Emotional analysis in the workplace to measure employees' level of engagement;Scoring / scoring of individuals by public entities;AI applications aimed at predicting recidivism ;• AI applications used for analysing the performance of pupils/students in educational institutions such as schools and universities;
11. Please briefly explain how such applications might violate human rights, democracy and the rule of law.	On predicting recidivism https://www.propublica.org/article/how-we-analyzed-the-compas-recidivism-algorithm On facial recognition https://www.libertyhumanrights.org.uk/campaign/resist-facial-recognition/ On the workplace https://hbr.org/2019/11/the-risks-of-using-ai-to-interpret-human-

	emotions
	On social scoring https://www.forbes.com/sites/nizangpackin/2019/12/13/social-credit-much-more-than-your-traditional-financial-credit-score-data/ On scoring children in education https://www.routledge.com/Surveillance-Futures-Social-and-Ethical-Implications-of-New-Technologies/Taylor-Rooney/p/book/9780367281632 And Williamson, B. (2017) https://uk.sagepub.com/en-gb/eur/big-data-in-education/book249086
12. What other applications might represent a significant risk to human rights, democracy and the rule of law?	Every application might represent a significant risk to human rights where it undermines human autonomy. The effect and impact on individuals and communities will be as diverse as people themselves. The notion of 'high risk' may apply to one person and not another so the systems themselves are not the risk, but their deployment in environments where humans have significant power and influence over others, and how that power may be misused are. From professionals who cannot confidently override computer-led welfare decisions, to AI that steers the emotional and social development interventions with children in schools. From what is not done, not funded, or not assessed because the machine-led assessment is seen to be more valuable than a human assessment. The focus on risk assessment must move away from "high risk" application decided by others, to an understanding of what harm looks like for me, including harm to rights (not only physical or mental harms) and understanding that even if we are empowered by technology to make decisions faster or at greater scale, those decisions may not be better — humans on the receiving end of any machine-led application cannot always be given their full rights only if they take action to know it has been applied and have the choice whether or not to be affected. The default position must be not to disempower people in any machine-supported process at all.
13. In your opinion, should the development, deployment and use of AI systems that have been proven to violate human rights or undermine democracy or the rule of law be **13bis. Other**	Banned
14. In your opinion, should the development, deployment and use of AI systems that pose high risks with high probability to human rights, democracy and the rule of law be:	Banned
15. In your opinion, should the development, deployment and use of AI systems that pose low risks with high probability to human rights, democracy and the rule of law be:	Regulated (binding law)
16. In your opinion, should the development, deployment and use of AI systems that pose high risks with low probability to human	Banned

rights, democracy and the rule of law be:	
17. What are the most important legal principles, rights and interests that need to be addressed and therefore justify regulating the development, deployment and use of AI systems?	Respect for human dignity;• Non-discrimination;• Legal certainty;Privacy and data protection;• Possibility to challenge a decision made by an AI system and access to an effective remedy;
18. In your opinion, in what sectors/areas is a binding legal instrument needed to protect human rights, democracy and the rule of law? **18bis. Other**	Education;Employment;Public administration;
19. Self-regulation by companies is more efficient than government regulation to prevent and mitigate the risk of violations of human rights, democracy and the rule of law.	I completely disagree
20. Self-regulation by companies is sufficient to prevent and mitigate the risk of violations of human rights, democracy and the rule of law	I completely disagree
21. Which of the following instruments of self-regulation do you consider to be the most efficient? **21bis. Other**	Reputational risk, and duties to shareholders
22. Existing international, regional and/or national binding and/or non-binding legal instruments are sufficient to regulate AI systems in order to ensure the protection of human rights, democracy and the rule of law.	I completely disagree
23. Please provide examples of existing international, regional and/or national (binding and/or non-binding) instruments that in your view are effective in guiding and regulating the design, development and use of AI systems to ensure compatibility with the standards for human rights, democracy and the rule of law	None. Data protection law goes some way towards what is necessary but is inadequate when it comes to disempowered communities and ethical oversight of processes that may be lawful but unethical ie. mass manipulation of children's behaviour using "behavioural insights" tools and research projects that extract children's religion data at scale from children, and involve them in interventions without parental permission https://cohesioninschools.org/what-we-do
24. If you responded disagree/completely disagree to question 22, please indicate why existing international, regional and/or national (binding and/or non-binding) legal instruments are not sufficient to regulate AI systems (select all you agree with):	• They provide a basis but fail to provide an effective substantive protection of human rights, democracy and the rule of law against the risks posed by AI systems;

25. Please indicate other specific legal gaps that in your view need to be addressed at the level of the Council of Europe	Research projects using children in educational settings. Children in schools undergo product testing and edTech trials without parental knowledge and no obligations on transparency, there should be obligations on publication of ethical approval, measures of efficacy, health and safety standards and obligations to register and transparently publish such trials and publish outcomes including negative effects and harms.
26. Individuals should always be informed when they interact with an AI system in any circumstances.	I fully agree
27. Individuals should always be informed when a decision which affects them personally is made by an AI system.	I fully agree
28. Individuals should always be informed when an AI system is used in a decision-making process which affects them personally.	I fully agree
29. Individuals should have a right to a meaningful explanation of algorithmic based decisions, in particular how the algorithm reached its output.	I fully agree
30. Individuals should always have the right that any decision taken by an AI system in the framework of judicial proceedings are reviewed by a "human" judge.	I fully agree
31. Individuals should have a right to demand the review of an algorithmic based decision by a human being.	I fully agree
32. There should always be a person responsible for reviewing algorithmic based decisions in the public sector and private companies.	I fully agree
33. Public institutions should not use AI systems to promote or discredit a particular way of life or opinion (e.g. "social scoring").	I fully agree
34. States should be obliged to design, develop and apply sustainable AI systems that respect applicable environmental protection standards.	I rather agree
35. The code behind AI systems used in the public and private sectors should always be accessible to the competent public authorities for the purposes of external audit.	I fully agree
36. There should be higher transparency standards for public entities using AI than for private entities.	I rather agree

37. There should be higher standards for access to an effective remedy for individuals in relation to decisions informed and made by an AI system in the field of justice than in the field of consumer protection.	Indifferent/no opinion
38. Member States should establish public oversight mechanisms for AI systems that may breach legally binding norms in the sphere of human rights, democracy and the rule of law.	I fully agree
39. Errors and flaws discovered in AI systems which have led or could lead to the violation of human rights, democracy and the rule of law must be reported to the competent authorities.	I fully agree
40. The use of facial recognition in public spaces should be prohibited.	I fully agree
41. The information obtained through the use of facial recognition systems should always be reviewed by a human being before being used for purposes that have an impact on individual freedom, such as in relation to a person boarding an airplane, upon police arrest or in the framework of judicial proceedings.	I fully agree
42. The use of AI systems in democratic processes (e.g. elections) should be strictly regulated.	I fully agree
43. Should a future legal framework at Council of Europe level include a specific liability regime in relation to AI applications?	Yes
44. If yes, what aspects should be covered?	Everything in this consultation plus the impacts of use result in non-intervention, when systems are used to choose when interventions should be made. (Often the impact is only measured in positive outcomes, but what didn't happen needs taken into account too.) Special focus needed in children as people still in the process of developing into full personhood and capacity.

45. **In your opinion, how useful would the following compliance mechanisms be in preventing and mitigating the risks to human rights, democracy and the rule of law arising from the design, development and application of AI?** - **Human rights, democracy and rule of law impact assessments** - **Certification and quality labelling** - **Audits and intersectional audits** - **Regulatory sandboxes** **Continuous automated monitoring**	Highly useful Indifferent/no opinion Highly useful Not useful Highly useful
46. **Please indicate what combination of mechanisms should be preferred to efficiently protect human rights, democracy and the rule of law** **46bis. Other**	• Human rights, democracy and rule of law impact assessments ;• Audits and intersectional audits;Enforcement of existing law.;
47. **Please select which mechanism(s) should be part of either a binding instrument or a non-binding instrument to best protect human rights, democracy and the rule of law.** - **Human rights, democracy and rule of law impact assessments** - **Certification and quality labelling** - **Audits and intersectional audits** - **Regulatory sandboxes** **Continuous automated monitoring**	Binding instrument No opinion Binding instrument No opinion Binding instrument
47.bis. Other	Certification is only effective if products are not changed after issue. For code this is almost impossible, as such, certification models are of limited value and may even risk being used to 'green wash' high standards.
48. **In your opinion, how useful would the following follow-up activities be if implemented by the Council of Europe?** - **Monitoring of AI legislation and policies in member States** - **Capacity building on Council of Europe instruments, including assistance to facilitate ratification and implementation of relevant Council of Europe instruments** - **AI Observatory for sharing good practices and exchanging information on**	Highly useful Highly useful Highly useful Highly useful

legal, policy and technological developments related to AI systems **Establishing a centre of expertise on AI and human rights**	395
49. What other mechanisms, if any, should be considered?	Involve and empower civil society with expertise in technology and rights to support this work. Fast track access to court action, for pre-approved registered civil society bodies with CoE support to take up AI cases more quickly since the digital environment is fast moving but the legal one is not.
50. Are there any other issues with respect to the design, development and application of AI systems in the context of human rights, democracy and the rule of law that you wish to bring to the attention of the CAHAI?	Clarity is needed for mis-selling AI as well as its mis-applications. Where should a institutions or consumers go for redress when an organisation has sold them a tool on the basis of its AI function, when in fact it has none? ie case study: see 3.8.4.10 15:00 Case study | Product AI claims | Classcharts Edukey https://defenddigitalme.org/state-of-data/#h.aah28dqhbad And clarity is needed on accountability for harm — if a child is wrongly taken into social care on the basis of flawed AI who should the child get compensation from — the authority that bought and applied the tool, or the company that sold it?
Date of submission	4/22/21 19:15:53

Dentons Europe OOO (St.P)

State (where your institution is based)	Saint Petersburg
Institution: Name of the institution/body/company	Dentons Europe OOO (St.P)
Personal capacity: Your socio-professional category	Intermediate occupations
Your stakeholder group	Private business sector
2. In view of the elaboration of a legal framework on the design, development and application of AI, based on the standards of the Council of Europe on human rights, democracy and the rule of law, what kind of definition of artificial intelligence (AI) should be considered by the CAHAI	A technologically-neutral and simplified definition, such as "a set of sciences, theories and tech-niques whose purpose is to reproduce by a machine the cognitive abilities of a human being" (See the CAHAI feasibility study, §5)
2bis. If "other" please explain below	

3. **What are the reasons for your preference?**	In my opinion, on the present stage there is an objective need in both simple and comprehensive definition, which could be used by scholars and by lawyers. However, AI is a complicated term, therefore, it not correct to emphasize some particular characteristics of AI (such as automated decision-making or machine learning).
4. **Please select the areas in which AI systems offer the most promising opportunities for the protection of human rights, democracy and the rule of law**	Justice;• Healthcare;National security and counter-terrorism;
4bis. If other, which areas and why?	
5. **Please indicate which of the following AI system applications in your view have the greatest potential to enhance/protect human rights, democracy and the rule of law?**	• Smart personal assistants (connected devices);• Medical applications for faster and more accurate diagnoses;• AI applications to prevent the commission of a criminal offence (e.g. anti-money laundry AI appli-cations);• AI applications providing support to the healthcare system (triage, treatment delivery);
6. **Please briefly explain how such applications would benefit human rights, democracy and the rule of law.**	According to Article 25 of the United Nations' 1948 Universal Declaration of Human Rights states: "Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family". Therefore, protection of the right to health should be one of the crucial goals for the society. And the use of AI could definitely improve the level of protection of this fundamental right. Considering some of the other mentioned points, there is still controversy in application of AI as sometimes it could lead to violation of the human rights (e.g. the case re use if software Northpoint).
7. **What other applications might contribute significantly to strengthening human rights, democracy and the rule of law?**	Any AI based applications which would make the process of government decision making less subjective and more transparent.
8. **Please select the areas in which the deployment of AI systems poses the highest risk of violating human rights, democracy and the rule of law** **8bis. Other**	• Social networks/media, internet intermediaries ;
9. **Please briefly explain how such applications might violate human rights, democracy and the rule of law.**	Social networks/ media, internet intermediaries interact with almost every human every day, however, a lot of people do not understand what information is collected about them, how this information would be used and how much do the people's life choices depend on AI. And social networks/ media, internet intermediaries use AI technology mostly for their own benefit and very little for the benefit of users.
10. **Please indicate the types of AI systems that represent the greatest risk to human rights, democracy and the rule of law**	Facial recognition supporting law enforcement ;Scoring / scoring of individuals by public entities;• AI applications for personalised media content (recommender systems);AI applications aimed at predicting recidivism ;
11. **Please briefly explain how such applications might violate human rights, democracy and the rule of law.**	The most dangerous AI based applications are those which are based on sets of subjective data. Besides, even though there is a huge potential for use of AI in preventing crimes in the future, in my opinion , it is rather early to to make the question of human culpability dependent on the decision of artificial intelligence.
12. **What other applications might represent a significant risk**	Any AI based applications collecting personal information for marketing goals.

to human rights, democracy and the rule of law?	
13. In your opinion, should the development, deployment and use of AI systems that have been proven to violate human rights or undermine democracy or the rule of law be 13bis. Other	Banned
14. In your opinion, should the development, deployment and use of AI systems that pose high risks with high probability to human rights, democracy and the rule of law be:	Regulated (binding law)
15. In your opinion, should the development, deployment and use of AI systems that pose low risks with high probability to human rights, democracy and the rule of law be:	Self-regulated (ethics guidelines, voluntary certification)
16. In your opinion, should the development, deployment and use of AI systems that pose high risks with low probability to human rights, democracy and the rule of law be:	Self-regulated (ethics guidelines, voluntary certification)
17. What are the most important legal principles, rights and interests that need to be addressed and therefore justify regulating the development, deployment and use of AI systems?	• Social security;Privacy and data protection;• Legal certainty;• Possibility to challenge a decision made by an AI system and access to an effective remedy;Freedom of expression, assembly and association;
18. In your opinion, in what sectors/areas is a binding legal instrument needed to protect human rights, democracy and the rule of law? 18bis. Other	Justice;Law enforcement;• Healthcare;•
19. Self-regulation by companies is more efficient than government regulation to prevent and mitigate the risk of violations of human rights, democracy and the rule of law.	I rather disagree
20. Self-regulation by companies is sufficient to prevent and mitigate the risk of violations of human rights, democracy and the rule of law	I rather agree
21. Which of the following instruments of self-regulation do you consider to be the most efficient? 21bis. Other	Ethics guidelines
22. Existing international, regional and/or national binding and/or non-binding legal	I rather disagree

instruments are sufficient to regulate AI systems in order to ensure the protection of human rights, democracy and the rule of law.	
23. Please provide examples of existing international, regional and/or national (binding and/or non-binding) instruments that in your view are effective in guiding and regulating the design, development and use of AI systems to ensure compatibility with the standards for human rights, democracy and the rule of law	Policy and investment recommendations for trustworthy Artificial Intelligence, Policy and Investment Recommendations for trustworthy Artificial Intelligence, The assessment list for trustworthy Artificial Intelligence (ALTAI) for self assessment - a practical instrument in a form of a check list.
24. If you responded disagree/completely disagree to question 22, please indicate why existing international, regional and/or national (binding and/or non-binding) legal instruments are not sufficient to regulate AI systems (select all you agree with):	There are too many and they are difficult to interpret and apply in the context of AI;• They provide a basis but fail to provide an effective substantive protection of human rights, democracy and the rule of law against the risks posed by AI systems; They do not provide for specific rights (e.g. transparency requirements, redress mechanisms) for persons affected by AI;
25. Please indicate other specific legal gaps that in your view need to be addressed at the level of the Council of Europe	
26. Individuals should always be informed when they interact with an AI system in any circumstances.	I rather agree
27. Individuals should always be informed when a decision which affects them personally is made by an AI system.	I rather agree
28. Individuals should always be informed when an AI system is used in a decision-making process which affects them personally.	I rather agree
29. Individuals should have a right to a meaningful explanation of algorithmic based decisions, in particular how the algorithm reached its output.	I fully agree
30. Individuals should always have the right that any decision taken by an AI system in the framework of judicial proceedings are reviewed by a "human" judge.	I fully agree
31. Individuals should have a right to demand the review of an algorithmic based decision by a human being.	I fully agree
32. There should always be a person responsible for reviewing algorithmic based decisions in the	I fully agree

public sector and private companies.	
33. Public institutions should not use AI systems to promote or discredit a particular way of life or opinion (e.g. "social scoring").	I rather agree
34. States should be obliged to design, develop and apply sustainable AI systems that respect applicable environmental protection standards.	I fully agree
35. The code behind AI systems used in the public and private sectors should always be accessible to the competent public authorities for the purposes of external audit.	I fully agree
36. There should be higher transparency standards for public entities using AI than for private entities.	I rather agree
37. There should be higher standards for access to an effective remedy for individuals in relation to decisions informed and made by an AI system in the field of justice than in the field of consumer protection.	I rather agree
38. Member States should establish public oversight mechanisms for AI systems that may breach legally binding norms in the sphere of human rights, democracy and the rule of law.	I fully agree
39. Errors and flaws discovered in AI systems which have led or could lead to the violation of human rights, democracy and the rule of law must be reported to the competent authorities.	I fully agree
40. The use of facial recognition in public spaces should be prohibited.	I rather disagree
41. The information obtained through the use of facial recognition systems should always be reviewed by a human being before being used for purposes that have an impact on individual freedom, such as in relation to a person boarding an airplane, upon police arrest or in the framework of judicial proceedings.	I rather agree
42. The use of AI systems in democratic processes (e.g.	I fully agree

elections) should be strictly regulated.	
43. **Should a future legal framework at Council of Europe level include a specific liability regime in relation to AI applications?**	No opinion
44. **If yes, what aspects should be covered?**	
45. **In your opinion, how useful would the following compliance mechanisms be in preventing and mitigating the risks to human rights, democracy and the rule of law arising from the design, development and application of AI?** - **Human rights, democracy and rule of law impact assessments** - **Certification and quality labelling** - **Audits and intersectional audits** - **Regulatory sandboxes** **Continuous automated monitoring**	Rather useful Rather useful Highly useful Highly useful Rather useful
46. **Please indicate what combination of mechanisms should be preferred to efficiently protect human rights, democracy and the rule of law** **46bis. Other**	• Audits and intersectional audits;• Regulatory sandboxes;• Human rights, democracy and rule of law impact assessments ;
47. **Please select which mechanism(s) should be part of either a binding instrument or a non-binding instrument to best protect human rights, democracy and the rule of law.** - **Human rights, democracy and rule of law impact assessments** - **Certification and quality labelling** - **Audits and intersectional audits** - **Regulatory sandboxes** **Continuous automated monitoring**	Non-binding instrument Non-binding instrument Binding instrument Binding instrument Non-binding instrument
47.bis. Other	

48. In your opinion, how useful would the following follow-up activities be if implemented by the Council of Europe? - **Monitoring of AI legislation and policies in member States** - **Capacity building on Council of Europe instruments, including assistance to facilitate ratification and implementation of relevant Council of Europe instruments** - **AI Observatory for sharing good practices and exchanging information on legal, policy and technological developments related to AI systems** **Establishing a centre of expertise on AI and human rights**	Rather useful Rather useful Rather useful Highly useful
49. What other mechanisms, if any, should be considered?	
50. Are there any other issues with respect to the design, development and application of AI systems in the context of human rights, democracy and the rule of law that you wish to bring to the attention of the CAHAI?	
Date of submission	4/29/21 16:46:33

Department of Justice (Malta)

State (where your institution is based)	**Malta**
Institution: Name of the institution/body/company	Department of Justice
Personal capacity: Your socio-professional category	Intermediate occupations
Your stakeholder group	Government & public administration
2. In view of the elaboration of a legal framework on the design, development and application of AI, based on the standards of the Council of Europe on human rights, democracy and the rule of law, what kind of definition of artificial intelligence (AI) should be considered by the CAHAI	A technologically-neutral and simplified definition, such as "a set of sciences, theories and tech-niques whose purpose is to reproduce by a machine the cognitive abilities of a human being" (See the CAHAI feasibility study, §5)

2bis. If "other" please explain below	
3. What are the reasons for your preference?	This is a definition that can be understood by non-technology oriented participants in any justice system.
4. Please select the areas in which AI systems offer the most promising opportunities for the protection of human rights, democracy and the rule of law	Justice;• Election monitoring;National security and counter-terrorism;
4bis. If other, which areas and why?	
5. Please indicate which of the following AI system applications in your view have the greatest potential to enhance/protect human rights, democracy and the rule of law?	• Smart personal assistants (connected devices);• Medical applications for faster and more accurate diagnoses;• Automated fraud detection (banking, insurance);• AI applications to prevent the commission of a criminal offence (e.g. anti-money laundry AI applications);• AI applications providing support to the healthcare system (triage, treatment delivery);
6. Please briefly explain how such applications would benefit human rights, democracy and the rule of law.	The selected applications involve systems that mainly assist professionals in their work by providing them with real-time, up-to-data information that can be used to make the service being offered, more efficient and professional. On the other hand, some of the applications mentioned above are actually bordering on the infringement of a number of human rights, and should not be considered. Much will depend on the extent to which the algorithms used are neutral, bias-free and modelled on the standards that define human rights, democracy and rule of law.
7. What other applications might contribute significantly to strengthening human rights, democracy and the rule of law?	AI applications used in the field of cross-border law enforcement such as in the case of child abduction, human trafficking and money laundering.
8. Please select the areas in which the deployment of AI systems poses the highest risk of violating human rights, democracy and the rule of law **8bis. Other**	• Justice;• Law enforcement;• National security and counter-terrorism;
9. Please briefly explain how such applications might violate human rights, democracy and the rule of law.	The risk of violating human rights relates to the use of AI to act in relation to pre-defined profiles, thereby minimising the possibility of assessing each case on its own merits.
10. Please indicate the types of AI systems that represent the greatest risk to human rights, democracy and the rule of law	Facial recognition supporting law enforcement ;• Emotional analysis in the workplace to measure employees' level of engagement;• AI applications for personalised media content (recommender systems);AI applications aimed at predicting recidivism ;• AI applications determining the allocation of social services;
11. Please briefly explain how such applications might violate human rights, democracy and the rule of law.	The selected systems are based on pre-defined criteria that judge highly personal, sensitive and multidimensional situations. The nuances of each case cannot be pre-judged by AI, but AI can assist professionals in their assessment of such cases.
12. What other applications might represent a significant risk to human rights, democracy and the rule of law?	AI systems addressed at analysing and forecasting voting preferences, social media usage, and personal communication.

13. In your opinion, should the development, deployment and use of AI systems that have been proven to violate human rights or undermine democracy or the rule of law be **13bis. Other**	Banned
14. In your opinion, should the development, deployment and use of AI systems that pose high risks with high probability to human rights, democracy and the rule of law be:	Banned
15. In your opinion, should the development, deployment and use of AI systems that pose low risks with high probability to human rights, democracy and the rule of law be:	Regulated (binding law)
16. In your opinion, should the development, deployment and use of AI systems that pose high risks with low probability to human rights, democracy and the rule of law be:	Regulated (binding law)
17. What are the most important legal principles, rights and interests that need to be addressed and therefore justify regulating the development, deployment and use of AI systems?	Respect for human dignity;Freedom of expression, assembly and association;• Non-discrimination;Privacy and data protection;• Legal certainty;
18. In your opinion, in what sectors/areas is a binding legal instrument needed to protect human rights, democracy and the rule of law? **18bis. Other**	There should always be binding legal instruments to regulate the use of AI;
19. Self-regulation by companies is more efficient than government regulation to prevent and mitigate the risk of violations of human rights, democracy and the rule of law.	I rather disagree
20. Self-regulation by companies is sufficient to prevent and mitigate the risk of violations of human rights, democracy and the rule of law	I rather disagree
21. Which of the following instruments of self-regulation do you consider to be the most efficient? **21bis. Other**	Charters explaining what type of self-regulation mechanism will be used, remedies in place to address shortcomings and accountability structures.
22. Existing international, regional and/or national binding and/or non-binding legal instruments are sufficient to regulate AI systems in order to ensure the protection of human	Indifferent/no opinion

rights, democracy and the rule of law.	
23. Please provide examples of existing international, regional and/or national (binding and/or non-binding) instruments that in your view are effective in guiding and regulating the design, development and use of AI systems to ensure compatibility with the standards for human rights, democracy and the rule of law	NA
24. If you responded disagree/completely disagree to question 22, please indicate why existing international, regional and/or national (binding and/or non-binding) legal instruments are not sufficient to regulate AI systems (select all you agree with):	
25. Please indicate other specific legal gaps that in your view need to be addressed at the level of the Council of Europe	NA
26. Individuals should always be informed when they interact with an AI system in any circumstances.	I fully agree
27. Individuals should always be informed when a decision which affects them personally is made by an AI system.	I fully agree
28. Individuals should always be informed when an AI system is used in a decision-making process which affects them personally.	I fully agree
29. Individuals should have a right to a meaningful explanation of algorithmic based decisions, in particular how the algorithm reached its output.	I fully agree
30. Individuals should always have the right that any decision taken by an AI system in the framework of judicial proceedings are reviewed by a "human" judge.	I fully agree
31. Individuals should have a right to demand the review of an algorithmic based decision by a human being.	I fully agree
32. There should always be a person responsible for reviewing algorithmic based decisions in the public sector and private companies.	I rather agree

33. Public institutions should not use AI systems to promote or discredit a particular way of life or opinion (e.g. "social scoring").	I fully agree
34. States should be obliged to design, develop and apply sustainable AI systems that respect applicable environmental protection standards.	I fully agree
35. The code behind AI systems used in the public and private sectors should always be accessible to the competent public authorities for the purposes of external audit.	I fully agree
36. There should be higher transparency standards for public entities using AI than for private entities.	I rather disagree
37. There should be higher standards for access to an effective remedy for individuals in relation to decisions informed and made by an AI system in the field of justice than in the field of consumer protection.	I rather agree
38. Member States should establish public oversight mechanisms for AI systems that may breach legally binding norms in the sphere of human rights, democracy and the rule of law.	I fully agree
39. Errors and flaws discovered in AI systems which have led or could lead to the violation of human rights, democracy and the rule of law must be reported to the competent authorities.	I fully agree
40. The use of facial recognition in public spaces should be prohibited.	I fully agree
41. The information obtained through the use of facial recognition systems should always be reviewed by a human being before being used for purposes that have an impact on individual freedom, such as in relation to a person boarding an airplane, upon police arrest or in the framework of judicial proceedings.	I rather agree
42. The use of AI systems in democratic processes (e.g. elections) should be strictly regulated.	I fully agree

43. **Should a future legal framework at Council of Europe level include a specific liability regime in relation to AI applications?**	Yes
44. **If yes, what aspects should be covered?**	
45. **In your opinion, how useful would the following compliance mechanisms be in preventing and mitigating the risks to human rights, democracy and the rule of law arising from the design, development and application of AI?** - **Human rights, democracy and rule of law impact assessments** - **Certification and quality labelling** - **Audits and intersectional audits** - **Regulatory sandboxes** **Continuous automated monitoring**	Rather useful Highly useful Highly useful Rather useful Rather useful
46. **Please indicate what combination of mechanisms should be preferred to efficiently protect human rights, democracy and the rule of law** **46bis. Other**	• Certification and quality labelling;• Audits and intersectional audits;• Human rights, democracy and rule of law impact assessments ;
47. **Please select which mechanism(s) should be part of either a binding instrument or a non-binding instrument to best protect human rights, democracy and the rule of law.** - **Human rights, democracy and rule of law impact assessments** - **Certification and quality labelling** - **Audits and intersectional audits** - **Regulatory sandboxes** **Continuous automated monitoring**	Binding instrument Binding instrument Binding instrument Binding instrument Binding instrument
47.bis. Other	

48. In your opinion, how useful would the following follow-up activities be if implemented by the Council of Europe? - **Monitoring of AI legislation and policies in member States** - **Capacity building on Council of Europe instruments, including assistance to facilitate ratification and implementation of relevant Council of Europe instruments** - **AI Observatory for sharing good practices and exchanging information on legal, policy and technological developments related to AI systems** **Establishing a centre of expertise on AI and human rights**	Highly useful Rather useful Highly useful Highly useful
49. What other mechanisms, if any, should be considered?	
50. Are there any other issues with respect to the design, development and application of AI systems in the context of human rights, democracy and the rule of law that you wish to bring to the attention of the CAHAI?	
Date of submission	4/6/21 20:25:28

Derechos Digitales

State (where your institution is based)	Chile
Institution: Name of the institution/body/company	Derechos Digitales
Personal capacity: Your socio-professional category	Higher occupations
Your stakeholder group	Civil society
2. In view of the elaboration of a legal framework on the design, development and application of AI, based on the standards of the Council of Europe on human rights, democracy and the rule of law, what kind of definition of artificial intelligence (AI) should be considered by the CAHAI	A definition focusing on automated decision-making

2bis. If "other" please explain below	
3. What are the reasons for your preference?	The definition of "artificial intelligence" is difficult and subject to current understandings of available technology. The first option focused in effects leaves out too many relevant impacts that are produced by systems of lower complexity, while not addressing the unique features of AI that merit the regulatory effort. The second option is broad enough to include many technologies, but at the same time is vague and imprecise in the relationship between the system and the impact or influence in the decision making, which renders it incomplete from a regulatory perspective that tries to capture the need for guidance in future implementation. The third option is directed towards a specific subset of AI technologies that leaves out too many important applications of lower technical complexity. The fourth option is likely the best one, as it applies to most relevant applications of AI technology, while still linked to probably the most salient source of risk of such applications: its placement in the midst of human decisions. If relevant technologies should be left out of this framework, it should not preclude their inclusion in a separate instrument.
4. Please select the areas in which AI systems offer the most promising opportunities for the protection of human rights, democracy and the rule of law	Justice;Law enforcement;• Education;•
4bis. If other, which areas and why?	Natural Disasters prevention and mitigation, because of the technology's capacity to foresee and allow the deployment of public efforts to contain the damage brought from those events. It is also a necessity in a context of global climate crisis.
5. Please indicate which of the following AI system applications in your view have the greatest potential to enhance/protect human rights, democracy and the rule of law?	• Smart personal assistants (connected devices);• Medical applications for faster and more accurate diagnoses;• AI applications to predict the possible evolution of climate change and/or natural disasters;• AI applications providing support to the healthcare system (triage, treatment delivery);• AI applications to promote gender equality (e.g. analytical tools);
6. Please briefly explain how such applications would benefit human rights, democracy and the rule of law.	Common to all those applications are the need to maintain proper safeguards, proper evaluation of training datasets, and constant monitoring and evaluation of their results. Common to these applications also is a limited reach, helping and not replacing human decisions, preseving always the human warranty or "human in the loop" principle. Social networks and media can be helped by AI by helping detect coordinated behaviours, and to customise personal social media feeds. While currently used in large platforms, automated systems are subject to a high degree of criticism (with only partial information to conduct adequate scrutiny) because of its reliance on bad data, its lack of contextual understanding, or its optimisation under platform monetisation imperatives, rather than user preferences. Therefore, while in general more transparency and auditability is needed, AI in social network still has beneficial potential to the extent that it can help with individual decisions on contents. Smart personal assistants (connected devices) can enhance the ability of users to identify resources and information that are useful for them to overcome information asymetries, and to customize personal searchs making them more efficient. But all those benefit are highly dependant on the the automated systems are designed with users priorities at the center (not providers interest) and they

are feed with information relevant and complete to conduct adequate scrutiny. If they relay on bad data, its lack of contextual understanding, or its optimization under platform monetization imperatives, rather than user preferences, they will not fulfill those goals. Therefore, while in general they should be accompany with transparency and auditability to relize their beneficial potential to the extent they can help with individual decision-making.

Healthcare can be helped in the detection of ailments. While this depends on the quality and representativity of existing datasets, healthcare costs are currently one of the big destinations of spending, whether in privatised or socialised medicine systems. In the majority world (the "global south"), because of the gaps in access to healthcare and its impact in society (including its political decisions), this must be understood as part of a much larger effort to rationalise healthcare expenditure, which requires reasonable deployment of technology to achieve universal healthcare access. The same is applicable regarding triage and treatment delivery in resources constricted frameworks in which the aid (but not human replacement) by the data provided by AI systems can support better decision making by the healthcare providers on charge.

Known or unknown patterns or causes of environmental harm can be identified through AI. Because environmental harm can take time, while its effects are especially suffered by already vulnerable groups, and economic exploitation further harms people in areas distant from wealthier or urbanised areas, detecting patterns of harm in a timely manner can be enhanced by AI tools if properly set to do so. Impacts of current concerns such as lack of water or poor irrigation, or the effects of natural disasters, can be better addressed by the political system with better information.

In the case of the promotion of gender equality, the potential is linked to the detection of patterns identified as part of a continuum of inequality, and afterwards to the promotion of usually marginalised viewpoints, including the visibility of LGBTQI+ groups. This potential can be marred by biases in the system itself, which is why it would still require careful development.

7. What other applications might contribute significantly to strengthening human rights, democracy and the rule of law?	- AI applications to prevent human rights abuses by law-enforcement authorities and border control agents. - AI applications to detect predatory and exploitative industrial practices.
8. Please select the areas in which the deployment of AI systems poses the highest risk of violating human rights, democracy and the rule of law **8bis. Other**	• Justice;• Law enforcement;• Welfare;
9. Please briefly explain how such applications might violate human rights, democracy and the rule of law.	Justice, law enforcement activities, and welfare, all carry the risk of directly affecting human rights in an unfair or discriminatory manner. While far from the only ones -and they are closely followed by Banking, finance and insurance, Employment and • Customs and border control and National security and counter-terrorism- they represent a more immediate threat of concrete expression of broad concerns on systemic inequalities that affect certain groups, because of ethnic, gender, socio-economic or geographic considerations. Institutionalised forms of oppresion can be further entrenched if the underlying conditions of inequality are not addressed as systemic problems, under the guise of objectivity. Examples are varied and numerous. In the case of judicial systems, decisions on risk of recidivism have been reported to disproportionately affect already marginalised or vulnerable groups,

	reflecting and repeating existing patterns of justice systems already skewed against those same groups without machine intervention. In the case of law enforcement, facial recognition systems and bodily surveillance systems have a direct impact on over-policed communities and a concrete effect on the rights of the population just by existing in public spaces. When used to surveil specific individuals, these can be disproportionately targeted towards human rights defenders, political dissidents or members of marginalised groups, limitingV their social interaction even without further intervention by the state apparatuses, while reinforcing existing inequalities. These risks all go deeper in the case of • Customs and border control and National security and counter-terrorism activities, usually linked to the collection and processing of information, but which may involve bad datasets or entrenched discriminatory viewpoints against marginalised groups, migrants, religious minorities, or others. If they also involve state action to supress perceived threats, the risk on the life, liberty and rights of those people is exponentially higher. The role of digital welfare in depening inequality and creating further marginalisation has been highlighted by the UN Special Rapporteur on extreme poverty and human rights highlighted in his recent Report on "The digital welfare state and human rights". One thing to keep on mind is that the implementation of new and emerging technologies by states in welfare is "not the inevitable result of scientific progress, but instead reflect[s] political choices made by humans" and in that sense to avoid harmful consequences decision-making processes of using AI systems in welfare should be much more transparent for the society at large than what they currently are, often taken as an opaque administrative matter that impacts negatively the ones of more urgent help and protection from the State.
10. Please indicate the types of AI systems that represent the greatest risk to human rights, democracy and the rule of law	Facial recognition supporting law enforcement ;Scoring / scoring of individuals by public entities;• AI applications to prevent the commission of a criminal offence;AI applications aimed at predicting recidivism ;• AI applications determining the allocation of social services;
11. Please briefly explain how such applications might violate human rights, democracy and the rule of law.	All of these applications have risks for human rights, which can be large and broad but with different levels of immediacy. The five selected only represent more salient examples with high likelihood of occurrence and a large number of affected people. In the case of facial recognition technology, especialy when deployed in public spaces, the risk is that of all mass surveillance: a practice of registering everyone that is inherently abusive and incompatible with human rights law. Aside from registering biometric data without consent, it affects freedom of movement, freedom of assembly, and privacy, among others. Scoring systems are necessarily systems to discriminate, which can have a legitimate aim to better allocate resources. However, scoring systems can all too easily be biased against those that are already discriminated against, as are members of marginalised communities. If access to services is limited because of these scoring systems, discrimination can further be entrenched rather than addressed and overcome, affecting a long list of rights of those people, including access to housing, education, healthcare, and other social and economic rights. In the case of allocation of social services, this kind of discrimination goes even further, discriminating in the delivery of necessary services to survive in society and likely mismatching needs and services, without addressing individual situations. In the case of prevention of offences and prediction of recidivism, human rights violations are linked to the measures adopted to

	address the perceived risks of criminal activity, namely, restrictions on freedom of movement and other rights through incarceration. In other words, if a person or group are identified as likely to commit crimes, a state intervention might occur without any act actually happening or being attempted. If targeted against the groups traditionally subject to police intervention (marginalised groups, usually), already tainted by institutional discrimination, this may involve a direct violation of the right to freedom of movement, as well as dignity and equality, continuing with old patterns of disfrimination.
12. What other applications might represent a significant risk to human rights, democracy and the rule of law?	- Autonomous weapons to be deployed in conflict areas - Emotional analysis in the workplace to measure employees' level of engagement - AI applications used for analysing the performance of pupils/students in educational institutions such as schools and universities
13. In your opinion, should the development, deployment and use of AI systems that have been proven to violate human rights or undermine democracy or the rule of law be **13bis. Other**	Banned
14. In your opinion, should the development, deployment and use of AI systems that pose high risks with high probability to human rights, democracy and the rule of law be:	Banned
15. In your opinion, should the development, deployment and use of AI systems that pose low risks with high probability to human rights, democracy and the rule of law be:	Subject to moratorium
16. In your opinion, should the development, deployment and use of AI systems that pose high risks with low probability to human rights, democracy and the rule of law be:	Regulated (binding law)
17. What are the most important legal principles, rights and interests that need to be addressed and therefore justify regulating the development, deployment and use of AI systems?	Respect for human dignity;• Non-discrimination;Privacy and data protection;• Transparency;• Possibility to challenge a decision made by an AI system and access to an effective remedy;
18. In your opinion, in what sectors/areas is a binding legal instrument needed to protect human rights, democracy and the rule of law? **18bis. Other**	Law enforcement;Welfare;• Healthcare;
19. Self-regulation by companies is more efficient than government regulation to prevent and mitigate the risk of violations of human rights, democracy and the rule of law.	I completely disagree

20. Self-regulation by companies is sufficient to prevent and mitigate the risk of violations of human rights, democracy and the rule of law	I completely disagree
21. Which of the following instruments of self-regulation do you consider to be the most efficient? **21bis. Other**	Human rights impact assessments and open and transparent due diligence processes with outside participation
22. Existing international, regional and/or national binding and/or non-binding legal instruments are sufficient to regulate AI systems in order to ensure the protection of human rights, democracy and the rule of law.	I rather disagree
23. Please provide examples of existing international, regional and/or national (binding and/or non-binding) instruments that in your view are effective in guiding and regulating the design, development and use of AI systems to ensure compatibility with the standards for human rights, democracy and the rule of law	Such instruments do not exist yet at the multilateral level. Ethics and principles documents, as well as corporate commitments, should not be counted as effective regulatory instruments.
24. If you responded disagree/completely disagree to question 22, please indicate why existing international, regional and/or national (binding and/or non-binding) legal instruments are not sufficient to regulate AI systems (select all you agree with):	• They provide a basis but fail to provide an effective substantive protection of human rights, democracy and the rule of law against the risks posed by AI systems;• They lack specific principles for the design, development and application of AI systems;They do not provide for specific rights (e.g. transparency requirements, redress mechanisms) for persons affected by AI;
25. Please indicate other specific legal gaps that in your view need to be addressed at the level of the Council of Europe	Any kind of legal data gaps should be done looking not only at the operation of AI system within European countries, but also considering interaction with outside countries. Gaps to address include the needs for: - Enhancing controls over personal data for use in AI systems, including explainability, transparency, redress mechanisms, and refusal to have information processed by AI systems, - Requiring transparency mechanisms for the use and interaction with AI systems, - Banning biometric systems in public spaces and in state functions, - Establishing human rights impact assessments at the private level.
26. Individuals should always be informed when they interact with an AI system in any circumstances.	I fully agree
27. Individuals should always be informed when a decision which affects them personally is made by an AI system.	I fully agree

28. Individuals should always be informed when an AI system is used in a decision-making process which affects them personally.	I fully agree
29. Individuals should have a right to a meaningful explanation of algorithmic based decisions, in particular how the algorithm reached its output.	I fully agree
30. Individuals should always have the right that any decision taken by an AI system in the framework of judicial proceedings are reviewed by a "human" judge.	I fully agree
31. Individuals should have a right to demand the review of an algorithmic based decision by a human being.	I fully agree
32. There should always be a person responsible for reviewing algorithmic based decisions in the public sector and private companies.	I fully agree
33. Public institutions should not use AI systems to promote or discredit a particular way of life or opinion (e.g. "social scoring").	I fully agree
34. States should be obliged to design, develop and apply sustainable AI systems that respect applicable environmental protection standards.	I fully agree
35. The code behind AI systems used in the public and private sectors should always be accessible to the competent public authorities for the purposes of external audit.	I fully agree
36. There should be higher transparency standards for public entities using AI than for private entities.	I fully agree
37. There should be higher standards for access to an effective remedy for individuals in relation to decisions informed and made by an AI system in the field of justice than in the field of consumer protection.	I fully agree
38. Member States should establish public oversight mechanisms for AI systems that may breach legally binding norms in the sphere of human rights, democracy and the rule of law.	I fully agree
39. Errors and flaws discovered in AI systems which have led or could lead to the	I fully agree

violation of human rights, democracy and the rule of law must be reported to the competent authorities.	
40. **The use of facial recognition in public spaces should be prohibited.**	I fully agree
41. **The information obtained through the use of facial recognition systems should always be reviewed by a human being before being used for purposes that have an impact on individual freedom, such as in relation to a person boarding an airplane, upon police arrest or in the framework of judicial proceedings.**	I fully agree
42. **The use of AI systems in democratic processes (e.g. elections) should be strictly regulated.**	I fully agree
43. **Should a future legal framework at Council of Europe level include a specific liability regime in relation to AI applications?**	Yes
44. **If yes, what aspects should be covered?**	- Redress and challenging mechanisms: there must be tools (not only at the procedural but also in terms of capacities and assistance) to challenge automated decisions and the results of AI processes should be put in place always as a liability condition. - Compensation: harms by AI systems must be valued and compensated to those harmed, including both individual harms and collective harms. - Restoration: to the extent possible, there must be action aimed at restoring any situation to what it was before, or would have been without, the intervention of an AI system. - Sanction: the development of banned technologies, the lack of human rights impact assessments, and the most harmful effects of AI systems must be penalised. Corporate and individual responsibility must be sought.
45. **In your opinion, how useful would the following compliance mechanisms be in preventing and mitigating the risks to human rights, democracy and the rule of law arising from the design, development and application of AI?** - **Human rights, democracy and rule of law impact assessments** - **Certification and quality labelling** - **Audits and intersectional audits** - **Regulatory sandboxes** **Continuous automated monitoring**	Highly useful Rather useful Highly useful Rather useful Highly useful

46. **Please indicate what combination of mechanisms should be preferred to efficiently protect human rights, democracy and the rule of law** **46bis. Other**	• Human rights, democracy and rule of law impact assessments ;• Audits and intersectional audits;Continuous automated monitoring;
47. **Please select which mechanism(s) should be part of either a binding instrument or a non-binding instrument to best protect human rights, democracy and the rule of law.** - **Human rights, democracy and rule of law impact assessments** - **Certification and quality labelling** - **Audits and intersectional audits** - **Regulatory sandboxes** **Continuous automated monitoring**	Binding instrument Binding instrument Binding instrument Binding instrument Binding instrument
47.bis. Other	Rather than other mechanisms, those listed above should be comprehensive and enforceable, while also applicable to obligations acquired between Europe and countries outside of it, setting standards for AI development in other countries trading with Europe. The higher standards set by the 27 EU countries in matters such as data protection, when overlapping with AI concerns, should be brought to the rest of the countries that are represented at the Council of Europe as well.
48. **In your opinion, how useful would the following follow-up activities be if implemented by the Council of Europe?** - **Monitoring of AI legislation and policies in member States** - **Capacity building on Council of Europe instruments, including assistance to facilitate ratification and implementation of relevant Council of Europe instruments** - **AI Observatory for sharing good practices and exchanging information on legal, policy and technological developments related to AI systems** **Establishing a centre of expertise on AI and human rights**	Highly useful Highly useful Highly useful Rather useful
49. **What other mechanisms, if any, should be considered?**	- Engagement of stakeholders from outside Europe, through regularly held forums and convenings. - Development of capacities to stakeholders outside of Europe to better integrate human rights concerns in AI development. - Resources, including training and information, to stakeholders outside of Europe to better engage in AI policy development processes.

50. Are there any other issues with respect to the design, development and application of AI systems in the context of human rights, democracy and the rule of law that you wish to bring to the attention of the CAHAI?	Many of the risks of negative impact on human rights of AI systems are not a byproduct of faulty technological development as much as a problem of poor governance in public policy-making processes. Consequently, better practice in understanding the deployment of AI systems as another form of decisionmaking would necessarily include better efforts to involve different stakeholders, including civil society, academia, marginalised or vulnerable groups, as part of the full process of acquiring, developing and deploying AI systems. Transparency, inclusion and accountability are general principles whose absence affects both the quality and the legitimacy of AI development. Any instrument that aims to address the risks of AI systems must take into account meaningful public participation as a priority concern.
Date of submission	4/29/21 17:43:44

Digital Asset Trade Association

State (where your institution is based)	Wyoming
Institution: Name of the institution/body/company	Digital Asset Trade Association
Personal capacity: Your socio-professional category	Higher occupations
Your stakeholder group	Internet technical community
2. In view of the elaboration of a legal framework on the design, development and application of AI, based on the standards of the Council of Europe on human rights, democracy and the rule of law, what kind of definition of artificial intelligence (AI) should be considered by the CAHAI	A technologically-neutral and simplified definition, such as "a set of sciences, theories and tech-niques whose purpose is to reproduce by a machine the cognitive abilities of a human being" (See the CAHAI feasibility study, §5)
2bis. If "other" please explain below	
3. What are the reasons for your preference?	The definition of AI is, in a nutshell, the ability for a machine to make decisions using logic and "empathy" . The ability to pass a Turing test should be held as a base requirement not the only requirement. It is NOT solely machine learning nor data set manipulation with logic guardrails. However, we should not assume a machine with AI capabilities will favor humans as by definition, we define intelligence as maintaining the self.
4. Please select the areas in which AI systems offer the most promising opportunities for the protection of human rights, democracy and the rule of law	National security and counter-terrorism;• Education;• Employment;
4bis. If other, which areas and why?	Neutral adjudication based on lack of identification as "human".

5. Please indicate which of the following AI system applications in your view have the greatest potential to enhance/protect human rights, democracy and the rule of law?	• Deep fakes and cheap fakes;
6. Please briefly explain how such applications would benefit human rights, democracy and the rule of law.	Please go back to the definition of AI. Perhaps you should change the term to machine learning. Then all above would be included.
7. What other applications might contribute significantly to strengthening human rights, democracy and the rule of law?	The only way a true AI system would assist in this capacity is through "neutral" adjudication.
8. Please select the areas in which the deployment of AI systems poses the highest risk of violating human rights, democracy and the rule of law **8bis. Other**	• Law enforcement;• Customs and border control;• Employment;
9. Please briefly explain how such applications might violate human rights, democracy and the rule of law.	The question does not specify how this is to be done. If it is a neutral decision making party, that is fine, it remember the original statement. Intelligence dictates preservation of self.
10. Please indicate the types of AI systems that represent the greatest risk to human rights, democracy and the rule of law	Scoring / scoring of individuals by public entities;• Recruiting software/ AI applications used for assessing work performance ;• AI applications providing support to the healthcare system (triage, treatment delivery);
11. Please briefly explain how such applications might violate human rights, democracy and the rule of law.	Human rights dictate preservation of life and liberty. A neutral party May deprive one of that based on the data sets and analysis therein. What if a person an unfavorable percentage to survive a procedure? Are they counted against because the odds are not in their favor?
12. What other applications might represent a significant risk to human rights, democracy and the rule of law?	Vaccine tracking, health tracking, social scores
13. In your opinion, should the development, deployment and use of AI systems that have been proven to violate human rights or undermine democracy or the rule of law be **13bis. Other**	Banning just hides the technology from plain sight. It must be studied and improved.
14. In your opinion, should the development, deployment and use of AI systems that pose high risks with high probability to human rights, democracy and the rule of law be:	Subject to moratorium
15. In your opinion, should the development, deployment and use of AI systems that pose low risks with high probability to human rights, democracy and the rule of law be:	Subject to moratorium

16. In your opinion, should the development, deployment and use of AI systems that pose high risks with low probability to human rights, democracy and the rule of law be:	Subject to moratorium
17. What are the most important legal principles, rights and interests that need to be addressed and therefore justify regulating the development, deployment and use of AI systems?	Respect for human dignity;Freedom of expression, assembly and association;• Non-discrimination;• Personal integrity ;• Possibility to challenge a decision made by an AI system and access to an effective remedy;
18. In your opinion, in what sectors/areas is a binding legal instrument needed to protect human rights, democracy and the rule of law? **18bis. Other**	Welfare;Customs and border control;Election monitoring;
19. Self-regulation by companies is more efficient than government regulation to prevent and mitigate the risk of violations of human rights, democracy and the rule of law.	I rather agree
20. Self-regulation by companies is sufficient to prevent and mitigate the risk of violations of human rights, democracy and the rule of law	I rather agree
21. Which of the following instruments of self-regulation do you consider to be the most efficient? **21bis. Other**	Ethics guidelines
22. Existing international, regional and/or national binding and/or non-binding legal instruments are sufficient to regulate AI systems in order to ensure the protection of human rights, democracy and the rule of law.	I completely disagree
23. Please provide examples of existing international, regional and/or national (binding and/or non-binding) instruments that in your view are effective in guiding and regulating the design, development and use of AI systems to ensure compatibility with the standards for human rights, democracy and the rule of law	None
24. If you responded disagree/completely disagree to question 22, please indicate why existing international, regional and/or national (binding and/or non-binding) legal instruments are	They do not provide for specific rights (e.g. transparency requirements, redress mechanisms) for persons affected by AI;• They do not provide enough guidance to the designers, developers and deployers of AI systems;• They lack specific principles for the design, development and application of AI systems;• They provide a basis but fail to provide an effective

not sufficient to regulate AI systems (select all you agree with):	substantive protection of human rights, democracy and the rule of law against the risks posed by AI systems;
25. Please indicate other specific legal gaps that in your view need to be addressed at the level of the Council of Europe	We must first define AI then create policy therein.
26. Individuals should always be informed when they interact with an AI system in any circumstances.	I fully agree
27. Individuals should always be informed when a decision which affects them personally is made by an AI system.	I fully agree
28. Individuals should always be informed when an AI system is used in a decision-making process which affects them personally.	I fully agree
29. Individuals should have a right to a meaningful explanation of algorithmic based decisions, in particular how the algorithm reached its output.	I fully agree
30. Individuals should always have the right that any decision taken by an AI system in the framework of judicial proceedings are reviewed by a "human" judge.	I fully agree
31. Individuals should have a right to demand the review of an algorithmic based decision by a human being.	I fully agree
32. There should always be a person responsible for reviewing algorithmic based decisions in the public sector and private companies.	I fully agree
33. Public institutions should not use AI systems to promote or discredit a particular way of life or opinion (e.g. "social scoring").	I fully agree
34. States should be obliged to design, develop and apply sustainable AI systems that respect applicable environmental protection standards.	I fully agree
35. The code behind AI systems used in the public and private sectors should always be accessible to the competent public authorities for the purposes of external audit.	I rather agree
36. There should be higher transparency standards for public entities using AI than for private entities.	I fully agree

37. There should be higher standards for access to an effective remedy for individuals in relation to decisions informed and made by an AI system in the field of justice than in the field of consumer protection.	I fully agree
38. Member States should establish public oversight mechanisms for AI systems that may breach legally binding norms in the sphere of human rights, democracy and the rule of law.	I rather agree
39. Errors and flaws discovered in AI systems which have led or could lead to the violation of human rights, democracy and the rule of law must be reported to the competent authorities.	I fully agree
40. The use of facial recognition in public spaces should be prohibited.	I rather agree
41. The information obtained through the use of facial recognition systems should always be reviewed by a human being before being used for purposes that have an impact on individual freedom, such as in relation to a person boarding an airplane, upon police arrest or in the framework of judicial proceedings.	I fully agree
42. The use of AI systems in democratic processes (e.g. elections) should be strictly regulated.	I fully agree
43. Should a future legal framework at Council of Europe level include a specific liability regime in relation to AI applications?	Yes
44. If yes, what aspects should be covered?	Human review, definition of AI, the fairness of efficacy of decisions.
45. In your opinion, how useful would the following compliance mechanisms be in preventing and mitigating the risks to human rights, democracy and the rule of law arising from the design, development and application of AI? - **Human rights, democracy and rule of law impact assessments** - **Certification and quality labelling**	Highly useful Highly useful Highly useful Highly useful Rather useful

- **Audits and intersectional audits** - **Regulatory sandboxes** **Continuous automated monitoring**	
46. Please indicate what combination of mechanisms should be preferred to efficiently protect human rights, democracy and the rule of law **46bis. Other**	• Human rights, democracy and rule of law impact assessments ;• Regulatory sandboxes;Expert review with clear metrics. ;
47. Please select which mechanism(s) should be part of either a binding instrument or a non-binding instrument to best protect human rights, democracy and the rule of law. - **Human rights, democracy and rule of law impact assessments** - **Certification and quality labelling** - **Audits and intersectional audits** - **Regulatory sandboxes** **Continuous automated monitoring**	Non-binding instrument Binding instrument Binding instrument Non-binding instrument Binding instrument
47.bis. Other	There should be a group nominated to take on the impact of AI on humanity and quality of life, right to liberty and life.
48. In your opinion, how useful would the following follow-up activities be if implemented by the Council of Europe? - **Monitoring of AI legislation and policies in member States** - **Capacity building on Council of Europe instruments, including assistance to facilitate ratification and implementation of relevant Council of Europe instruments** - **AI Observatory for sharing good practices and exchanging information on legal, policy and technological developments related to AI systems** **Establishing a centre of expertise on AI and human rights**	Highly useful Highly useful Highly useful Highly useful

49. What other mechanisms, if any, should be considered?	Let's start with that
50. Are there any other issues with respect to the design, development and application of AI systems in the context of human rights, democracy and the rule of law that you wish to bring to the attention of the CAHAI?	To be very clear, we need to define the problem set and definition.
Date of submission	27/04/2021 21:38:26

Digital Law Institute, HSE University (Moscow)

State (where your institution is based)	**Russian Federartion**
Institution: Name of the institution/body/company	Digital Law Institute, HSE University (Moscow)
Personal capacity: Your socio-professional category	Higher occupations
Your stakeholder group	Academic and scientific community
2. In view of the elaboration of a legal framework on the design, development and application of AI, based on the standards of the Council of Europe on human rights, democracy and the rule of law, what kind of definition of artificial intelligence (AI) should be considered by the CAHAI	A technologically-neutral and simplified definition, such as "a set of sciences, theories and tech-niques whose purpose is to reproduce by a machine the cognitive abilities of a human being" (See the CAHAI feasibility study, §5)
2bis. If "other" please explain below	
3. What are the reasons for your preference?	For legal purposes, we do need a definition, however it should not be based on any existing of future technologies
4. Please select the areas in which AI systems offer the most promising opportunities for the protection of human rights, democracy and the rule of law	Banking, finance and insurance;Justice;Law enforcement;
4bis. If other, which areas and why?	
5. Please indicate which of the following AI system applications in your view have the greatest potential to enhance/protect human rights, democracy and the rule of law?	Emotional analysis in the workplace to measure employees' level of engagement;• Medical applications for faster and more accurate diagnoses;• Automated fraud detection (banking, insurance);• Deep fakes and cheap fakes;• AI applications aimed at predicting recidivism ;

6. Please briefly explain how such applications would benefit human rights, democracy and the rule of law.	Decisions based on AI applications may (and should) be more reasonable and neutral, avoiding any human intervention when amount of accumulated data is alredy sufficient to make such decisions and not waste time. E.g. medical tests in emergency situations.
7. What other applications might contribute significantly to strengthening human rights, democracy and the rule of law?	Detection of facts of corruption in public service institutions (embezzlement etc.)
8. Please select the areas in which the deployment of AI systems poses the highest risk of violating human rights, democracy and the rule of law **8bis. Other**	• Law enforcement;• National security and counter-terrorism;• Public administration;
9. Please briefly explain how such applications might violate human rights, democracy and the rule of law.	Uncontroled use of AI techniques (e.g.face recognition) may lead to gather excessive amount of personal information and thus violate human rights,.
10. Please indicate the types of AI systems that represent the greatest risk to human rights, democracy and the rule of law	Facial recognition supporting law enforcement ;• AI applications for personalised media content (recommender systems);AI applications aimed at predicting recidivism ;• AI applications to prevent the commission of a criminal offence;
11. Please briefly explain how such applications might violate human rights, democracy and the rule of law.	As indicated above, without human (social, civil) control such applications will process excessive amount of personal information
12. What other applications might represent a significant risk to human rights, democracy and the rule of law?	any type of AI-run applications to restrict the movement of people during health (quarantince) restrictions
13. In your opinion, should the development, deployment and use of AI systems that have been proven to violate human rights or undermine democracy or the rule of law be **13bis. Other**	Be strictly controlled by civil society
14. In your opinion, should the development, deployment and use of AI systems that pose high risks with high probability to human rights, democracy and the rule of law be:	Subject to moratorium
15. In your opinion, should the development, deployment and use of AI systems that pose low risks with high probability to human rights, democracy and the rule of law be:	Self-regulated (ethics guidelines, voluntary certification)
16. In your opinion, should the development, deployment and use of AI systems that pose high risks with low probability to human rights, democracy and the rule of law be:	Subject to moratorium
17. What are the most important legal principles, rights and interests that need to be	Respect for human dignity;Freedom of expression, assembly and association;• Non-discrimination;Privacy and data protection;• Legal certainty;

addressed and therefore justify regulating the development, deployment and use of AI systems?	
18. In your opinion, in what sectors/areas is a binding legal instrument needed to protect human rights, democracy and the rule of law? **18bis. Other**	Public administration;Law enforcement;Justice;
19. Self-regulation by companies is more efficient than government regulation to prevent and mitigate the risk of violations of human rights, democracy and the rule of law.	I rather agree
20. Self-regulation by companies is sufficient to prevent and mitigate the risk of violations of human rights, democracy and the rule of law	I rather agree
21. Which of the following instruments of self-regulation do you consider to be the most efficient? **21bis. Other**	Ethics guidelines
22. Existing international, regional and/or national binding and/or non-binding legal instruments are sufficient to regulate AI systems in order to ensure the protection of human rights, democracy and the rule of law.	Indifferent/no opinion
23. Please provide examples of existing international, regional and/or national (binding and/or non-binding) instruments that in your view are effective in guiding and regulating the design, development and use of AI systems to ensure compatibility with the standards for human rights, democracy and the rule of law	not applicable by now
24. If you responded disagree/completely disagree to question 22, please indicate why existing international, regional and/or national (binding and/or non-binding) legal instruments are not sufficient to regulate AI systems (select all you agree with):	• They lack specific principles for the design, development and application of AI systems;
25. Please indicate other specific legal gaps that in your view need to be addressed at the level of the Council of Europe	

26. **Individuals should always be informed when they interact with an AI system in any circumstances.**	I fully agree
27. **Individuals should always be informed when a decision which affects them personally is made by an AI system.**	I fully agree
28. **Individuals should always be informed when an AI system is used in a decision-making process which affects them personally.**	I fully agree
29. **Individuals should have a right to a meaningful explanation of algorithmic based decisions, in particular how the algorithm reached its output.**	I rather agree
30. **Individuals should always have the right that any decision taken by an AI system in the framework of judicial proceedings are reviewed by a "human" judge.**	I fully agree
31. **Individuals should have a right to demand the review of an algorithmic based decision by a human being.**	I rather agree
32. **There should always be a person responsible for reviewing algorithmic based decisions in the public sector and private companies.**	I rather agree
33. **Public institutions should not use AI systems to promote or discredit a particular way of life or opinion (e.g. "social scoring").**	Indifferent/no opinion
34. **States should be obliged to design, develop and apply sustainable AI systems that respect applicable environmental protection standards.**	Indifferent/no opinion
35. **The code behind AI systems used in the public and private sectors should always be accessible to the competent public authorities for the purposes of external audit.**	I rather agree
36. **There should be higher transparency standards for public entities using AI than for private entities.**	I rather agree
37. **There should be higher standards for access to an effective remedy for individuals in relation to decisions informed and made by an AI system in the field of justice than in the field of consumer protection.**	I rather agree

38. Member States should establish public oversight mechanisms for AI systems that may breach legally binding norms in the sphere of human rights, democracy and the rule of law.	I rather agree
39. Errors and flaws discovered in AI systems which have led or could lead to the violation of human rights, democracy and the rule of law must be reported to the competent authorities.	I rather agree
40. The use of facial recognition in public spaces should be prohibited.	Indifferent/no opinion
41. The information obtained through the use of facial recognition systems should always be reviewed by a human being before being used for purposes that have an impact on individual freedom, such as in relation to a person boarding an airplane, upon police arrest or in the framework of judicial proceedings.	I rather agree
42. The use of AI systems in democratic processes (e.g. elections) should be strictly regulated.	I fully agree
43. Should a future legal framework at Council of Europe level include a specific liability regime in relation to AI applications?	No opinion
44. If yes, what aspects should be covered?	
45. In your opinion, how useful would the following compliance mechanisms be in preventing and mitigating the risks to human rights, democracy and the rule of law arising from the design, development and application of AI? - **Human rights, democracy and rule of law impact assessments** - **Certification and quality labelling** - **Audits and intersectional audits** - **Regulatory sandboxes** **Continuous automated monitoring**	Rather useful Highly useful Rather useful Rather not useful Indifferent/no opinion
46. Please indicate what combination of mechanisms should be preferred to efficiently	• Certification and quality labelling;• Human rights, democracy and rule of law impact assessments ;• Audits and intersectional audits;

protect human rights, democracy and the rule of law 46bis. Other	
47. Please select which mechanism(s) should be part of either a binding instrument or a non-binding instrument to best protect human rights, democracy and the rule of law. - Human rights, democracy and rule of law impact assessments - Certification and quality labelling - Audits and intersectional audits - Regulatory sandboxes Continuous automated monitoring	Binding instrument Binding instrument Binding instrument Non-binding instrument Non-binding instrument
47.bis. Other	Mandatory regular reports
48. In your opinion, how useful would the following follow-up activities be if implemented by the Council of Europe? - Monitoring of AI legislation and policies in member States - Capacity building on Council of Europe instruments, including assistance to facilitate ratification and implementation of relevant Council of Europe instruments - AI Observatory for sharing good practices and exchanging information on legal, policy and technological developments related to AI systems Establishing a centre of expertise on AI and human rights	Highly useful Rather useful Highly useful Highly useful
49. What other mechanisms, if any, should be considered?	regular multi-stakeholder mechanisms (forums) to discuss all relevent matters in their integrity
50. Are there any other issues with respect to the design, development and application of AI systems in the context of human rights, democracy and the rule of law that you wish to bring to the attention of the CAHAI?	
Date of submission	4/27/21 21:38:26

Digital Society Initiative & Center for Information Technology, Society, and Law; University of Zurich

State (where your institution is based)	**Switzerland**
Institution: Name of the institution/body/company	Digital Society Initiative & Center for Information Technology, Society, and Law; University of Zurich
Personal capacity: Your socio-professional category	Higher occupations
Your stakeholder group	Academic and scientific community
2. In view of the elaboration of a legal framework on the design, development and application of AI, based on the standards of the Council of Europe on human rights, democracy and the rule of law, what kind of definition of artificial intelligence (AI) should be considered by the CAHAI	Other
2bis. If "other" please explain below	ADM without restriction to legally binding decisions
3. What are the reasons for your preference?	Most endeavors in defining AI are fraught with shortcomings and lead to endless discussions. The traditional definition via the reproduction of human cognitive capabilities is inaccurate, as today's AI systems do not try to mimic humans but provide vastly superior performance in tasks, where humans have been shown to be notoriously bad. These systems are immediately recognizable as non-human, but highly performant. For the purposes of regulation, a definition via the technological means seems completely impractical, as the techniques for their implementation change rapidly. A restriction to legally binding contexts seems problematic, as AI will likely penetrate areas of life that we will only in later stages recognize as relevant for regulation. Hence, defining AI as acting in any impactful setting, which will always involve some kind of decision making, seems the most practical.
4. Please select the areas in which AI systems offer the most promising opportunities for the protection of human rights, democracy and the rule of law	• Education;• Healthcare;National security and counter-terrorism;
4bis. If other, which areas and why?	
5. Please indicate which of the following AI system applications in your view have the greatest potential to enhance/protect human rights, democracy and the rule of law?	• Medical applications for faster and more accurate diagnoses;• AI applications for personalised media content (recommender systems);• Recruiting software/ AI applications used for assessing work performance ;• AI applications determining the allocation of educational services;• AI applications determining the allocation of social services;
6. Please briefly explain how such applications would benefit	AI applications in education, employment, medicine and social welfare can integrate a huge knowledge of body (data) and thus complement human expertise for better and fairer assessment and

human rights, democracy and the rule of law.	decision-making; in that way supporting human rights. In the field of media, (well-designed) AI could counteract human biases and human tendencies for creating filter bubbles; in that way supporting democracy.
7. **What other applications might contribute significantly to strengthening human rights, democracy and the rule of law?**	AI has the potential to systematically address a number of threats to human rights, democracy, and the rule of law that stem from human behavioral traits in almost all sectors, where such issues arise. Examples include the assurance of diversity (e.g., in media, at the workplace, or in decision bodies), the avoidance of certain types of discrimination (in almost all applications, e.g., by highlighting possible discriminatory elements, unfair categorization, or in the availability of relevant financial/educational/infrastructural … services to minorities).
8. **Please select the areas in which the deployment of AI systems poses the highest risk of violating human rights, democracy and the rule of law** **8bis. Other**	• Justice;• Law enforcement;• National security and counter-terrorism;
9. **Please briefly explain how such applications might violate human rights, democracy and the rule of law.**	In the chosen options, the degree of violation of human rights (imprisonment, even death through law enforcement activities) is highest in cases where AI systems are wrongly designed and increase discrimination and injustice. Those domains are critical to ensure trust of citizens in states.
10. **Please indicate the types of AI systems that represent the greatest risk to human rights, democracy and the rule of law**	Facial recognition supporting law enforcement ;• Emotional analysis in the workplace to measure employees' level of engagement;Scoring / scoring of individuals by public entities;• AI applications providing support to the healthcare system (triage, treatment delivery);• AI applications for personalised media content (recommender systems);
11. **Please briefly explain how such applications might violate human rights, democracy and the rule of law.**	The major issue we see is that AI allows for automatizing the assessment of humans through face recognition, emotion analysis and scoring, which is by itself problematic. The danger of setting up systems that allow for such "automation" of assessment and decision-making processes is particularly relevant in cases that are critical for human beings (such as medicine or law enforcement) or concern a significant part of human life (such as work). In media, AI can serve for good but also for bad purposes – latter through optimizing personalization and thus increasing the problem of filter bubbles.
12. **What other applications might represent a significant risk to human rights, democracy and the rule of law?**	A variety of non-profits and conferences have highlighted a series of relevant threats and offer useful collections/overviews. We believe that wherever highly impactful decision get made that affect human rights, democracy and the rule of law one will have to ask oneself what the potential and risks of AI are.
13. **In your opinion, should the development, deployment and use of AI systems that have been proven to violate human rights or undermine democracy or the rule of law be** **13bis. Other**	Not banned
14. **In your opinion, should the development, deployment and use of AI systems that pose high risks with high probability to human rights, democracy and the rule of law be:**	Regulated (binding law)

15. In your opinion, should the development, deployment and use of AI systems that pose low risks with high probability to human rights, democracy and the rule of law be:	Regulated (binding law)
16. In your opinion, should the development, deployment and use of AI systems that pose high risks with low probability to human rights, democracy and the rule of law be:	Regulated (binding law)
17. What are the most important legal principles, rights and interests that need to be addressed and therefore justify regulating the development, deployment and use of AI systems?	• Non-discrimination;Privacy and data protection;• Transparency;• Explainability;• Possibility to challenge a decision made by an AI system and access to an effective remedy;
18. In your opinion, in what sectors/areas is a binding legal instrument needed to protect human rights, democracy and the rule of law? 18bis. Other	Justice;• Healthcare;Public administration;
19. Self-regulation by companies is more efficient than government regulation to prevent and mitigate the risk of violations of human rights, democracy and the rule of law.	I rather disagree
20. Self-regulation by companies is sufficient to prevent and mitigate the risk of violations of human rights, democracy and the rule of law	I completely disagree
21. Which of the following instruments of self-regulation do you consider to be the most efficient? 21bis. Other	Independent NGOs that inform the public on industry activities
22. Existing international, regional and/or national binding and/or non-binding legal instruments are sufficient to regulate AI systems in order to ensure the protection of human rights, democracy and the rule of law.	I rather disagree
23. Please provide examples of existing international, regional and/or national (binding and/or non-binding) instruments that in your view are effective in guiding and regulating the design, development and use of AI systems to ensure compatibility with the standards for human rights, democracy and the rule of law	We are not aware of any convincing existing instruments.

24. If you responded disagree/completely disagree to question 22, please indicate why existing international, regional and/or national (binding and/or non-binding) legal instruments are not sufficient to regulate AI systems (select all you agree with):	• They provide a basis but fail to provide an effective substantive protection of human rights, democracy and the rule of law against the risks posed by AI systems;• They create barriers to the design, development and application of AI systems;
25. Please indicate other specific legal gaps that in your view need to be addressed at the level of the Council of Europe	No response
26. Individuals should always be informed when they interact with an AI system in any circumstances.	I rather agree
27. Individuals should always be informed when a decision which affects them personally is made by an AI system.	I fully agree
28. Individuals should always be informed when an AI system is used in a decision-making process which affects them personally.	I fully agree
29. Individuals should have a right to a meaningful explanation of algorithmic based decisions, in particular how the algorithm reached its output.	I rather agree
30. Individuals should always have the right that any decision taken by an AI system in the framework of judicial proceedings are reviewed by a "human" judge.	I rather agree
31. Individuals should have a right to demand the review of an algorithmic based decision by a human being.	I rather disagree
32. There should always be a person responsible for reviewing algorithmic based decisions in the public sector and private companies.	I rather disagree
33. Public institutions should not use AI systems to promote or discredit a particular way of life or opinion (e.g. "social scoring").	I fully agree
34. States should be obliged to design, develop and apply sustainable AI systems that respect applicable environmental protection standards.	Indifferent/no opinion
35. The code behind AI systems used in the public and private sectors should always be accessible to the competent	I completely disagree

public authorities for the purposes of external audit.	
36. There should be higher transparency standards for public entities using AI than for private entities.	I fully agree
37. There should be higher standards for access to an effective remedy for individuals in relation to decisions informed and made by an AI system in the field of justice than in the field of consumer protection.	I fully agree
38. Member States should establish public oversight mechanisms for AI systems that may breach legally binding norms in the sphere of human rights, democracy and the rule of law.	I rather disagree
39. Errors and flaws discovered in AI systems which have led or could lead to the violation of human rights, democracy and the rule of law must be reported to the competent authorities.	I rather disagree
40. The use of facial recognition in public spaces should be prohibited.	I fully agree
41. The information obtained through the use of facial recognition systems should always be reviewed by a human being before being used for purposes that have an impact on individual freedom, such as in relation to a person boarding an airplane, upon police arrest or in the framework of judicial proceedings.	I fully agree
42. The use of AI systems in democratic processes (e.g. elections) should be strictly regulated.	I fully agree
43. Should a future legal framework at Council of Europe level include a specific liability regime in relation to AI applications?	No
44. If yes, what aspects should be covered?	

45. In your opinion, how useful would the following compliance mechanisms be in preventing and mitigating the risks to human rights, democracy and the rule of law arising from the design, development and application of AI? - Human rights, democracy and rule of law impact assessments - Certification and quality labelling - Audits and intersectional audits - Regulatory sandboxes Continuous automated monitoring	Not useful Rather not useful Indifferent/no opinion Rather useful Not useful
46. Please indicate what combination of mechanisms should be preferred to efficiently protect human rights, democracy and the rule of law 46bis. Other	• Certification and quality labelling;• Regulatory sandboxes;Continuous automated monitoring;
47. Please select which mechanism(s) should be part of either a binding instrument or a non-binding instrument to best protect human rights, democracy and the rule of law. - Human rights, democracy and rule of law impact assessments - Certification and quality labelling - Audits and intersectional audits - Regulatory sandboxes Continuous automated monitoring	No opinion No opinion No opinion Non-binding instrument No opinion
47.bis. Other	With regard to the use of AI systems by businesses and other private actors, we advocate for a completely different approach, which is focused on the harms that the use of AI systems can inflict on individuals. This approach differs from the risk-based approach that needs to install a series of complex and costly mechanisms such as impact assessments, certification, labelling, sandboxing, broad pre-testing prior to market approval and the like. Instead, it provides suitable remedies in case of harms thereby providing important incentives for businesses and private actors to avoid such harms. Obviously, this approach requires an identification of harms that can be caused by AI-systems, but there seems to be some consensus that violations of privacy, discrimination and manipulation are the most important and most common harms caused by the use of AI systems. In addition, some liability provisions (namely product liability) need to be adjusted. The Council of Europe should envisage creating a framework that requires its member states to provide suitable legal mechanisms to remedy such harms, namely injunctive relief, damages, and compensation for pain and suffering. In addition to individuals that

	suffered harm, consumer protection and civil society organizations could be allowed to file a law suit at least when requiring injunctive relief. This ex-post approach (as opposed to an ex-ante risk-based regulation of all sort of AI-related activities) allows for much more flexibility and it is way more innovation-friendly as it does not restrict the development and use of AI-systems. This approach has proven to be very effective in most fields of private law, e.g. tort law, unfair competition law, IP law, the protection of personality rights etc. We are very confident that this approach would be able to address the challenges caused by the use of AI systems in an appropriate and future-proof way.
48. In your opinion, how useful would the following follow-up activities be if implemented by the Council of Europe? - **Monitoring of AI legislation and policies in member States** - **Capacity building on Council of Europe instruments, including assistance to facilitate ratification and implementation of relevant Council of Europe instruments** - **AI Observatory for sharing good practices and exchanging information on legal, policy and technological developments related to AI systems** **Establishing a centre of expertise on AI and human rights**	Highly useful
49. What other mechanisms, if any, should be considered?	Indifferent/no opinion Highly useful Rather useful No answer
50. Are there any other issues with respect to the design, development and application of AI systems in the context of human rights, democracy and the rule of law that you wish to bring to the attention of the CAHAI?	We advocate for a clear distinction between the regulation of the use of AI systems by government agencies and private actors. While the use of AI by government agencies should follow precise rules (ex ante regulation), the use of AI systems by private actors should not be subject to regulation but the law should provide suitable mechanisms that allow to remedy any harm that may be caused by the use of an AI system (ex post approach), e.g. discrimination, and manipulation.
Date of submission	4/28/21 21:52:03

Digital Transformation Department - Presidenza del Consiglio dei Ministri (Italy)

State (where your institution is based)	**Italy**
Institution: Name of the institution/body/company	Digital Transformation Department - Presidenza del Consiglio dei Ministri
Personal capacity: Your socio-professional category	Higher occupations
Your stakeholder group	Government & public administration
2. In view of the elaboration of a legal framework on the design, development and application of AI, based on the standards of the Council of Europe on human rights, democracy and the rule of law, what kind of definition of artificial intelligence (AI) should be considered by the CAHAI	Other
2bis. If "other" please explain below	A more encompassing definition including the different currently developed type of AI systems (categorising them) as each gives rise to different human rights concerns.
3. What are the reasons for your preference?	The definitions above are too limitative in the scope.
4. Please select the areas in which AI systems offer the most promising opportunities for the protection of human rights, democracy and the rule of law	• Education;Welfare;• Healthcare;
4bis. If other, which areas and why?	
5. Please indicate which of the following AI system applications in your view have the greatest potential to enhance/protect human rights, democracy and the rule of law?	• Medical applications for faster and more accurate diagnoses;• AI applications determining the allocation of educational services;• AI applications determining the allocation of social services;• AI applications providing support to the healthcare system (triage, treatment delivery);
6. Please briefly explain how such applications would benefit human rights, democracy and the rule of law.	The selected applications would benefit in improving services related to social and economic rights, they could be crucial in accelerating their progressive realisation in practice.
7. What other applications might contribute significantly to strengthening human rights, democracy and the rule of law?	Applications of AI systems on public services to improve the citizens experience.
8. Please select the areas in which the deployment of AI systems poses the highest risk of violating human rights, democracy and the rule of law	• Banking, finance and insurance;• Justice;• Customs and border control;

8bis. Other	
9. Please briefly explain how such applications might violate human rights, democracy and the rule of law.	- For banking and finance our concern is about credit scoring systems - For Justice the deployment of predictive systems for criminal recidives already proved inaccurate and biased - For customs and border control the deployment of AI systems employing data (including biometric data) which violate the principle of purpose limitations and undermine the procedural guarantees which protect the rights of migrants and travellers.
10. Please indicate the types of AI systems that represent the greatest risk to human rights, democracy and the rule of law	Scoring / scoring of individuals by public entities;Facial recognition supporting law enforcement ;• AI applications to prevent the commission of a criminal offence;AI applications aimed at predicting recidivism ;• AI applications in the field of banking and insurance;
11. Please briefly explain how such applications might violate human rights, democracy and the rule of law.	The selected applications operating in the fields of law enforcements, public administrations, justice and banking and finance might violate human rights, democracy and the rule of law by reproducing biases which could end up in discriminatory outputs.
12. What other applications might represent a significant risk to human rights, democracy and the rule of law?	Applications using fingerprinting and the collection of other biometric data. AI systems used to study DNA for genetic engineering purposes. Autonomous AI systems used for military purposes.
13. In your opinion, should the development, deployment and use of AI systems that have been proven to violate human rights or undermine democracy or the rule of law be **13bis. Other**	Regulated (binding law)
14. In your opinion, should the development, deployment and use of AI systems that pose high risks with high probability to human rights, democracy and the rule of law be:	Regulated (binding law)
15. In your opinion, should the development, deployment and use of AI systems that pose low risks with high probability to human rights, democracy and the rule of law be:	Regulated (binding law)
16. In your opinion, should the development, deployment and use of AI systems that pose high risks with low probability to human rights, democracy and the rule of law be:	Regulated (binding law)
17. What are the most important legal principles, rights and interests that need to be addressed and therefore justify regulating the development, deployment and use of AI systems?	• Possibility to challenge a decision made by an AI system and access to an effective remedy;• Explainability;Privacy and data protection;Freedom of expression, assembly and association;• Non-discrimination;
18. In your opinion, in what sectors/areas is a binding legal instrument needed to protect	Customs and border control;Banking, finance and insurance;Justice;

human rights, democracy and the rule of law? **18bis. Other**	
19. Self-regulation by companies is more efficient than government regulation to prevent and mitigate the risk of violations of human rights, democracy and the rule of law.	I completely disagree
20. Self-regulation by companies is sufficient to prevent and mitigate the risk of violations of human rights, democracy and the rule of law	I rather disagree
21. Which of the following instruments of self-regulation do you consider to be the most efficient? **21bis. Other**	Ethics guidelines + voluntary certification
22. Existing international, regional and/or national binding and/or non-binding legal instruments are sufficient to regulate AI systems in order to ensure the protection of human rights, democracy and the rule of law.	I rather disagree
23. Please provide examples of existing international, regional and/or national (binding and/or non-binding) instruments that in your view are effective in guiding and regulating the design, development and use of AI systems to ensure compatibility with the standards for human rights, democracy and the rule of law	- GDPR
24. If you responded disagree/completely disagree to question 22, please indicate why existing international, regional and/or national (binding and/or non-binding) legal instruments are not sufficient to regulate AI systems (select all you agree with):	• They provide a basis but fail to provide an effective substantive protection of human rights, democracy and the rule of law against the risks posed by AI systems;• They do not provide enough guidance to the designers, developers and deployers of AI systems;• They lack specific principles for the design, development and application of AI systems;
25. Please indicate other specific legal gaps that in your view need to be addressed at the level of the Council of Europe	
26. Individuals should always be informed when they interact with an AI system in any circumstances.	I rather disagree
27. Individuals should always be informed when a decision which affects them personally is made by an AI system.	I rather agree

28. **Individuals should always be informed when an AI system is used in a decision-making process which affects them personally.**	I fully agree
29. **Individuals should have a right to a meaningful explanation of algorithmic based decisions, in particular how the algorithm reached its output.**	I rather agree
30. **Individuals should always have the right that any decision taken by an AI system in the framework of judicial proceedings are reviewed by a "human" judge.**	I rather agree
31. **Individuals should have a right to demand the review of an algorithmic based decision by a human being.**	I fully agree
32. **There should always be a person responsible for reviewing algorithmic based decisions in the public sector and private companies.**	I rather agree
33. **Public institutions should not use AI systems to promote or discredit a particular way of life or opinion (e.g. "social scoring").**	I fully agree
34. **States should be obliged to design, develop and apply sustainable AI systems that respect applicable environmental protection standards.**	I rather agree
35. **The code behind AI systems used in the public and private sectors should always be accessible to the competent public authorities for the purposes of external audit.**	Indifferent/no opinion
36. **There should be higher transparency standards for public entities using AI than for private entities.**	I rather agree
37. **There should be higher standards for access to an effective remedy for individuals in relation to decisions informed and made by an AI system in the field of justice than in the field of consumer protection.**	I rather agree
38. **Member States should establish public oversight mechanisms for AI systems that may breach legally binding norms in the sphere of human rights, democracy and the rule of law.**	I rather agree
39. **Errors and flaws discovered in AI systems which have led or could lead to the**	I fully agree

violation of human rights, democracy and the rule of law must be reported to the competent authorities.	
40. The use of facial recognition in public spaces should be prohibited.	Indifferent/no opinion
41. The information obtained through the use of facial recognition systems should always be reviewed by a human being before being used for purposes that have an impact on individual freedom, such as in relation to a person boarding an airplane, upon police arrest or in the framework of judicial proceedings.	I fully agree
42. The use of AI systems in democratic processes (e.g. elections) should be strictly regulated.	I fully agree
43. Should a future legal framework at Council of Europe level include a specific liability regime in relation to AI applications?	No opinion
44. If yes, what aspects should be covered?	
45. In your opinion, how useful would the following compliance mechanisms be in preventing and mitigating the risks to human rights, democracy and the rule of law arising from the design, development and application of AI? **- Human rights, democracy and rule of law impact assessments** **- Certification and quality labelling** **- Audits and intersectional audits** **- Regulatory sandboxes** **Continuous automated monitoring**	Highly useful Highly useful Indifferent/no opinion Rather useful Rather useful
46. Please indicate what combination of mechanisms should be preferred to efficiently protect human rights, democracy and the rule of law **46bis. Other**	• Human rights, democracy and rule of law impact assessments ;• Certification and quality labelling;Continuous automated monitoring;

47. Please select which mechanism(s) should be part of either a binding instrument or a non-binding instrument to best protect human rights, democracy and the rule of law. - **Human rights, democracy and rule of law impact assessments** - **Certification and quality labelling** - **Audits and intersectional audits** - **Regulatory sandboxes** **Continuous automated monitoring**	Binding instrument Non-binding instrument No opinion Non-binding instrument Non-binding instrument
47.bis. Other	
48. In your opinion, how useful would the following follow-up activities be if implemented by the Council of Europe? - **Monitoring of AI legislation and policies in member States** - **Capacity building on Council of Europe instruments, including assistance to facilitate ratification and implementation of relevant Council of Europe instruments** - **AI Observatory for sharing good practices and exchanging information on legal, policy and technological developments related to AI systems** **Establishing a centre of expertise on AI and human rights**	Highly useful Rather useful Rather useful Rather useful
49. What other mechanisms, if any, should be considered?	
50. Are there any other issues with respect to the design, development and application of AI systems in the context of human rights, democracy and the rule of law that you wish to bring to the attention of the CAHAI?	
Date of submission	4/16/21 11:31:46

Digitale Gesellschaft Schweiz, Board for Algorithmic Sustainability

State (where your institution is based)	**Switzerland**
Institution: Name of the institution/body/company	Digitale Gesellschaft Schweiz, Board for Algorithmic Sustainability
Personal capacity: Your socio-professional category	Higher occupations
Your stakeholder group	Civil society
2. In view of the elaboration of a legal framework on the design, development and application of AI, based on the standards of the Council of Europe on human rights, democracy and the rule of law, what kind of definition of artificial intelligence (AI) should be considered by the CAHAI	No definition, with a legal instrument focused on the effect of AI systems on human rights, de-mocracy and the rule of law
2bis. If "other" please explain below	
3. What are the reasons for your preference?	We believe the definition should be technology neutral, and include decisions and processes taken by human beings as well. There should be no (regulatory) difference whether a human or a machine has processed information.
4. Please select the areas in which AI systems offer the most promising opportunities for the protection of human rights, democracy and the rule of law	• Healthcare;• Environment and climate;
4bis. If other, which areas and why?	
5. Please indicate which of the following AI system applications in your view have the greatest potential to enhance/protect human rights, democracy and the rule of law?	• Medical applications for faster and more accurate diagnoses;• Automated fraud detection (banking, insurance);• AI applications to predict the possible evolution of climate change and/or natural disasters;
6. Please briefly explain how such applications would benefit human rights, democracy and the rule of law.	Such systems have the potential to support and facilitate all kinds of tasks. However, they should only be applied in situations where they actually improve human rights, democracy and the rule of law and not in fields where they constrain them, like law-enforcement, mass-surveillance etc. Such technologies have been show to be wrongly perceived morally-neutral, and thereby, be trustworthy, which they not are. A bulk of research shows that such systems do not only reinforce potentially harmful societal customs, they worsen them as algorithms do not have a moral consciousness.
7. What other applications might contribute significantly to strengthening human rights, democracy and the rule of law?	For example, automatic observation of government funding and Key Performance Indicators (KPI).
8. Please select the areas in which the deployment of AI systems poses the highest risk of	• Law enforcement;• National security and counter-terrorism;• Employment;

violating human rights, democracy and the rule of law **8bis. Other**	
9. Please briefly explain how such applications might violate human rights, democracy and the rule of law.	They will tilt the imbalance of power between the civil society and employer/federal institutions even more towards the latter. We belief that these technologies should serve for the bettering of individual life-situations, and not extending the abilities to score individuals even more intrusively. Especially in national security and counter-terrorism, past incidents have shown regularly that the deployment of such powerful technology will lead to escalating, civil-rights-infringing institutions without reasonable democratic oversight.
10. Please indicate the types of AI systems that represent the greatest risk to human rights, democracy and the rule of law	Facial recognition supporting law enforcement ;• Emotional analysis in the workplace to measure employees' level of engagement;Scoring / scoring of individuals by public entities;• AI applications to prevent the commission of a criminal offence;AI applications aimed at predicting recidivism ;
11. Please briefly explain how such applications might violate human rights, democracy and the rule of law.	Besides the regularly occurring severe violation of human-rights by law-enforcement, federal institutions, and secret services, we do not believe that societal problems that are subject to societal discussions can be solved with this kind of technology. Much more likely, these technologies will effectively shrink the amount of possible opportunities, especially for people who are already in a situation where they cannot easily defend themselves, e.g., depending on social welfare, migrants, refugees, ow-class workers, etc.
12. What other applications might represent a significant risk to human rights, democracy and the rule of law?	When AI is used for Big Data originated from Mass Surveillance. The institutions which are likely to apply such methods (e.g., intelligence services, law enforcement) have regularly been shown to lack sufficient democratic oversight. Especially for intelligence services, the combination of such systems in combination with mass surveillance is highly critical and their alleged democratic legitimation is insufficient to receive this amount of power.
13. In your opinion, should the development, deployment and use of AI systems that have been proven to violate human rights or undermine democracy or the rule of law be **13bis. Other**	Banned
14. In your opinion, should the development, deployment and use of AI systems that pose high risks with high probability to human rights, democracy and the rule of law be:	Subject to moratorium
15. In your opinion, should the development, deployment and use of AI systems that pose low risks with high probability to human rights, democracy and the rule of law be:	Regulated (binding law)
16. In your opinion, should the development, deployment and use of AI systems that pose high risks with low probability to human rights, democracy and the rule of law be:	Banned

17. What are the most important legal principles, rights and interests that need to be addressed and therefore justify regulating the development, deployment and use of AI systems?	• Non-discrimination;Privacy and data protection;• Personal integrity ;• Transparency;• Possibility to challenge a decision made by an AI system and access to an effective remedy;
18. In your opinion, in what sectors/areas is a binding legal instrument needed to protect human rights, democracy and the rule of law? **18bis. Other**	Law enforcement;Public administration;Employment;
19. Self-regulation by companies is more efficient than government regulation to prevent and mitigate the risk of violations of human rights, democracy and the rule of law.	I completely disagree
20. Self-regulation by companies is sufficient to prevent and mitigate the risk of violations of human rights, democracy and the rule of law	I completely disagree
21. Which of the following instruments of self-regulation do you consider to be the most efficient? **21bis. Other**	Self-regulation is not sufficient in this context.
22. Existing international, regional and/or national binding and/or non-binding legal instruments are sufficient to regulate AI systems in order to ensure the protection of human rights, democracy and the rule of law.	I completely disagree
23. Please provide examples of existing international, regional and/or national (binding and/or non-binding) instruments that in your view are effective in guiding and regulating the design, development and use of AI systems to ensure compatibility with the standards for human rights, democracy and the rule of law	The instantiation of an federal "algorithm control office" similar to "Datenschutzbeauftragten" in Switzerland might be meaningful. Such an institutions can act on suspicion of questionable AI-Systems, for governmental institutions and industry simultaneously. For industry, it would require the ability to financially penalize violations, similar to the abilities provided by EU-GDPR.
24. If you responded disagree/completely disagree to question 22, please indicate why existing international, regional and/or national (binding and/or non-binding) legal instruments are not sufficient to regulate AI systems (select all you agree with):	• They lack specific principles for the design, development and application of AI systems;• They do not provide enough guidance to the designers, developers and deployers of AI systems;They do not provide for specific rights (e.g. transparency requirements, redress mechanisms) for persons affected by AI;
25. Please indicate other specific legal gaps that in your	We identify a legal gap in international, regional and/or national binding and/or non-binding legal instruments regulating artificial intelligence.

view need to be addressed at the level of the Council of Europe	
26. Individuals should always be informed when they interact with an AI system in any circumstances.	I fully agree
27. Individuals should always be informed when a decision which affects them personally is made by an AI system.	I fully agree
28. Individuals should always be informed when an AI system is used in a decision-making process which affects them personally.	I fully agree
29. Individuals should have a right to a meaningful explanation of algorithmic based decisions, in particular how the algorithm reached its output.	I fully agree
30. Individuals should always have the right that any decision taken by an AI system in the framework of judicial proceedings are reviewed by a "human" judge.	I fully agree
31. Individuals should have a right to demand the review of an algorithmic based decision by a human being.	I rather agree
32. There should always be a person responsible for reviewing algorithmic based decisions in the public sector and private companies.	Indifferent/no opinion
33. Public institutions should not use AI systems to promote or discredit a particular way of life or opinion (e.g. "social scoring").	I fully agree
34. States should be obliged to design, develop and apply sustainable AI systems that respect applicable environmental protection standards.	I rather agree
35. The code behind AI systems used in the public and private sectors should always be accessible to the competent public authorities for the purposes of external audit.	I fully agree
36. There should be higher transparency standards for public entities using AI than for private entities.	I fully agree
37. There should be higher standards for access to an effective remedy for individuals in relation to decisions informed and made by an AI system in the field	I rather agree

of justice than in the field of consumer protection.	
38. Member States should establish public oversight mechanisms for AI systems that may breach legally binding norms in the sphere of human rights, democracy and the rule of law.	I fully agree
39. Errors and flaws discovered in AI systems which have led or could lead to the violation of human rights, democracy and the rule of law must be reported to the competent authorities.	I fully agree
40. The use of facial recognition in public spaces should be prohibited.	I fully agree
41. The information obtained through the use of facial recognition systems should always be reviewed by a human being before being used for purposes that have an impact on individual freedom, such as in relation to a person boarding an airplane, upon police arrest or in the framework of judicial proceedings.	I fully agree
42. The use of AI systems in democratic processes (e.g. elections) should be strictly regulated.	I fully agree
43. Should a future legal framework at Council of Europe level include a specific liability regime in relation to AI applications?	Yes
44. If yes, what aspects should be covered?	Governmental oversight institutions, able to inspect governmental and industrial AI-deployments and with the effective and explicit ability to sanction violations.
45. In your opinion, how useful would the following compliance mechanisms be in preventing and mitigating the risks to human rights, democracy and the rule of law arising from the design, development and application of AI? - **Human rights, democracy and rule of law impact assessments** - **Certification and quality labelling** - **Audits and intersectional audits** - **Regulatory sandboxes** **Continuous automated monitoring**	Highly useful Not useful Rather useful Indifferent/no opinion Indifferent/no opinion

46. **Please indicate what combination of mechanisms should be preferred to efficiently protect human rights, democracy and the rule of law** **46bis. Other**	• Human rights, democracy and rule of law impact assessments ;• Audits and intersectional audits;
47. **Please select which mechanism(s) should be part of either a binding instrument or a non-binding instrument to best protect human rights, democracy and the rule of law.** - **Human rights, democracy and rule of law impact assessments** - **Certification and quality labelling** - **Audits and intersectional audits** - **Regulatory sandboxes** **Continuous automated monitoring**	Binding instrument Non-binding instrument Binding instrument Binding instrument No opinion
47.bis. Other	Governmental oversight institutions, able to inspect governmental and industrial AI-deployments and with the effective and explicit ability to sanction violations.
48. **In your opinion, how useful would the following follow-up activities be if implemented by the Council of Europe?** - **Monitoring of AI legislation and policies in member States** - **Capacity building on Council of Europe instruments, including assistance to facilitate ratification and implementation of relevant Council of Europe instruments** - **AI Observatory for sharing good practices and exchanging information on legal, policy and technological developments related to AI systems** **Establishing a centre of expertise on AI and human rights**	Highly useful Indifferent/no opinion Rather useful Rather useful
49. **What other mechanisms, if any, should be considered?**	Funding for research, facilitated access for civil and human rights organisations to inspect the correctness of the applied systems.
50. **Are there any other issues with respect to the design, development and application of AI systems in the context of human rights, democracy and the rule of law that you wish to bring to the attention of the CAHAI?**	First, this questionnaire omits the aspect of sanctions completely. Without the ability of efficient sanctions, the regulations cannot be enforced. We propose to establish a governmental oversight institution, able to inspect governmental and industrial AI-deployments and with the effective and explicit ability to sanction violations. Second, this questionnaire does not distinguish between regulations for governmental institutions and industry applications. These two fields are fundamentally different and require totally different standards. The requirements on governmental institutions

| | need to be much stronger, mostly because they exert much more power than industrial players and are subject to democratic legitimation.

Third, this questionnaire avoids the perspective of responsibilities: who will be responsible to follow regulations and how are these enforced.

Fourth, a potential regulation requires the ability for civil and human rights organisations to inspect AI-systems, at least for high-risk applications, for governmental and industrial applications. Where this contradicts with potential trade secrets, reasonable non-disclosure agreements might be appropriate. We would like to demand such rights. |
|---|---|
| Date of submission | 4/26/21 17:49:22 |

Double Data

State (where your institution is based)	**Russia**
Institution: Name of the institution/body/company	Double Data
Personal capacity: Your socio-professional category	Intermediate occupations
Your stakeholder group	Private business sector
2. In view of the elaboration of a legal framework on the design, development and application of AI, based on the standards of the Council of Europe on human rights, democracy and the rule of law, what kind of definition of artificial intelligence (AI) should be considered by the CAHAI	A technologically-neutral and simplified definition, such as "a set of sciences, theories and tech-niques whose purpose is to reproduce by a machine the cognitive abilities of a human being" (See the CAHAI feasibility study, §5)
2bis. If "other" please explain below	
3. What are the reasons for your preference?	I do not understand this question
4. Please select the areas in which AI systems offer the most promising opportunities for the protection of human rights, democracy and the rule of law	• Education;• Healthcare; Welfare;
4bis. If other, which areas and why?	
5. Please indicate which of the following AI system applications in your view have the	• Medical applications for faster and more accurate diagnoses;• Automated fraud detection (banking, insurance);• AI applications to predict the possible evolution of climate change

greatest potential to enhance/protect human rights, democracy and the rule of law?	and/or natural disasters;• AI applications providing support to the healthcare system (triage, treatment delivery);• AI applications determining the allocation of educational services;
6. Please briefly explain how such applications would benefit human rights, democracy and the rule of law.	Such applications would make education, diagnostics, medicine more accessible to all people, regardless of income level, and therefore, increase the level of medical research, medical discoveries, and increase the life expectancy of people.
7. What other applications might contribute significantly to strengthening human rights, democracy and the rule of law?	Perhaps these are applications that eliminate the human factor when making court decisions, allow people to manage the data and privacy, and also allow people from developing countries to access education and financial instruments.
8. Please select the areas in which the deployment of AI systems poses the highest risk of violating human rights, democracy and the rule of law **8bis. Other**	• Justice;• Welfare;• Healthcare;•
9. Please briefly explain how such applications might violate human rights, democracy and the rule of law.	Such applications might violate human rights, democracy and the rule of law so that they can contain errors in the algorithms that will lead to the adoption of the wrong decision.
10. Please indicate the types of AI systems that represent the greatest risk to human rights, democracy and the rule of law	Facial recognition supporting law enforcement ;• Emotional analysis in the workplace to measure employees' level of engagement;Scoring / scoring of individuals by public entities;• Medical applications for faster and more accurate diagnoses;• Recruiting software/ AI applications used for assessing work performance ;
11. Please briefly explain how such applications might violate human rights, democracy and the rule of law.	Such applications might violate human rights, democracy and the rule of law so that they can contain errors in the algorithms that will lead to the adoption of the wrong decisi
12. What other applications might represent a significant risk to human rights, democracy and the rule of law?	???
13. In your opinion, should the development, deployment and use of AI systems that have been proven to violate human rights or undermine democracy or the rule of law be **13bis. Other**	Banned
14. In your opinion, should the development, deployment and use of AI systems that pose high risks with high probability to human rights, democracy and the rule of law be:	Subject to moratorium
15. In your opinion, should the development, deployment and use of AI systems that pose low risks with high probability to human rights, democracy and the rule of law be:	Regulated (binding law)
16. In your opinion, should the development, deployment and use of AI systems that pose high risks with low probability to human	Regulated (binding law)

rights, democracy and the rule of law be:	
17. What are the most important legal principles, rights and interests that need to be addressed and therefore justify regulating the development, deployment and use of AI systems?	Respect for human dignity;Equality;• Social security;•
18. In your opinion, in what sectors/areas is a binding legal instrument needed to protect human rights, democracy and the rule of law? **18bis. Other**	Justice;Banking, finance and insurance;Law enforcement;
19. Self-regulation by companies is more efficient than government regulation to prevent and mitigate the risk of violations of human rights, democracy and the rule of law.	I completely disagree
20. Self-regulation by companies is sufficient to prevent and mitigate the risk of violations of human rights, democracy and the rule of law	I rather disagree
21. Which of the following instruments of self-regulation do you consider to be the most efficient? **21bis. Other**	Voluntary certification
22. Existing international, regional and/or national binding and/or non-binding legal instruments are sufficient to regulate AI systems in order to ensure the protection of human rights, democracy and the rule of law.	I completely disagree
23. Please provide examples of existing international, regional and/or national (binding and/or non-binding) instruments that in your view are effective in guiding and regulating the design, development and use of AI systems to ensure compatibility with the standards for human rights, democracy and the rule of law	??
24. If you responded disagree/completely disagree to question 22, please indicate why existing international, regional and/or national (binding and/or non-binding) legal instruments are not sufficient to regulate AI systems (select all you agree with):	• They lack specific principles for the design, development and application of AI systems;• They do not provide enough guidance to the designers, developers and deployers of AI systems;They do not provide for specific rights (e.g. transparency requirements, redress mechanisms) for persons affected by AI;• They provide a basis but fail to provide an effective substantive protection of human rights, democracy and the rule of law against the risks posed by AI systems;

25. Please indicate other specific legal gaps that in your view need to be addressed at the level of the Council of Europe	
26. Individuals should always be informed when they interact with an AI system in any circumstances.	I rather agree
27. Individuals should always be informed when a decision which affects them personally is made by an AI system.	I fully agree
28. Individuals should always be informed when an AI system is used in a decision-making process which affects them personally.	I fully agree
29. Individuals should have a right to a meaningful explanation of algorithmic based decisions, in particular how the algorithm reached its output.	I fully agree
30. Individuals should always have the right that any decision taken by an AI system in the framework of judicial proceedings are reviewed by a "human" judge.	I rather agree
31. Individuals should have a right to demand the review of an algorithmic based decision by a human being.	I rather agree
32. There should always be a person responsible for reviewing algorithmic based decisions in the public sector and private companies.	I fully agree
33. Public institutions should not use AI systems to promote or discredit a particular way of life or opinion (e.g. "social scoring").	I fully agree
34. States should be obliged to design, develop and apply sustainable AI systems that respect applicable environmental protection standards.	I fully agree
35. The code behind AI systems used in the public and private sectors should always be accessible to the competent public authorities for the purposes of external audit.	I fully agree
36. There should be higher transparency standards for public entities using AI than for private entities.	I fully agree
37. There should be higher standards for access to an effective remedy for individuals in relation to decisions informed and	I rather agree

made by an AI system in the field of justice than in the field of consumer protection.	
38. Member States should establish public oversight mechanisms for AI systems that may breach legally binding norms in the sphere of human rights, democracy and the rule of law.	I rather agree
39. Errors and flaws discovered in AI systems which have led or could lead to the violation of human rights, democracy and the rule of law must be reported to the competent authorities.	I rather agree
40. The use of facial recognition in public spaces should be prohibited.	Indifferent/no opinion
41. The information obtained through the use of facial recognition systems should always be reviewed by a human being before being used for purposes that have an impact on individual freedom, such as in relation to a person boarding an airplane, upon police arrest or in the framework of judicial proceedings.	I fully agree
42. The use of AI systems in democratic processes (e.g. elections) should be strictly regulated.	I rather agree
43. Should a future legal framework at Council of Europe level include a specific liability regime in relation to AI applications?	Yes
44. If yes, what aspects should be covered?	
45. In your opinion, how useful would the following compliance mechanisms be in preventing and mitigating the risks to human rights, democracy and the rule of law arising from the design, development and application of AI? - **Human rights, democracy and rule of law impact assessments** - **Certification and quality labelling** - **Audits and intersectional audits** - **Regulatory sandboxes** **Continuous automated monitoring**	Rather useful Rather useful Rather useful Indifferent/no opinion Rather useful

46. Please indicate what combination of mechanisms should be preferred to efficiently protect human rights, democracy and the rule of law **46bis. Other**	• Certification and quality labelling;• Audits and intersectional audits;• Human rights, democracy and rule of law impact assessments ;
47. Please select which mechanism(s) should be part of either a binding instrument or a non-binding instrument to best protect human rights, democracy and the rule of law. - **Human rights, democracy and rule of law impact assessments** - **Certification and quality labelling** - **Audits and intersectional audits** - **Regulatory sandboxes** **Continuous automated monitoring**	Binding instrument Non-binding instrument Binding instrument Non-binding instrument Binding instrument
47.bis. Other	
48. In your opinion, how useful would the following follow-up activities be if implemented by the Council of Europe? - **Monitoring of AI legislation and policies in member States** - **Capacity building on Council of Europe instruments, including assistance to facilitate ratification and implementation of relevant Council of Europe instruments** - **AI Observatory for sharing good practices and exchanging information on legal, policy and technological developments related to AI systems** **Establishing a centre of expertise on AI and human rights**	Rather useful Indifferent/no opinion Rather useful Rather useful
49. What other mechanisms, if any, should be considered?	
50. Are there any other issues with respect to the design, development and application of AI systems in the context of human rights, democracy and the rule of law that you wish to bring to the attention of the CAHAI?	
Date of submission	5/6/21 11:02:48

EADPP Greek branch

State (where your institution is based)	**GREECE**
Institution: Name of the institution/body/company	EADPP GREEK BRANCH
Personal capacity: Your socio-professional category	Higher occupations
Your stakeholder group	Academic and scientific community
2. In view of the elaboration of a legal framework on the design, development and application of AI, based on the standards of the Council of Europe on human rights, democracy and the rule of law, what kind of definition of artificial intelligence (AI) should be considered by the CAHAI	Other
2bis. If "other" please explain below	More than one answer is applicable to the above mentioned question The 2nd, 3rd and 4th choice as an amagalm are more proper
3. What are the reasons for your preference?	Because AI is an issue that has to be faced in absolute technical and legal perspective. Since AI is a mixture of maths robotics statistics law and IT, we have to consider the other procedures like machine learning , automated decision making etc that may be occurred in future
4. Please select the areas in which AI systems offer the most promising opportunities for the protection of human rights, democracy and the rule of law	Banking, finance and insurance;• Election monitoring;Justice;
4bis. If other, which areas and why?	
5. Please indicate which of the following AI system applications in your view have the greatest potential to enhance/protect human rights, democracy and the rule of law?	Emotional analysis in the workplace to measure employees' level of engagement;• Scoring of individuals by public and private entities;• AI applications to predict the possible evolution of climate change and/or natural disasters;• Recruiting software/ AI applications used for assessing work performance ;• AI applications providing support to the healthcare system (triage, treatment delivery);
6. Please briefly explain how such applications would benefit human rights, democracy and the rule of law.	These fields are the most crucial for everyday life and entering certain limits, and through the right procedures / monitoring audits etc, can really serve for prediction, precaution and facing issues.
7. What other applications might contribute significantly to strengthening human rights, democracy and the rule of law?	Pandemic showed all the gabs to be filled in health sector , scientific investigation, moving of population either as refugees or as migrants or for other reasons etc
8. Please select the areas in which the deployment of AI systems poses the highest risk of	• Banking, finance and insurance;• Election monitoring;• Employment;

violating human rights, democracy and the rule of law **8bis. Other**	
9. Please briefly explain how such applications might violate human rights, democracy and the rule of law.	These apps may lead to discriminations, to unequal profiling, no access to equal opportunities, violation of human rights, and manipulation of population
10. Please indicate the types of AI systems that represent the greatest risk to human rights, democracy and the rule of law	Facial recognition supporting law enforcement ;Scoring / scoring of individuals by public entities;• AI applications in the field of banking and insurance;Smart personal assistants (connected devices);• AI applications to predict the possible evolution of climate change and/or natural disasters;;
11. Please briefly explain how such applications might violate human rights, democracy and the rule of law.	The same as above these apps leads to every day monitoring of humans life, making automated decisions that lead to profiling and lead to discriminations and manipulation of humans, and the danger of unequal less favorable treatment for categorised persons
12. What other applications might represent a significant risk to human rights, democracy and the rule of law?	Apps for domestic use that monitor family life
13. In your opinion, should the development, deployment and use of AI systems that have been proven to violate human rights or undermine democracy or the rule of law be **13bis. Other**	not banned but with certain restrictions and procedures
14. In your opinion, should the development, deployment and use of AI systems that pose high risks with high probability to human rights, democracy and the rule of law be:	Regulated (binding law)
15. In your opinion, should the development, deployment and use of AI systems that pose low risks with high probability to human rights, democracy and the rule of law be:	Self-regulated (ethics guidelines, voluntary certification)
16. In your opinion, should the development, deployment and use of AI systems that pose high risks with low probability to human rights, democracy and the rule of law be:	Regulated (binding law)
17. What are the most important legal principles, rights and interests that need to be addressed and therefore justify regulating the development, deployment and use of AI systems?	Respect for human dignity;Equality;• Non-discrimination;Privacy and data protection;• Transparency;
18. In your opinion, in what sectors/areas is a binding legal instrument needed to protect human rights, democracy and the rule of law? **18bis. Other**	Banking, finance and insurance;Election monitoring;Justice;

19. **Self-regulation by companies is more efficient than government regulation to prevent and mitigate the risk of violations of human rights, democracy and the rule of law.**	I rather agree
20. **Self-regulation by companies is sufficient to prevent and mitigate the risk of violations of human rights, democracy and the rule of law**	I rather agree
21. **Which of the following instruments of self-regulation do you consider to be the most efficient?** **21bis. Other**	code of ethics/conducts & mandatory certifications
22. **Existing international, regional and/or national binding and/or non-binding legal instruments are sufficient to regulate AI systems in order to ensure the protection of human rights, democracy and the rule of law.**	I rather disagree
23. **Please provide examples of existing international, regional and/or national (binding and/or non-binding) instruments that in your view are effective in guiding and regulating the design, development and use of AI systems to ensure compatibility with the standards for human rights, democracy and the rule of law**	Risk and impact assessment, certification, code of ethics and conducts, implement of fines
24. **If you responded disagree/completely disagree to question 22, please indicate why existing international, regional and/or national (binding and/or non-binding) legal instruments are not sufficient to regulate AI systems (select all you agree with):**	There are too many and they are difficult to interpret and apply in the context of AI;• They provide a basis but fail to provide an effective substantive protection of human rights, democracy and the rule of law against the risks posed by AI systems;• They lack specific principles for the design, development and application of AI systems;• They do not provide enough guidance to the designers, developers and deployers of AI systems;They do not provide for specific rights (e.g. transparency requirements, redress mechanisms) for persons affected by AI;
25. **Please indicate other specific legal gaps that in your view need to be addressed at the level of the Council of Europe**	non adequate monitoring, non adequate awareness, no collaboration between countries
26. **Individuals should always be informed when they interact with an AI system in any circumstances.**	I fully agree
27. **Individuals should always be informed when a decision which affects them personally is made by an AI system.**	I fully agree
28. **Individuals should always be informed when an AI system is used in a decision-making**	I fully agree

process which affects them personally.	
29. Individuals should have a right to a meaningful explanation of algorithmic based decisions, in particular how the algorithm reached its output.	I fully agree
30. Individuals should always have the right that any decision taken by an AI system in the framework of judicial proceedings are reviewed by a "human" judge.	I fully agree
31. Individuals should have a right to demand the review of an algorithmic based decision by a human being.	I fully agree
32. There should always be a person responsible for reviewing algorithmic based decisions in the public sector and private companies.	I fully agree
33. Public institutions should not use AI systems to promote or discredit a particular way of life or opinion (e.g. "social scoring").	I fully agree
34. States should be obliged to design, develop and apply sustainable AI systems that respect applicable environmental protection standards.	I fully agree
35. The code behind AI systems used in the public and private sectors should always be accessible to the competent public authorities for the purposes of external audit.	I fully agree
36. There should be higher transparency standards for public entities using AI than for private entities.	I fully agree
37. There should be higher standards for access to an effective remedy for individuals in relation to decisions informed and made by an AI system in the field of justice than in the field of consumer protection.	I fully agree
38. Member States should establish public oversight mechanisms for AI systems that may breach legally binding norms in the sphere of human rights, democracy and the rule of law.	I fully agree
39. Errors and flaws discovered in AI systems which have led or could lead to the violation of human rights, democracy and the rule of law	I rather agree

must be reported to the competent authorities.	
40. The use of facial recognition in public spaces should be prohibited.	I rather agree
41. The information obtained through the use of facial recognition systems should always be reviewed by a human being before being used for purposes that have an impact on individual freedom, such as in relation to a person boarding an airplane, upon police arrest or in the framework of judicial proceedings.	I fully agree
42. The use of AI systems in democratic processes (e.g. elections) should be strictly regulated.	I fully agree
43. Should a future legal framework at Council of Europe level include a specific liability regime in relation to AI applications?	Yes
44. If yes, what aspects should be covered?	transparency, monitoring, decision making, human rights and the instruments for lawful procedures
45. In your opinion, how useful would the following compliance mechanisms be in preventing and mitigating the risks to human rights, democracy and the rule of law arising from the design, development and application of AI? - Human rights, democracy and rule of law impact assessments - Certification and quality labelling - Audits and intersectional audits - Regulatory sandboxes Continuous automated monitoring	Highly useful Highly useful Highly useful Highly useful Rather useful
46. Please indicate what combination of mechanisms should be preferred to efficiently protect human rights, democracy and the rule of law 46bis. Other	• Human rights, democracy and rule of law impact assessments ;• Certification and quality labelling;• Audits and intersectional audits;

47. Please select which mechanism(s) should be part of either a binding instrument or a non-binding instrument to best protect human rights, democracy and the rule of law. - Human rights, democracy and rule of law impact assessments - Certification and quality labelling - Audits and intersectional audits - Regulatory sandboxes Continuous automated monitoring	Binding instrument Binding instrument Binding instrument Non-binding instrument Non-binding instrument
47.bis. Other	code of ethics / conducts
48. In your opinion, how useful would the following follow-up activities be if implemented by the Council of Europe? - Monitoring of AI legislation and policies in member States - Capacity building on Council of Europe instruments, including assistance to facilitate ratification and implementation of relevant Council of Europe instruments - AI Observatory for sharing good practices and exchanging information on legal, policy and technological developments related to AI systems Establishing a centre of expertise on AI and human rights	Highly useful Highly useful Highly useful Highly useful
49. What other mechanisms, if any, should be considered?	interorganizational collaboration
50. Are there any other issues with respect to the design, development and application of AI systems in the context of human rights, democracy and the rule of law that you wish to bring to the attention of the CAHAI?	pressure of other countries towards the AI absolute process
Date of submission	4/29/21 14:02:31

Elektronisk Forpost Norge

State (where your institution is based)	Norway
Institution: Name of the institution/body/company	Elektronisk Forpost Norge
Personal capacity: Your socio-professional category	Higher occupations
Your stakeholder group	Civil society
2. In view of the elaboration of a legal framework on the design, development and application of AI, based on the standards of the Council of Europe on human rights, democracy and the rule of law, what kind of definition of artificial intelligence (AI) should be considered by the CAHAI	A definition focusing on automated decision-making
2bis. If "other" please explain below	
3. What are the reasons for your preference?	The central question is: How are decisions that affect people made? Any system, automated or not, that makes decisions, must in a democratic society be subject to scrutiny. We emphasize that the the word "decision" must be interpreted liberally here. We would for instance definitely include biometric mass surveillance systems, since they classification of humans, that can in turn be used to make other decisions of major importance. Any system that provides premises on which decision are made on matters that directly or indirectly affects human beings must be included in the definition.
4. Please select the areas in which AI systems offer the most promising opportunities for the protection of human rights, democracy and the rule of law	• Other;Law enforcement;
4bis. If other, which areas and why?	The options listed are again very limiting. Each and every area is a topic that provides ample opportunities to write an entire thesis on. Being practitioners that use AI-systems we do think there are bountiful opportunities for the use of these systems in empowering people, but the opportunities for oppression are just as bountiful. Research and development into AI is a highly dynamic area, and limiting ourselves to a set of predefined areas is thus not a fruitful endeavor.
5. Please indicate which of the following AI system applications in your view have the greatest potential to enhance/protect human rights, democracy and the rule of law?	• AI applications providing support to the healthcare system (triage, treatment delivery);• AI applications to predict the possible evolution of climate change and/or natural disasters;• AI applications in the field of banking and insurance;
6. Please briefly explain how such applications would benefit human rights, democracy and the rule of law.	We attempted to make choices that have the least danger of negatively impacting human rights.
7. What other applications might contribute significantly to strengthening human rights,	Transparency and tools to provide situational awareness.

democracy and the rule of law?	
8. Please select the areas in which the deployment of AI systems poses the highest risk of violating human rights, democracy and the rule of law **8bis. Other**	• Law enforcement;• Customs and border control;• National security and counter-terrorism;
9. Please briefly explain how such applications might violate human rights, democracy and the rule of law.	Again the options provided are very limiting. We have provided a set of answers that we definitely find problematic, but that does not consitute an endorsement of other uses. Most importanltly it is how it is used that is the most pressing concern, not that it is used.
10. Please indicate the types of AI systems that represent the greatest risk to human rights, democracy and the rule of law	Facial recognition supporting law enforcement ;• Emotional analysis in the workplace to measure employees' level of engagement;AI applications aimed at predicting recidivism ;Scoring / scoring of individuals by public entities;• Recruiting software/ AI applications used for assessing work performance ;
11. Please briefly explain how such applications might violate human rights, democracy and the rule of law.	Five options are again very limiting. AI systems can influence human rights etc. overtly, but more improtantly can do so by systematically searching for , finding and exploiting weaknesses both in human cognition and the legal system to let strong actors find new and effective ways to dominate and exploit weaker parties.
12. What other applications might represent a significant risk to human rights, democracy and the rule of law?	The development of more genealized AI is problematic. We define this as a stepping stone towards full generalized AI, where one of the first milestones is the ability to dynamically link different data sources. As previously mentioned the development in AI is very dynamic, and seeing exactly where the future lays is challenging.
13. In your opinion, should the development, deployment and use of AI systems that have been proven to violate human rights or undermine democracy or the rule of law be **13bis. Other**	Banned
14. In your opinion, should the development, deployment and use of AI systems that pose high risks with high probability to human rights, democracy and the rule of law be:	Subject to moratorium
15. In your opinion, should the development, deployment and use of AI systems that pose low risks with high probability to human rights, democracy and the rule of law be:	Regulated (binding law)
16. In your opinion, should the development, deployment and use of AI systems that pose high risks with low probability to human rights, democracy and the rule of law be:	Regulated (binding law)
17. What are the most important legal principles, rights and interests that need to be addressed and therefore justify regulating the development, deployment and use of AI systems?	• Possibility to challenge a decision made by an AI system and access to an effective remedy;Freedom of expression, assembly and association;• Non-discrimination;Privacy and data protection;• Transparency;

18. **In your opinion, in what sectors/areas is a binding legal instrument needed to protect human rights, democracy and the rule of law?** **18bis. Other**	Justice;Law enforcement;Public administration;
19. **Self-regulation by companies is more efficient than government regulation to prevent and mitigate the risk of violations of human rights, democracy and the rule of law.**	I completely disagree
20. **Self-regulation by companies is sufficient to prevent and mitigate the risk of violations of human rights, democracy and the rule of law**	I completely disagree
21. **Which of the following instruments of self-regulation do you consider to be the most efficient?** **21bis. Other**	Self-regulation is an insufficient instrument to prevent violations of human rights.
22. **Existing international, regional and/or national binding and/or non-binding legal instruments are sufficient to regulate AI systems in order to ensure the protection of human rights, democracy and the rule of law.**	I rather disagree
23. **Please provide examples of existing international, regional and/or national (binding and/or non-binding) instruments that in your view are effective in guiding and regulating the design, development and use of AI systems to ensure compatibility with the standards for human rights, democracy and the rule of law**	Racial Equality Directive (Directive 2000/43/EC) GDPR European Convention on Human Rights Employment Equality Directive (2000/78/EC) Directive 2016/680 Convention 108+ Charter of Fundamental Rights of the European Union
24. **If you responded disagree/completely disagree to question 22, please indicate why existing international, regional and/or national (binding and/or non-binding) legal instruments are not sufficient to regulate AI systems (select all you agree with):**	They do not provide for specific rights (e.g. transparency requirements, redress mechanisms) for persons affected by AI;• They do not provide enough guidance to the designers, developers and deployers of AI systems;• They lack specific principles for the design, development and application of AI systems;• They provide a basis but fail to provide an effective substantive protection of human rights, democracy and the rule of law against the risks posed by AI systems;
25. **Please indicate other specific legal gaps that in your view need to be addressed at the level of the Council of Europe**	Providing reasoning for decisions, both AI and hybrid ones is essential. It is also essential that citizens are empowered to peruse these explanations using tooling of their own choosing. Interfaces for providing reasoning behind decisions should therefore be a requirement set by law.
26. **Individuals should always be informed when they interact with an AI system in any circumstances.**	I fully agree

27. Individuals should always be informed when a decision which affects them personally is made by an AI system.	I fully agree
28. Individuals should always be informed when an AI system is used in a decision-making process which affects them personally.	I fully agree
29. Individuals should have a right to a meaningful explanation of algorithmic based decisions, in particular how the algorithm reached its output.	I fully agree
30. Individuals should always have the right that any decision taken by an AI system in the framework of judicial proceedings are reviewed by a "human" judge.	I fully agree
31. Individuals should have a right to demand the review of an algorithmic based decision by a human being.	I fully agree
32. There should always be a person responsible for reviewing algorithmic based decisions in the public sector and private companies.	I rather agree
33. Public institutions should not use AI systems to promote or discredit a particular way of life or opinion (e.g. "social scoring").	I fully agree
34. States should be obliged to design, develop and apply sustainable AI systems that respect applicable environmental protection standards.	I fully agree
35. The code behind AI systems used in the public and private sectors should always be accessible to the competent public authorities for the purposes of external audit.	I fully agree
36. There should be higher transparency standards for public entities using AI than for private entities.	I fully agree
37. There should be higher standards for access to an effective remedy for individuals in relation to decisions informed and made by an AI system in the field of justice than in the field of consumer protection.	I fully agree
38. Member States should establish public oversight mechanisms for AI systems that may breach legally binding norms	I fully agree

in the sphere of human rights, democracy and the rule of law.	
39. Errors and flaws discovered in AI systems which have led or could lead to the violation of human rights, democracy and the rule of law must be reported to the competent authorities.	I fully agree
40. The use of facial recognition in public spaces should be prohibited.	I fully agree
41. The information obtained through the use of facial recognition systems should always be reviewed by a human being before being used for purposes that have an impact on individual freedom, such as in relation to a person boarding an airplane, upon police arrest or in the framework of judicial proceedings.	I fully agree
42. The use of AI systems in democratic processes (e.g. elections) should be strictly regulated.	I fully agree
43. Should a future legal framework at Council of Europe level include a specific liability regime in relation to AI applications?	Yes
44. If yes, what aspects should be covered?	Joint liability schemes when more actors are involved. Burden of proof to the developers/ deployers side and not the user/victim side.
45. In your opinion, how useful would the following compliance mechanisms be in preventing and mitigating the risks to human rights, democracy and the rule of law arising from the design, development and application of AI? - **Human rights, democracy and rule of law impact assessments** - **Certification and quality labelling** - **Audits and intersectional audits** - **Regulatory sandboxes** **Continuous automated monitoring**	Highly useful Rather useful Highly useful Rather useful Highly useful
46. Please indicate what combination of mechanisms should be preferred to efficiently protect human rights, democracy and the rule of law **46bis. Other**	Continuous automated monitoring;• Audits and intersectional audits;• Human rights, democracy and rule of law impact assessments ;

47. **Please select which mechanism(s) should be part of either a binding instrument or a non-binding instrument to best protect human rights, democracy and the rule of law.** - **Human rights, democracy and rule of law impact assessments** - **Certification and quality labelling** - **Audits and intersectional audits** - **Regulatory sandboxes** **Continuous automated monitoring**	Binding instrument Binding instrument Binding instrument Binding instrument Binding instrument
47.bis. Other	Red lines for acceptable behavior eg: An AI system may not injure a human being or, through inaction, allow a human being to come to harm.
48. **In your opinion, how useful would the following follow-up activities be if implemented by the Council of Europe?** - **Monitoring of AI legislation and policies in member States** - **Capacity building on Council of Europe instruments, including assistance to facilitate ratification and implementation of relevant Council of Europe instruments** - **AI Observatory for sharing good practices and exchanging information on legal, policy and technological developments related to AI systems** **Establishing a centre of expertise on AI and human rights**	Rather useful Highly useful Rather useful Highly useful
49. **What other mechanisms, if any, should be considered?**	"Environmental impacts" is a practice that has proven to be highly useful both in the environmental and the privacy domains, so we feel it could be highly useful also in this domain.
50. **Are there any other issues with respect to the design, development and application of AI systems in the context of human rights, democracy and the rule of law that you wish to bring to the attention of the CAHAI?**	We feel that a lot of the response severely limits our ability to express our opinion. In particular the conflation of R/D and deployment/use is not particularily useful. While we would be more open to R/D the uses outside laboratory use should be strictly regulated. We are also concerned that the consultation is very much limited to the current state of AI, while failing to appreciate the potential of future more comprehensive systems.
Date of submission	5/8/21 18:23:40

ePaństwo Foundation

State (where your institution is based)	**Poland**
Institution: Name of the institution/body/company	ePaństwo Foundation
Personal capacity: Your socio-professional category	Higher occupations
Your stakeholder group	Civil society
2. In view of the elaboration of a legal framework on the design, development and application of AI, based on the standards of the Council of Europe on human rights, democracy and the rule of law, what kind of definition of artificial intelligence (AI) should be considered by the CAHAI	A definition focusing on automated decision-making
2bis. If "other" please explain below	
3. What are the reasons for your preference?	Not every use of AI constitutes a risk of discrimination or have any impact on human rights and obligation. This comes where AI (or any other technological solution) can influence citizens wellbeing. For this reason we have even formulated (https://epf.org.pl/en/projects/algovrithms/) our own definition (and the term "alGOVrithm") We understand it as: "automated selection or filtering processes, used by government authorities in decision making, whose output directly or indirectly influences the citizens' well-being"
4. Please select the areas in which AI systems offer the most promising opportunities for the protection of human rights, democracy and the rule of law	• Healthcare;• Environment and climate;• Election monitoring;
4bis. If other, which areas and why?	
5. Please indicate which of the following AI system applications in your view have the greatest potential to enhance/protect human rights, democracy and the rule of law?	• Medical applications for faster and more accurate diagnoses;• AI applications to predict the possible evolution of climate change and/or natural disasters;• AI applications for personalised media content (recommender systems);• AI applications to promote gender equality (e.g. analytical tools);
6. Please briefly explain how such applications would benefit human rights, democracy and the rule of law.	The main idea behind ticking these boxes was, that in general such systems are not processing personal data and/or affecting individuals. ePaństwo Foundation origins are very much connected with "open data" and we see the great potential in providing technological solutions to analyze data. Especially these examples that can facilitate the process of understanding some paterns, regularities or iregularieties. In the case of algorithms for personalized media content, we do see them as potentially able to facilitate the problem of "information bubbles" or disinformation. In general. We do see a potential of indirect positive impact such solution may have, without risk of discrimination. Still each of such applications should be done in a human centric approach inc. securing the accuracy of training data

7. What other applications might contribute significantly to strengthening human rights, democracy and the rule of law?	We do not have a strong stand that AI can protect human rights as suggested by the authors of this survey. This is always a responsibility of those in power.
8. Please select the areas in which the deployment of AI systems poses the highest risk of violating human rights, democracy and the rule of law **8bis. Other**	• Justice;• Law enforcement;• Welfare;
9. Please briefly explain how such applications might violate human rights, democracy and the rule of law.	In terms of "justice" and "law enforcement" automatic decisions often fail to include an extensive evaluation of the circumstances of the case.By contrast with automatic decisions,civil servants can explain the background of a decision better and therefore delimit any dispute during the course of a review. Context is crucial to avoiding unwillingly biased decisions. The same goes with "welfare" where too often automatization means "fraud detection" where the purpose of finding a fraud is often more important than support those in needs.
10. Please indicate the types of AI systems that represent the greatest risk to human rights, democracy and the rule of law	Facial recognition supporting law enforcement ;Scoring / scoring of individuals by public entities;• AI applications to prevent the commission of a criminal offence;AI applications aimed at predicting recidivism ;• AI applications determining the allocation of social services;
11. Please briefly explain how such applications might violate human rights, democracy and the rule of law.	as above (question 15)
12. What other applications might represent a significant risk to human rights, democracy and the rule of law?	Autonomous weapons
13. In your opinion, should the development, deployment and use of AI systems that have been proven to violate human rights or undermine democracy or the rule of law be **13bis. Other**	Banned
14. In your opinion, should the development, deployment and use of AI systems that pose high risks with high probability to human rights, democracy and the rule of law be:	Banned
15. In your opinion, should the development, deployment and use of AI systems that pose low risks with high probability to human rights, democracy and the rule of law be:	Regulated (binding law)
16. In your opinion, should the development, deployment and use of AI systems that pose high risks with low probability to human rights, democracy and the rule of law be:	Subject to moratorium

17. What are the most important legal principles, rights and interests that need to be addressed and therefore justify regulating the development, deployment and use of AI systems?	• Possibility to challenge a decision made by an AI system and access to an effective remedy;• Transparency;Respect for human dignity;• Explainability;• Non-discrimination;
18. In your opinion, in what sectors/areas is a binding legal instrument needed to protect human rights, democracy and the rule of law? **18bis. Other**	Public administration;Justice;Law enforcement;
19. Self-regulation by companies is more efficient than government regulation to prevent and mitigate the risk of violations of human rights, democracy and the rule of law.	I completely disagree
20. Self-regulation by companies is sufficient to prevent and mitigate the risk of violations of human rights, democracy and the rule of law	I completely disagree
21. Which of the following instruments of self-regulation do you consider to be the most efficient? **21bis. Other**	algorithmic (inc. human rights) impact assessments
22. Existing international, regional and/or national binding and/or non-binding legal instruments are sufficient to regulate AI systems in order to ensure the protection of human rights, democracy and the rule of law.	I rather disagree
23. Please provide examples of existing international, regional and/or national (binding and/or non-binding) instruments that in your view are effective in guiding and regulating the design, development and use of AI systems to ensure compatibility with the standards for human rights, democracy and the rule of law	There are not such examples. Hopefully yet!
24. If you responded disagree/completely disagree to question 22, please indicate why existing international, regional and/or national (binding and/or non-binding) legal instruments are not sufficient to regulate AI systems (select all you agree with):	• They provide a basis but fail to provide an effective substantive protection of human rights, democracy and the rule of law against the risks posed by AI systems;• They lack specific principles for the design, development and application of AI systems;• They do not provide enough guidance to the designers, developers and deployers of AI systems;They do not provide for specific rights (e.g. transparency requirements, redress mechanisms) for persons affected by AI;
25. Please indicate other specific legal gaps that in your	1. Public registers of AI solutions 2. Establish a regulatory government body that overlooks the development, implementation, and usage of AI/ADM

view need to be addressed at the level of the Council of Europe	3. Create the necessary legal framework and incentivize CSOs and academia to engage in monitoring and regulating AI
26. Individuals should always be informed when they interact with an AI system in any circumstances.	I fully agree
27. Individuals should always be informed when a decision which affects them personally is made by an AI system.	I fully agree
28. Individuals should always be informed when an AI system is used in a decision-making process which affects them personally.	I fully agree
29. Individuals should have a right to a meaningful explanation of algorithmic based decisions, in particular how the algorithm reached its output.	I fully agree
30. Individuals should always have the right that any decision taken by an AI system in the framework of judicial proceedings are reviewed by a "human" judge.	I fully agree
31. Individuals should have a right to demand the review of an algorithmic based decision by a human being.	I fully agree
32. There should always be a person responsible for reviewing algorithmic based decisions in the public sector and private companies.	I fully agree
33. Public institutions should not use AI systems to promote or discredit a particular way of life or opinion (e.g. "social scoring").	I fully agree
34. States should be obliged to design, develop and apply sustainable AI systems that respect applicable environmental protection standards.	I fully agree
35. The code behind AI systems used in the public and private sectors should always be accessible to the competent public authorities for the purposes of external audit.	I fully agree
36. There should be higher transparency standards for public entities using AI than for private entities.	I fully agree
37. There should be higher standards for access to an effective remedy for individuals in relation to decisions informed and made by an AI system in the field	I fully agree

of justice than in the field of consumer protection.	
38. Member States should establish public oversight mechanisms for AI systems that may breach legally binding norms in the sphere of human rights, democracy and the rule of law.	I fully agree
39. Errors and flaws discovered in AI systems which have led or could lead to the violation of human rights, democracy and the rule of law must be reported to the competent authorities.	I fully agree
40. The use of facial recognition in public spaces should be prohibited.	I fully agree
41. The information obtained through the use of facial recognition systems should always be reviewed by a human being before being used for purposes that have an impact on individual freedom, such as in relation to a person boarding an airplane, upon police arrest or in the framework of judicial proceedings.	I fully agree
42. The use of AI systems in democratic processes (e.g. elections) should be strictly regulated.	I fully agree
43. Should a future legal framework at Council of Europe level include a specific liability regime in relation to AI applications?	Yes
44. If yes, what aspects should be covered?	Public administration should guarantee that in the case of any mistakes or other irregularities connected with the operation of the AI/ADM the review (audit) and remedy systems are in place. It shall also contain the precise information as to who at the specific public office is responsible for the accuracy and fairness of the algorithm. It is also advised to consider changes in criminal law to inclu-de sanctions for implementation of algorithms that violate privacy, fair and equal treatment of citizens. We also see the need for regular inspections into specific algorithms' operation. Inspections should be conducted by a group of external experts who will check the fairness and accuracy of a tool. The results of the inspection should be published on the website of the relevant public institution.

45. In your opinion, how useful would the following compliance mechanisms be in preventing and mitigating the risks to human rights, democracy and the rule of law arising from the design, development and application of AI? - **Human rights, democracy and rule of law impact assessments** - **Certification and quality labelling** - **Audits and intersectional audits** - **Regulatory sandboxes** **Continuous automated monitoring**	Rather useful Indifferent/no opinion Rather useful Rather useful Rather useful
46. Please indicate what combination of mechanisms should be preferred to efficiently protect human rights, democracy and the rule of law 46bis. Other	• Human rights, democracy and rule of law impact assessments ;• Audits and intersectional audits;Continuous automated monitoring;
47. Please select which mechanism(s) should be part of either a binding instrument or a non-binding instrument to best protect human rights, democracy and the rule of law. - **Human rights, democracy and rule of law impact assessments** - **Certification and quality labelling** - **Audits and intersectional audits** - **Regulatory sandboxes** **Continuous automated monitoring**	Binding instrument Non-binding instrument Binding instrument Binding instrument Binding instrument
47.bis. Other	Engaging CSO, Academia and independent researchers in the process of auditing/monitoring. Also, the possibility of using "trade secrets" clauses should be limited and allow public officials using AI systems to freely audit them (inc source code)
48. In your opinion, how useful would the following follow-up activities be if implemented by the Council of Europe? - **Monitoring of AI legislation and policies in member States** - **Capacity building on Council of Europe instruments, including assistance to facilitate ratification and implementation of relevant Council of Europe instruments** - **AI Observatory for sharing good practices and exchanging information on**	Highly useful Highly useful Rather useful Highly useful

legal, policy and technological developments related to AI systems **Establishing a centre of expertise on AI and human rights**	
49. What other mechanisms, if any, should be considered?	Public officials and designer training on discriminatory risks in AI
50. Are there any other issues with respect to the design, development and application of AI systems in the context of human rights, democracy and the rule of law that you wish to bring to the attention of the CAHAI?	
Date of submission	4/26/21 19:29:53

Equinet

State (where your institution is based)	**Belgium**
Institution: Name of the institution/body/company	Equinet
Personal capacity: Your socio-professional category	Higher occupations
Your stakeholder group	Civil society
2. In view of the elaboration of a legal framework on the design, development and application of AI, based on the standards of the Council of Europe on human rights, democracy and the rule of law, what kind of definition of artificial intelligence (AI) should be considered by the CAHAI	A technologically-neutral and simplified definition, such as "a set of sciences, theories and tech-niques whose purpose is to reproduce by a machine the cognitive abilities of a human being" (See the CAHAI feasibility study, §5)
2bis. If "other" please explain below	
3. What are the reasons for your preference?	Equinet recommends selecting Option 2, i.e. "a technologically-neutral and simplified definition, such as "a set of sciences, theories and techniques whose purpose is to reproduce by a machine the cognitive abilities of a human being" because it strikes a proper balance between a level of generality and descriptiveness in order to also cover future technological change. Options 3 and 4 are respectively under-inclusive (i.e. machine learning systems) and

	over-inclusive and vague (i.e. automated decision-making; not all automation should be subject to the same regulatory scrutiny as AI systems).
	Importantly, Equinet recommends that Option 2 or any another definition of AI for the purposes of regulating AI systems to protect equality and other human rights should enable that the focus of any future regulation on AI is on the (possible) effects of AI-enabled technology on equality and other human rights, and not on the specific techniques and methods that comprise that AI-driven technology. To put it differently, definitions of AI should be centred on equality and human rights and not on descriptions of the specific AI-driven application(s) involved. Importantly, definitions of AI for the purpose of equality- and human rights-compliant regulation should also include and enable over-sight over human decision-making, including the decision itself to apply an ADM system for a certain purpose (for more information see below).
	As pointed by AlgorithmWatch, the definition of an AI systems should encompass "a decision-making model, an algorithm that translates this model into computable code, the data this code uses as an input—either to 'learn' from it or to analyse it by applying the model—and the entire political and economic environment surrounding its use. This means that the decision itself to apply an ADM system for a certain purpose—as well as the way it is developed (i.e. by a public sector entity or a commercial company), procured and finally deployed—are parts of this framework."
4. Please select the areas in which AI systems offer the most promising opportunities for the protection of human rights, democracy and the rule of law	• Healthcare;• Environment and climate;• Other;
4bis. If other, which areas and why?	Analysing and sorting through large amounts of information to enable the implementation of equality mainstreaming approaches in organizations (both public and private) and on a larger, society-wide scale by public authorities such as national public employment agencies, labour inspectorates and various other national regulatory bodies, which bear upon access to and enjoyment of equality and other human rights by people.
5. Please indicate which of the following AI system applications in your view have the greatest potential to enhance/protect human rights, democracy and the rule of law?	• Smart personal assistants (connected devices);• Medical applications for faster and more accurate diagnoses;• AI applications to predict the possible evolution of climate change and/or natural disasters;• AI applications to promote gender equality (e.g. analytical tools);
6. Please briefly explain how such applications would benefit human rights, democracy and the rule of law.	The rationales for selecting the answers that pertain to medical applications, climate change/disaster risk prediction and gender equality have already been given in the explanations under Question 2. Equinet's suggestion for "smart personal assistants (connected devices)" is motivated by their potential — again with all proper equality and human rights safeguards — to strengthen equality and human rights for disabled persons and older persons, among other possible beneficiaries of the use of these devices.

As explained in Question 2, other AI applications from the above list could hypothetically also be chosen as areas where a positive contribution by AI-enabled technology could be expected, again upon evidence of positive impact on human rights and equality and with proper human rights and equality safeguards. |

7. **What other applications might contribute significantly to strengthening human rights, democracy and the rule of law?**	Once again and as already explained under Question 2, a priori definitions of applications and sectors associated with both benefits and risks (the two concepts could be correlated in practice) — should not be at the centre of a regulatory approach aimed at safeguarding equality and other human rights against potential AI-enabled violations. Instead, any regulatory approach on AI and human rights should enable and promote the continuous gathering of scientific evidence for the impact of AI systems on society and specifically, on equality and other human rights. Only after sufficient evidence on the befits of specific uses of AI in specific contexts has been gathered, can a regulatory framework on AI and human rights, in a responsible and justified manner, incorporate definitions of "beneficial" AI applications.
8. **Please select the areas in which the deployment of AI systems poses the highest risk of violating human rights, democracy and the rule of law** **8bis. Other**	Equinet recommends selecting "other" and using the open space under Question 7 and Question 9 to explain that a risk-based approach, based on a priori selection of areas of deployment of AI systems (Question 6) and types of AI systems (Question 8), is not adequate for the effective protection of equality and other human rights. AI systems, due their intrinsically dynamic and evolving nature, preclude the possibility for legislators and regulators to foresee all the possible types of outcomes of their use. Therefore, a priori definitions of both benefits and risks (the two concepts could be correlated in practice) — for the purposes of a regulatory approach — are not conducive to safeguarding equality against potential AI-enabled violations. Instead, any regulatory approach on AI and human rights should enable and promote the continuous gathering of scientific evidence for the impact of AI systems on society and specifically, on equality and other human rights.;
9. **Please briefly explain how such applications might violate human rights, democracy and the rule of law.**	Equinet does not believe that a risk-based approach to AI regulation is appropriate and justifiable when protecting equality and other human rights against AI-induced risks. Any future AI regulation to protect equality and human rights in Europe should be based on equality and human rights standards and not on a classification of risks. All human rights, including equality, are by definition inalienable and inseparable, and their protection and enjoyment cannot be made contingent assessment of a "risk level" associated with external factors (which will also have the effect of "separating" human rights, as some rights will be accorded more protection than others – see this point further elaborated below). The proper role of the concept of "risk" in regulating for AI systems, which are conducive to the protection of equality and other human rights, is to enable compliance and provision of redress in cases of breaches of equality and other human rights, with different levels of risks triggering a correspondingly different set of compliance obligations (for developers, deployers and vendors) and redress possibilities (for all persons interacting with AI systems). Any and all definitions of "risk" the purpose of an AI regulation that protects equality and human rights should be grounded in evidence of the social (including impact on equality and other human rights) and environmental impacts of these technologies, whether their use is warranted in the specific context, and which communities are likely to benefit more or bear the risk of discrimination , exploitation and other harms. Furthermore, and again problematically, a risk classification based on areas of risk might lead to effectively promoting an untenable hierarchy of rights as all of the above listed areas are associated

with the protection of certain rights, and protecting some areas more than others would effectively mean prioritizing the protection of some rights more than others.

Importantly, a risk-based approach, whether it is reliant upon sectors/areas or a different foundation for the definition and categorization of "risks", is inherently limited in its ability to protect equality and other human rights due to 1) the unpredictable and still understudied nature of AI systems in terms of their impact on human rights, and 2) the special status and value of equality and human rights in our societies, and hence the related imperative for stricter and most comprehensive protection of these rights. Several leading organizations specializing in the links between digital rights and human rights, among which Access Now and the AI Now Institute, have criticized the adequacy of a risk-based approach and have advocated that a rights-based approach be used instead.

In fact, as helpfully reminded by Access Now, the view that the risk-based approach to regulation is underlying the relative success and effectiveness of EU's General Data Protection Regulation (GDPR) is ill-informed and misleading. During the GDPR, the Working Party 29 — which gathers all EU data protection authorities — published a statement on the risk-based approach to explain that it cannot replace company obligations to protect our rights:

"…the Working Party is concerned that both in relation to discussions on the new EU legal framework for data protection and more widely, the risk-based approach is being increasingly and wrongly presented as an alternative to well-established data protection rights and principles, rather than as a scalable and proportionate approach to compliance. The purpose of this statement is to set the record straight."

The analysis of Access Now further points that the above statement also explicitly emphasizes that "rights granted to the data subject by EU law should be respected regardless of the level of the risks which the latter incur through the data processing involved".

10. Please indicate the types of AI systems that represent the greatest risk to human rights, democracy and the rule of law	Facial recognition supporting law enforcement ;Scoring / scoring of individuals by public entities;• AI applications to prevent the commission of a criminal offence;AI applications aimed at predicting recidivism ;• AI applications determining the allocation of social services;
11. Please briefly explain how such applications might violate human rights, democracy and the rule of law.	Equinet recommends explaining that a risk-based approach, based on a priori selection of areas of deployment of AI systems (Question 6) and types of AI systems (Question 8), is not adequate for the effective protection of equality and other human rights. On the limitations of a risk-based approach for regulating AI in the context of human rights, democracy and rule of law, please see the explanations under Question 6 and Question 7. Therefore, the types of AI applications posing greatest risks to the protection of equality and other human rights selected above present only an indicative and incomplete list of suggestions, which should include also other areas and types of AI uses.
12. What other applications might represent a significant risk to human rights, democracy and the rule of law?	Once again, because of the dynamic and evolving nature of AI systems there is not currently sufficient scientific evidence to establish an adequately comprehensive list of all AI applications and uses that represent a significant risk to human rights, democracy and rule of law. Therefore, any future regulatory approach on AI and human rights should enable and promote the continuous gathering of scientific evidence for the impact of AI systems on society and specifically, on equality and other human rights.

	Some other areas and applications of potentially significantly high risk for the protection of equality and other human rights include: AI-enabled analytical tools used for improper voter influence or manipulation of human behaviour (e.g. voter preferences, on-line targeted advertising), autonomous weapons; algorithmic-driven risk assessment tools for criminal justice (e.g. recidivism-prediction tools).
13. In your opinion, should the development, deployment and use of AI systems that have been proven to violate human rights or undermine democracy or the rule of law be **13bis. Other**	Banned
14. In your opinion, should the development, deployment and use of AI systems that pose high risks with high probability to human rights, democracy and the rule of law be:	Banned
15. In your opinion, should the development, deployment and use of AI systems that pose low risks with high probability to human rights, democracy and the rule of law be:	Regulated (binding law)
16. In your opinion, should the development, deployment and use of AI systems that pose high risks with low probability to human rights, democracy and the rule of law be:	Subject to moratorium
17. What are the most important legal principles, rights and interests that need to be addressed and therefore justify regulating the development, deployment and use of AI systems?	Respect for human dignity;Equality;Freedom of expression, assembly and association;• Possibility to challenge a decision made by an AI system and access to an effective remedy;Privacy and data protection;
18. In your opinion, in what sectors/areas is a binding legal instrument needed to protect human rights, democracy and the rule of law? **18bis. Other**	AI-specific binding legal instrument needed to protect human rights, democracy and the rule of law should be horizontal in nature, reflecting the all-purpose and cross-sectoral nature of AI-enabled technology. All sectors of AI uses suggested in Question 16 could adversely impact upon the freedoms enshrined in CoE's legal framework on human rights, democracy and rule of law. Once again, because of the dynamic and evolving nature of AI systems there is not currently sufficient scientific evidence to establish an adequately comprehensive list of all AI applications and uses that represent a significant risk to human rights, democracy and rule of law. Therefore, any future regulatory approach on AI and human rights should enable and promote the continuous gathering of scientific evidence for the impact of AI systems on society and specifically, on equality and other human rights.;
19. Self-regulation by companies is more efficient than government regulation to prevent and mitigate the risk of violations of human rights, democracy and the rule of law.	I completely disagree

20. Self-regulation by companies is sufficient to prevent and mitigate the risk of violations of human rights, democracy and the rule of law	I completely disagree
21. Which of the following instruments of self-regulation do you consider to be the most efficient? **21bis. Other**	Following the recommendations of the European Center for Not-for-Profit Law, Equinet suggests selecting the option "Other" with the following explanation: "Continuous, inclusive, and transparent equality and human rights due diligence, which includes equality and human rights impact assessments and duties for equality mainstreaming through the entire life cycle of AI development, deployment and use.
22. Existing international, regional and/or national binding and/or non-binding legal instruments are sufficient to regulate AI systems in order to ensure the protection of human rights, democracy and the rule of law.	I rather disagree
23. Please provide examples of existing international, regional and/or national (binding and/or non-binding) instruments that in your view are effective in guiding and regulating the design, development and use of AI systems to ensure compatibility with the standards for human rights, democracy and the rule of law	N/A
24. If you responded disagree/completely disagree to question 22, please indicate why existing international, regional and/or national (binding and/or non-binding) legal instruments are not sufficient to regulate AI systems (select all you agree with):	• They provide a basis but fail to provide an effective substantive protection of human rights, democracy and the rule of law against the risks posed by AI systems;• They lack specific principles for the design, development and application of AI systems;• They do not provide enough guidance to the designers, developers and deployers of AI systems;They do not provide for specific rights (e.g. transparency requirements, redress mechanisms) for persons affected by AI;
25. Please indicate other specific legal gaps that in your view need to be addressed at the level of the Council of Europe	Requiring the establishment and secure and adequate resourcing of national and European-level cooperation mechanisms between the different oversight bodies involved in the enforcement of the new AI-specific legal instrument and in the enforcement of other relevant existing legal instruments, that bear upon the impact of AI systems on human rights. The oversight institutions involved in monitoring compliance with the provisions of the future legal instrument on AI should be provided with the institutional infrastructure to forge working partnerships with all relevant national regulators in the field of human rights and AI systems, including with equality bodies as the only specialised public oversight bodies on equality. Mandatory equality duties for AI designers, developers and end-users (on the model of mandatory equality duties in existing European national legislations on equality (e.g. UK, Ireland), which include also rigorous transparency requirements. Non-discrimination and equality is a horizontal, cross-sectoral human rights concerns with regard to the risks that AI systems pose in the context of human rights, democracy and rule of law. Therefore, it needs to be addressed through appropriate, correspondingly

	horizontal and cross-cutting approaches based on equality mainstreaming tools. Equality duties are a provenly effective instrument in the "equality mainstreaming" toolkit, and in different forms and with various modifications, have been successfully implemented in several different jurisdictions.
	Requiring mandatory equality and human rights impact assessments for both that private sector companies and the public sector. The data and other information gathered through monitoring the implementation of the equality duties will feed into and enable the conducting of the impact assessment.
	Banning all uses of biometrics, including facial recognition, which are used or going to be used with an objective, which in violation of equality and other human rights. The ban should cover uses of biometrical identification techniques such as predictive policing, all biometric mass-surveillance practices, automated recognition of sensitive traits such as gender identity, race and disability.
	Requiring public registers documenting the use of AI systems in public spaces and/or by public authorities.
	Providing a right to refusal of being subjected to an AI system (including the right to opt-out and to have alternative means to access or achieve a given objective).
26. Individuals should always be informed when they interact with an AI system in any circumstances.	I fully agree
27. Individuals should always be informed when a decision which affects them personally is made by an AI system.	I fully agree
28. Individuals should always be informed when an AI system is used in a decision-making process which affects them personally.	I fully agree
29. Individuals should have a right to a meaningful explanation of algorithmic based decisions, in particular how the algorithm reached its output.	I fully agree
30. Individuals should always have the right that any decision taken by an AI system in the framework of judicial proceedings are reviewed by a "human" judge.	I fully agree
31. Individuals should have a right to demand the review of an algorithmic based decision by a human being.	I fully agree
32. There should always be a person responsible for reviewing algorithmic based decisions in the public sector and private companies.	I rather agree
33. Public institutions should not use AI systems to promote or discredit a particular way of life or opinion (e.g. "social scoring").	I rather agree

34. States should be obliged to design, develop and apply sustainable AI systems that respect applicable environmental protection standards.	I rather agree
35. The code behind AI systems used in the public and private sectors should always be accessible to the competent public authorities for the purposes of external audit.	I rather agree
36. There should be higher transparency standards for public entities using AI than for private entities.	I rather agree
37. There should be higher standards for access to an effective remedy for individuals in relation to decisions informed and made by an AI system in the field of justice than in the field of consumer protection.	I rather agree
38. Member States should establish public oversight mechanisms for AI systems that may breach legally binding norms in the sphere of human rights, democracy and the rule of law.	I rather agree
39. Errors and flaws discovered in AI systems which have led or could lead to the violation of human rights, democracy and the rule of law must be reported to the competent authorities.	I rather agree
40. The use of facial recognition in public spaces should be prohibited.	I rather agree
41. The information obtained through the use of facial recognition systems should always be reviewed by a human being before being used for purposes that have an impact on individual freedom, such as in relation to a person boarding an airplane, upon police arrest or in the framework of judicial proceedings.	I rather agree
42. The use of AI systems in democratic processes (e.g. elections) should be strictly regulated.	I rather agree
43. Should a future legal framework at Council of Europe level include a specific liability regime in relation to AI applications?	Yes

44. If yes, what aspects should be covered?	The burden of proof should be on the developer/deployer and not on those affected.
	Establish effective and dissuasive sanctions for AI designers/developers/deployers for 1) harm caused'; 2) failure to comply with equality and human rights due diligence requirements, including impact assessment and monitoring of equality duties; 2) non-compliance with banned uses of AI.
	Inputs by independent equality and human rights specialised institutions, such as equality bodies, should be mandatory for assessing the equality and human rights-related aspects of liability. Their contribution should be harmonized with inputs from other relevant authorities such as consumer protection and data protection bodies, who assess other aspects of AI-related harm and hence liability. The entire coordinated multiple-actor procedure should render one comprehensive liability assessment.
	Liability should be proportionate to the ability of different actors in the AI supply chain to contain risks, with those developing and deploying AI systems carrying greatest burden, while distributors and end users of AI carrying progressively less responsibility.
	Given unpredictability and autonomy of AI systems and also the need to address the needs of different economic actors in the chain of development and supply of AI-enabled products and services, there should be a legal obligation to conclude insurance, coupled with strict liability.
	Liability for equality and human rights violations by AI systems should not be circumvented through competing legal protections such as intellectual property rights and trade secrecy rules, which preclude the transparency required to access justice and seek redress against these violations.
	Legal changes should address "function creep" and repurposing of AI systems by clarifying who is liable for any unexpected changes to an AI product or service once they have been placed on the market.
45. In your opinion, how useful would the following compliance mechanisms be in preventing and mitigating the risks to human rights, democracy and the rule of law arising from the design, development and application of AI? - **Human rights, democracy and rule of law impact assessments** - **Certification and quality labelling** - **Audits and intersectional audits** - **Regulatory sandboxes** **Continuous automated monitoring**	Highly useful Rather useful Highly useful Highly useful Highly useful
46. Please indicate what combination of mechanisms should be preferred to efficiently	• Human rights, democracy and rule of law impact assessments ;• Audits and intersectional audits;Continuous automated monitoring;

protect human rights, democracy and the rule of law 46bis. Other	
47. Please select which mechanism(s) should be part of either a binding instrument or a non-binding instrument to best protect human rights, democracy and the rule of law. - Human rights, democracy and rule of law impact assessments - Certification and quality labelling - Audits and intersectional audits - Regulatory sandboxes Continuous automated monitoring	Binding instrument No opinion Binding instrument Binding instrument Binding instrument
47.bis. Other	
48. In your opinion, how useful would the following follow-up activities be if implemented by the Council of Europe? - Monitoring of AI legislation and policies in member States - Capacity building on Council of Europe instruments, including assistance to facilitate ratification and implementation of relevant Council of Europe instruments - AI Observatory for sharing good practices and exchanging information on legal, policy and technological developments related to AI systems Establishing a centre of expertise on AI and human rights	Rather useful Rather useful Indifferent/no opinion Rather useful
49. What other mechanisms, if any, should be considered?	Create institutional mechanisms for the inclusion and participation of underrepresented, hard-to-reach or otherwise marginalized civic voices, whether through civil society organizations, human rights regulators like equality bodies or through mechanisms for direct input by citizens. In other words, continuous and sustainable feedback loops for inputs from potential or actual "victims" of AI-enabled technology should be incorporated on a permanent basis in CoE's regulatory framework on AI and human rights.
50. Are there any other issues with respect to the design, development and application of AI systems in the context of human rights, democracy and the rule of law that you wish to bring to the attention of the CAHAI?	In context of policies and measures for preventing and mitigating (see Q. 43 above) risks to human rights, democracy and the rule of law arising from AI systems, Equinet recommends that regulation also included legal obligations that address the needs for digital and human rights education (for both those affected by and those developing and supplying AI systems) and for mandatory and coordinated oversight over the financing of AI systems (i.e. R&D funds and scientific innovation).

a) Place stronger emphasis on strengthening of skills and education on equality of both developers and users of AI systems, and potential victims of AI-enabled discrimination

On the side of potential (or actual) victims of AI-enabled discrimination and other breaches of human rights and, more generally, those interacting with AI systems on the receiving end, this would mean that the future CoE's legal instrument on AI should also require or otherwise enable (e.g. through non-legislative measures, synergies with other legal CoE instruments with relevant objectives) increased and sustained investment in 1) digital literacy for those who are affected by AI and 2) developing increased rights awareness and rights education among those affected by AI systems in order to encourage a victim-led recourse to justice.

On the side of developers and suppliers of AI systems, the future CoE's legal instrument on AI should emphasize the building of knowledge on applicable equality laws and equality-based good practice standards, so that all relevant economic actors in the development and supply chain of AI systems are trained on understanding the implications of equality and human rights legal standards for their work and learn how to build and deploy AI systems, which are compliant with these standards.

Equality bodies have wealth of experience in educating duty-bears, in both the private and public sectors, and they could be key "educators" for AI actors on the "supply side" in both the private and public sector. This is makes it all the more crucial that equality bodies, as one of the key national regulators in the human rights field and the only specialized public regulators for equality and non-discrimination in Europe are enabled to systematically and sustainably coordinate their work in the areas with AI systems with the proposed new, AI-specific public oversight mechanisms, whose mandate will also cover equality.

The need for having a legal and institutional basis for this partnership is further highlighted by the unique added value of European equality bodies, compared to other national regulatory mechanisms for the protection of human rights in Europe – the work of equality bodies covers both the private and public sector, including traditionally well—developed links with other relevant national regulators such as labour inspectorates; the tools and powers that equality bodies employ span beyond the traditional leverage of national human rights protectors (e.g. recommendations, research, broader promotion and awareness-raising activities) to include legally binding decisions, investigation powers, litigation powers, which go beyond third party interventions and include an ability to bring cases to court, including ex officio.

b) Address the financing of Research & Development and scientific innovation, which underpin and enable AI development

Financing of R&D and scientific innovation can and should be addressed in the future CoE legal instrument for regulating the design and development of AI systems, as these stages in the life cycle of AI systems (i.e. design and development) are most immediately and most directly reliant upon scientific advances and innovation.

To the extent to which such a provision is relevant, regulatory

	control over the CoE financing of the development of AI systems should also include clear and enforceable funding conditionalities, based on equality and human rights considerations, for the receipt of CoE finance
Date of submission	5/10/21 10:58:18

eSkills Malta Foundation

State (where your institution is based)	Malta
Institution: Name of the institution/body/company	eSkills Malta Foundation
Personal capacity: Your socio-professional category	Higher occupations
Your stakeholder group	Government & public administration
2. In view of the elaboration of a legal framework on the design, development and application of AI, based on the standards of the Council of Europe on human rights, democracy and the rule of law, what kind of definition of artificial intelligence (AI) should be considered by the CAHAI	A technologically-neutral and simplified definition, such as "a set of sciences, theories and tech-niques whose purpose is to reproduce by a machine the cognitive abilities of a human being" (See the CAHAI feasibility study, §5)
2bis. If "other" please explain below	
3. What are the reasons for your preference?	We think a legal framework must have a definition of the Subject of the framework. This definition will effect the entire framework and focus on the contents of the definition and its effect on society, labour, education and technology.
4. Please select the areas in which AI systems offer the most promising opportunities for the protection of human rights, democracy and the rule of law	Justice;Banking, finance and insurance;Law enforcement;
4bis. If other, which areas and why?	Gender diversity - Most data on which AI decisions are taken need to be harmonized on gender, since most existing data is gender biased. Person Identity - Identity theft is increasing and therefore AI would help in securing this aspect. Cybersecurity - Identifying threats, scams, fraud and risks using AI on globalized security data.
5. Please indicate which of the following AI system applications in your view have the greatest potential to enhance/protect human rights, democracy and the rule of law?	• Scoring of individuals by public and private entities;• Smart personal assistants (connected devices);Facial recognition supporting law enforcement ; Medical applications for faster and more accurate diagnoses; Automated fraud detection (banking, insurance)

6. Please briefly explain how such applications would benefit human rights, democracy and the rule of law.	Most of the above subjects chosen in the ticked box influence the increase of human rights, democracy and rule of law, or lack of consideration of these subjects will decrease human rights, democracy and rule of law. AI is meant to disrupt our society, work, entertainment, and well being and we must make sure that any application of AI in any of the above will work on a fair level-playing field and must always give an option of recourse of the decision is not agreed by the subject.
7. What other applications might contribute significantly to strengthening human rights, democracy and the rule of law?	reduction of fake news, identity theft, fraud and scams, right of recourse.
8. Please select the areas in which the deployment of AI systems poses the highest risk of violating human rights, democracy and the rule of law **8bis. Other**	• Justice;• Law enforcement;Banking, finance and insurance;
9. Please briefly explain how such applications might violate human rights, democracy and the rule of law.	Banking & Insurance -AI decisions on whether to provide insurance, loans, financial assistance Justice, Law enforcement - AI Justice and law decisions by a court of law or law abiding citizens based on past statistics Social media networks - fake news, fraud and scams Employment - Choice of employment taken by an automated systems bay infringe rights National security and counter-terrorism based on wrong indicators will pose a risk of AI making the wrong decision Healthcare, Welfare and Education - refusing services based on the AI wrong parameters and indicators
10. Please indicate the types of AI systems that represent the greatest risk to human rights, democracy and the rule of law	☐Emotional analysis in the workplace to measure employees' level of engagement;Scoring / scoring of individuals by public entities;• Automated fraud detection (banking, insurance);AI applications for personalised media content (recommender systems);• AI applications to prevent the commission of a criminal offence;
11. Please briefly explain how such applications might violate human rights, democracy and the rule of law.	answered above
12. What other applications might represent a significant risk to human rights, democracy and the rule of law?	answered above
13. In your opinion, should the development, deployment and use of AI systems that have been proven to violate human rights or undermine democracy or the rule of law be **13bis. Other**	reviewed and revised
14. In your opinion, should the development, deployment and use of AI systems that pose high risks with high probability to human rights, democracy and the rule of law be:	Regulated (binding law)
15. In your opinion, should the development, deployment and use of AI systems that pose low risks with high probability to human	Regulated (binding law)

rights, democracy and the rule of law be:	
16. In your opinion, should the development, deployment and use of AI systems that pose high risks with low probability to human rights, democracy and the rule of law be:	Regulated (binding law)
17. What are the most important legal principles, rights and interests that need to be addressed and therefore justify regulating the development, deployment and use of AI systems?	Respect for human dignity;Political pluralism;Equality;
18. In your opinion, in what sectors/areas is a binding legal instrument needed to protect human rights, democracy and the rule of law? 18bis. Other	Justice;Law enforcement;Customs and border control;
19. Self-regulation by companies is more efficient than government regulation to prevent and mitigate the risk of violations of human rights, democracy and the rule of law.	Indifferent/no opinion
20. Self-regulation by companies is sufficient to prevent and mitigate the risk of violations of human rights, democracy and the rule of law	I completely disagree
21. Which of the following instruments of self-regulation do you consider to be the most efficient? 21bis. Other	Voluntary certification
22. Existing international, regional and/or national binding and/or non-binding legal instruments are sufficient to regulate AI systems in order to ensure the protection of human rights, democracy and the rule of law.	I rather disagree
23. Please provide examples of existing international, regional and/or national (binding and/or non-binding) instruments that in your view are effective in guiding and regulating the design, development and use of AI systems to ensure compatibility with the standards for human rights, democracy and the rule of law	Certification and approval of AI algorithms and processes or indeed any other product or service that apply AI
24. If you responded disagree/completely disagree to question 22, please indicate why	• They provide a basis but fail to provide an effective substantive protection of human rights, democracy and the rule of law against

existing international, regional and/or national (binding and/or non-binding) legal instruments are not sufficient to regulate AI systems (select all you agree with):	the risks posed by AI systems;• They lack specific principles for the design, development and application of AI systems;
25. Please indicate other specific legal gaps that in your view need to be addressed at the level of the Council of Europe	transparency and bias on culture, ethnicity, and region
26. Individuals should always be informed when they interact with an AI system in any circumstances.	I rather agree
27. Individuals should always be informed when a decision which affects them personally is made by an AI system.	I rather agree
28. Individuals should always be informed when an AI system is used in a decision-making process which affects them personally.	I rather agree
29. Individuals should have a right to a meaningful explanation of algorithmic based decisions, in particular how the algorithm reached its output.	I rather agree
30. Individuals should always have the right that any decision taken by an AI system in the framework of judicial proceedings are reviewed by a "human" judge.	I fully agree
31. Individuals should have a right to demand the review of an algorithmic based decision by a human being.	I rather agree
32. There should always be a person responsible for reviewing algorithmic based decisions in the public sector and private companies.	I rather agree
33. Public institutions should not use AI systems to promote or discredit a particular way of life or opinion (e.g. "social scoring").	I rather agree
34. States should be obliged to design, develop and apply sustainable AI systems that respect applicable environmental protection standards.	I rather agree
35. The code behind AI systems used in the public and private sectors should always be accessible to the competent public authorities for the purposes of external audit.	I fully agree

36. **There should be higher transparency standards for public entities using AI than for private entities.**	I fully agree
37. **There should be higher standards for access to an effective remedy for individuals in relation to decisions informed and made by an AI system in the field of justice than in the field of consumer protection.**	I fully agree
38. **Member States should establish public oversight mechanisms for AI systems that may breach legally binding norms in the sphere of human rights, democracy and the rule of law.**	I fully agree
39. **Errors and flaws discovered in AI systems which have led or could lead to the violation of human rights, democracy and the rule of law must be reported to the competent authorities.**	I fully agree
40. **The use of facial recognition in public spaces should be prohibited.**	I rather disagree
41. **The information obtained through the use of facial recognition systems should always be reviewed by a human being before being used for purposes that have an impact on individual freedom, such as in relation to a person boarding an airplane, upon police arrest or in the framework of judicial proceedings.**	I rather disagree
42. **The use of AI systems in democratic processes (e.g. elections) should be strictly regulated.**	I fully agree
43. **Should a future legal framework at Council of Europe level include a specific liability regime in relation to AI applications?**	Yes
44. **If yes, what aspects should be covered?**	human rights, democracy, transparency, equality and the rule of law.

45. **In your opinion, how useful would the following compliance mechanisms be in preventing and mitigating the risks to human rights, democracy and the rule of law arising from the design, development and application of AI?** - **Human rights, democracy and rule of law impact assessments** - **Certification and quality labelling** - **Audits and intersectional audits** - **Regulatory sandboxes** **Continuous automated monitoring**	Highly useful Highly useful Rather useful Rather useful Rather useful
46. **Please indicate what combination of mechanisms should be preferred to efficiently protect human rights, democracy and the rule of law** **46bis. Other**	• Certification and quality labelling;• Human rights, democracy and rule of law impact assessments ;• Audits and intersectional audits;•
47. **Please select which mechanism(s) should be part of either a binding instrument or a non-binding instrument to best protect human rights, democracy and the rule of law.** - **Human rights, democracy and rule of law impact assessments** - **Certification and quality labelling** - **Audits and intersectional audits** - **Regulatory sandboxes** **Continuous automated monitoring**	Binding instrument Non-binding instrument Binding instrument Non-binding instrument Binding instrument
47.bis. Other	
48. **In your opinion, how useful would the following follow-up activities be if implemented by the Council of Europe?** - **Monitoring of AI legislation and policies in member States** - **Capacity building on Council of Europe instruments, including assistance to facilitate ratification and implementation of relevant Council of Europe instruments** - **AI Observatory for sharing good practices and exchanging information on legal, policy and technological**	Highly useful Highly useful Highly useful Highly useful

developments related to AI systems **Establishing a centre of expertise on AI and human rights**	
49. What other mechanisms, if any, should be considered?	
50. Are there any other issues with respect to the design, development and application of AI systems in the context of human rights, democracy and the rule of law that you wish to bring to the attention of the CAHAI?	most mentioned above
Date of submission	4/12/21 16:49:27

EU Agency for Fundamental Rights

State (where your institution is based)	Austria
Institution: Name of the institution/body/company	EU Agency for Fundamental Rights
Personal capacity: Your socio-professional category	Higher occupations
Your stakeholder group	Government & public administration
2. In view of the elaboration of a legal framework on the design, development and application of AI, based on the standards of the Council of Europe on human rights, democracy and the rule of law, what kind of definition of artificial intelligence (AI) should be considered by the CAHAI	Other
2bis. If "other" please explain below	FRA's research found a variety of use cases in its research, which vary according to its level of automation, complexity, potential harm and scale of use. People working with AI and related technologies have differing views about what AI constitutes. FRA has called for a careful definition of the scope of any AI law to increase legal clarity. Concretely, FRA calls for an evidence-based definition, building on the types of AI uses. Focusing on the use of AI should also allow for regular assessment and potential update of AI-related definition and terms. Ultimately, this can provide more clarity and concrete, applicable, guidance to those using AI.

3. What are the reasons for your preference?	N/A
4. Please select the areas in which AI systems offer the most promising opportunities for the protection of human rights, democracy and the rule of law	N/A
4bis. If other, which areas and why?	N/A
5. Please indicate which of the following AI system applications in your view have the greatest potential to enhance/protect human rights, democracy and the rule of law?	N/A
6. Please briefly explain how such applications would benefit human rights, democracy and the rule of law.	N/A
7. What other applications might contribute significantly to strengthening human rights, democracy and the rule of law?	N/A
8. Please select the areas in which the deployment of AI systems poses the highest risk of violating human rights, democracy and the rule of law **8bis. Other**	N/A
9. Please briefly explain how such applications might violate human rights, democracy and the rule of law.	In its report (https://fra.europa.eu/sites/default/files/fra_uploads/fra-2020-artificial-intelligence_en.pdf) on AI and Fundamental Rights, FRA highlighted a number of Fundamental Rights challenges based on interviews with users of AI in different areas, including welfare, targeted advertising healthcare, and predictive policing. The risk to fundamental rights when using AI is related to the context and purpose of use the system. Given that AI can be used in many areas of life, its use can impact all human rights in one way or the other. FRA research highlighted a few selected rights areas. For example, with regards to data protection, our research found that, while there is an awareness of the data protection legal framework, there is also a lack of understanding of the application of the data protection principles to AI systems. With regards to equality and non-discrimination, it is important to highlight that, discrimination is a crucial topic when it comes to the use of AI, because the very purpose of machine learning algorithms is to categorise, classify and separate. E.g., when deciding to grant a loan, credit history can be used to differentiate between individuals, but not on the basis of protected attributes, such as gender or religion. However, many personal attributes or life experiences are often strongly correlated with protected attributes. The credit history might be systematically different for men and women due to differences in earnings and job histories. In the area of predictive policing, a particular risk relates to the potential for automated decision making tools to reproduce and entrench existing discriminatory practices that undermine equality before the

	law. As many interviewees from our research mentioned efficiency as the main purpose for using AI, it is important to recall that efficiency alone cannot justify unfair, differential treatment. With regards to access to justice, one prominent concern lies in the lack of transparency in the use and operation of new technologies, as algorithmic decision making is notoriously opaque. Yet, for access to justice to be effective, individuals need 1/ to know if they are dealing with an AI system, 2/ to know how and where to complain, and 3/ enough information to challenge the underlying decision. Few of the organisations interviewed by FRA received any complaints challenging their use of AI. In the area of predictive policing, when identifying people who are suspected of having committed a crime, the police may target their activities specifically against one person or put them under suspicion based on flawed and fragmented data and algorithmic profiling. Uncritical reliance on automated tools, without proper human review that takes into account other information, might contribute to discrimination in decision making.
10. Please indicate the types of AI systems that represent the greatest risk to human rights, democracy and the rule of law	
11. Please briefly explain how such applications might violate human rights, democracy and the rule of law.	See our reply under point 9.
12. What other applications might represent a significant risk to human rights, democracy and the rule of law?	
13. In your opinion, should the development, deployment and use of AI systems that have been proven to violate human rights or undermine democracy or the rule of law be **13bis. Other**	N/A
14. In your opinion, should the development, deployment and use of AI systems that pose high risks with high probability to human rights, democracy and the rule of law be:	N/A
15. In your opinion, should the development, deployment and use of AI systems that pose low risks with high probability to human rights, democracy and the rule of law be:	N/A
16. In your opinion, should the development, deployment and use of AI systems that pose high risks with low probability to human rights, democracy and the rule of law be:	N/A
17. What are the most important legal principles, rights and interests that need to be addressed and therefore justify regulating the development,	N/A

deployment and use of AI systems?	
18. In your opinion, in what sectors/areas is a binding legal instrument needed to protect human rights, democracy and the rule of law? 18bis. Other	N/A
19. Self-regulation by companies is more efficient than government regulation to prevent and mitigate the risk of violations of human rights, democracy and the rule of law.	I completely disagree
20. Self-regulation by companies is sufficient to prevent and mitigate the risk of violations of human rights, democracy and the rule of law	I completely disagree
21. Which of the following instruments of self-regulation do you consider to be the most efficient? 21bis. Other	N/A
22. Existing international, regional and/or national binding and/or non-binding legal instruments are sufficient to regulate AI systems in order to ensure the protection of human rights, democracy and the rule of law.	N/A
23. Please provide examples of existing international, regional and/or national (binding and/or non-binding) instruments that in your view are effective in guiding and regulating the design, development and use of AI systems to ensure compatibility with the standards for human rights, democracy and the rule of law	N/A
24. If you responded disagree/completely disagree to question 22, please indicate why existing international, regional and/or national (binding and/or non-binding) legal instruments are not sufficient to regulate AI systems (select all you agree with):	N/A
25. Please indicate other specific legal gaps that in your view need to be addressed at the level of the Council of Europe	N/A
26. Individuals should always be informed when they interact	I fully agree

with an AI system in any circumstances.	
27. Individuals should always be informed when a decision which affects them personally is made by an AI system.	I fully agree
28. Individuals should always be informed when an AI system is used in a decision-making process which affects them personally.	I fully agree
29. Individuals should have a right to a meaningful explanation of algorithmic based decisions, in particular how the algorithm reached its output.	I fully agree
30. Individuals should always have the right that any decision taken by an AI system in the framework of judicial proceedings are reviewed by a "human" judge.	I fully agree
31. Individuals should have a right to demand the review of an algorithmic based decision by a human being.	I fully agree
32. There should always be a person responsible for reviewing algorithmic based decisions in the public sector and private companies.	I fully agree
33. Public institutions should not use AI systems to promote or discredit a particular way of life or opinion (e.g. "social scoring").	I fully agree
34. States should be obliged to design, develop and apply sustainable AI systems that respect applicable environmental protection standards.	I fully agree
35. The code behind AI systems used in the public and private sectors should always be accessible to the competent public authorities for the purposes of external audit.	I fully agree
36. There should be higher transparency standards for public entities using AI than for private entities.	I rather agree
37. There should be higher standards for access to an effective remedy for individuals in relation to decisions informed and made by an AI system in the field of justice than in the field of consumer protection.	I completely disagree

38. **Member States should establish public oversight mechanisms for AI systems that may breach legally binding norms in the sphere of human rights, democracy and the rule of law.**	I fully agree
39. **Errors and flaws discovered in AI systems which have led or could lead to the violation of human rights, democracy and the rule of law must be reported to the competent authorities.**	I fully agree
40. **The use of facial recognition in public spaces should be prohibited.**	I rather agree In its paper on Facial recognition technology, FRA highlighted that the use of remote biometric identification involves many fundamental rights implications, most notably FRT from video footage. The rights impacted range from data protection, non-discrimination, access to justice, and freedom of expression, to rights of the child and the elderly. The way rights are impacted depends on the way, purpose and context the technology is used. Due to a lack of information on actual use in EU, most notably the purposes for which it is used, it is difficult to assess the proportionality and necessity of use of FRT. FRA concluded that a clear and sufficiently detailed legal framework must regulate the use of FRT, which determines when the processing is necessary and proportionate in view of the purpose. Forms with a high degree of intrusion into FR are unlawful. The use of FRT on public spaces should remain exceptional. Deployment at demonstrations may create a chilling effect and it is difficult to imagine when this is necessary and proportionate. Proportionality assessments need to include assessments about accuracy and bias in context.
41. **The information obtained through the use of facial recognition systems should always be reviewed by a human being before being used for purposes that have an impact on individual freedom, such as in relation to a person boarding an airplane, upon police arrest or in the framework of judicial proceedings.**	N/A
42. **The use of AI systems in democratic processes (e.g. elections) should be strictly regulated.**	N/A
43. **Should a future legal framework at Council of Europe level include a specific liability regime in relation to AI applications?**	Yes
44. **If yes, what aspects should be covered?**	N/A
45. **In your opinion, how useful would the following compliance mechanisms be in preventing and**	N/A

mitigating the risks to human rights, democracy and the rule of law arising from the design, development and application of AI? - **Human rights, democracy and rule of law impact assessments** - **Certification and quality labelling** - **Audits and intersectional audits** - **Regulatory sandboxes** **Continuous automated monitoring**	
46. Please indicate what combination of mechanisms should be preferred to efficiently protect human rights, democracy and the rule of law **46bis. Other**	N/A
47. Please select which mechanism(s) should be part of either a binding instrument or a non-binding instrument to best protect human rights, democracy and the rule of law. - **Human rights, democracy and rule of law impact assessments** - **Certification and quality labelling** - **Audits and intersectional audits** - **Regulatory sandboxes** **Continuous automated monitoring**	N/A
47.bis. Other	N/A
48. In your opinion, how useful would the following follow-up activities be if implemented by the Council of Europe? - **Monitoring of AI legislation and policies in member States** - **Capacity building on Council of Europe instruments, including assistance to facilitate ratification and implementation of relevant Council of Europe instruments** - **AI Observatory for sharing good practices and exchanging information on legal, policy and technological developments related to AI systems**	N/A

Establishing a centre of expertise on AI and human rights	
49. What other mechanisms, if any, should be considered?	N/A
50. Are there any other issues with respect to the design, development and application of AI systems in the context of human rights, democracy and the rule of law that you wish to bring to the attention of the CAHAI?	In addition to the brief points mentioned above, FRA would like to recall the main recommendations from its AI and Fundamental Rights report, as well as highlighting the publications that may prove useful for CAHAI's works: Considering the full scope of fundamental rights with respect to AI The EU Charter of Fundamental Rights (the Charter) became legally binding in December 2009 and has the same legal value as the EU treaties. It brings together civil, political, economic and social rights in a single text. Pursuant to Article 51 (1) of the Charter, the institutions, bodies, offices and agencies of the Union have to respect all the rights as embodied in the Charter. EU Member States have to do so when they are implementing Union law. This applies equally to AI as to any other field. The fieldwork of this research shows that a large variety of systems are used under the heading of AI. The technologies analysed entail different levels of automation and complexity. They also vary in terms of the scale and potential impact on people. FRA's findings show that using AI systems implicate a wide spectrum of fundamental rights, regardless of the field of application. These include, but also go beyond, privacy and data protection, non-discrimination and access to justice. Yet, when addressing the impact of AI with respect to fundamental rights, the interviews show, the scope is often delimited to specific rights. A wider range of rights need to be considered when using AI, depending on the technology and area of use. In addition to rights concerning privacy and data protection, equality and non-discrimination, and access to justice, other rights could be considered. These include, for example, human dignity, the right to social security and social assistance, the right to good administration (mostly relevant for the public sector) and consumer protection (particularly important for businesses). Depending on the context of the AI use, any other right protected in the Charter needs consideration. Using AI systems engages a wide range of fundamental rights, regardless of the field of application. These include – but also go beyond – privacy, data protection, non-discrimination and access to justice. FRA OPINION 1 When introducing new policies and adopting new legislation on AI, the EU legislator and the Member States, acting within the scope of EU law, must ensure that respect for the full spectrum of fundamental rights, as enshrined in the Charter and the EU Treaties, is taken into account. Specific fundamental rights safeguards need to accompany relevant policies and laws. In doing so, the EU and its Member States should rely on robust evidence concerning AI's impact on fundamental rights to ensure that any restrictions of certain fundamental rights respect the principles of necessity and proportionality. Relevant safeguards need to be provided for by law to effectively protect against arbitrary interference with fundamental rights and to give legal certainty to both AI developers and users. Voluntary schemes for observing and safeguarding fundamental rights in the development and use of AI can further help mitigate rights violations. In line with the minimum requirements of legal clarity – as a basic principle of the rule of law and a prerequisite for securing fundamental rights – the legislator has to take due care when defining the scope of any such AI law. Given the variety of technology subsumed under the term AI

and the lack of knowledge about the full scope of its potential fundamental rights impact, the legal definition of AI-related terms might need to be assessed on a regular basis.

Using effective impact assessments to prevent negative effects
Deploying AI systems engages a wide spectrum of fundamental rights, regardless of the field of application. Pursuant to Article 51 (1) of the Charter, EU Member States must respect all rights embodied in the Charter when they are implementing Union law. In line with existing international standards – notably the United National Guiding Principles on Business and Human Rights (UNGPs) – businesses should have in place "a human rights due diligence process to identify, prevent, mitigate and account for how they address their impacts on human rights" (Principles 15 and 17). This is irrespective of their size and sector, and encompasses businesses working with AI. While pursuing its commitments to the UNGPs, the EU has adopted several legislative acts addressing sectorspecific instruments, in particular in the context of due diligence-related obligations for human rights. Discussions are currently underway on proposing new EU secondary law. Such law would require businesses to carry out due diligence of the potential human rights and environmental impacts of their operations and supply chains. Such law would likely be cross-sectoral and provide for sanctions for non-compliance – which should encompass the use of AI. See FRA's recent report on Business and Human rights – access to remedy, which calls for improved horizontal human rights diligence rules for EU-based companies. Impact assessments are an important tool for businesses and public administration alike to mitigate the potential negative impact of their activities on fundamental rights. EU law in specific sectors requires some forms of impact assessments, such as Data Protection Impact Assessments under the General Data Protection Regulation (GDPR). Many interviewees reported that a data protection impact assessment, as required by law, was conducted. However, these took different forms. Moreover, prior assessments, when conducted, focus mainly on technical aspects. They rarely address potential impacts on fundamental rights. According to some interviewees, fundamental rights impact assessments are not carried out when an AI system does not, or appears not to, affect fundamental rights negatively. The research shows that the interviewees' knowledge on fundamental rights – other than data protection and, to some extent, non-discrimination – is limited. The majority acknowledge, however, that the use of AI has an impact on fundamental rights. Some interviewees indicate that their systems do not affect fundamental rights, which is to some extent linked to the tasks the AI systems are used for. All respondents are aware of data protection issues. Most respondents also realise that discrimination could – generally – be a problem when AI is used. However, the exact meaning and applicability of rights related to data protection and non-discrimination remains unclear to many respondents. The research findings show differences between the private and public sector. Interviewees from the private sector are often less aware of the wider range of fundamental rights that could be affected. Data protection issues are known to the private sector. However, other rights, such as non-discrimination or access to justice-related rights, are less well known among business representatives who work with AI. Some were fully aware of potential problems. But others said that the responsibility for checking fundamental rights issues lies with their clients.
FRA OPINION 2 The EU legislator should consider making

mandatory impact assessments that cover the full spectrum of fundamental rights. These should cover the private and public sectors, and be applied before any AI-system is used. The impact assessments should take into account the varying nature and scope of AI technologies, including the level of automation and complexity, as well as the potential harm. They should include basic screening requirements that can also serve to raise awareness of potential fundamental rights implications. Impact assessments should draw on established good practice from other fields and be regularly repeated during deployment, where appropriate. These assessments should be conducted in a transparent manner. Their outcomes and recommendations should be in the public domain, to the extent possible. To aid the impact assessment process, companies and public administration should be required to collect the information needed for thoroughly assessing the potential fundamental rights impact. The EU and Member States should consider targeted actions to support those developing, using or planning to use AI systems, to ensure effective compliance with their fundamental rights impact assessment obligations. Such actions could include funding, guidelines, training or awareness raising. They should particularly – but not exclusively – target the private sector. The EU and Member States should consider using existing tools, such as checklists or self-evaluation tools, developed at European and international level. These include those developed by the EU High-Level Group on Artificial Intelligence.

Ensuring effective oversight and overall accountability

In line with well-established international human rights standards – for example, Article 1 of the European Convention on Human Rights (ECHR) and Article 51 of the Charter – states are obliged to secure people's rights and freedoms. To effectively comply, states have to – among others – put in place effective monitoring and enforcement mechanisms. This applies equally with respect to AI. At the level of monitoring, the findings point to the important role of specialised bodies established in specific sectors that are also responsible for AI oversight within their mandates. These include, for example, oversight in the area of banking, or data protection authorities. A variety of such bodies are potentially relevant to the oversight of AI from a fundamental rights perspective. However, the responsibilities of bodies concerning the oversight of AI remains unclear to many of those interviewed from the private and the public sector. Public administrations' use of AI is sometimes audited, as part of their regular audits. Private companies in specific sectors also have specialised oversight bodies, for example in the area of health or financial services. These also check the use of AI and related technologies, for example as part of their certification schemes. Private sector interviewees expressed a wish for bodies that could provide expert advice on the possibilities and legality of potential AI uses. In the EU, there is a well-developed set of independent bodies with a mandate to protect and promote fundamental rights. These include data protection authorities, equality bodies, national human rights institutions and ombuds institutions. The research shows that those using or planning to use AI often contacted different bodies about their use of AI, such as consumer protection bodies. Most often, users of AI contacted data protection authorities to seek guidance, input or approval where personal data processing was involved. Interviewed experts highlight the relevance of data protection

authorities for overseeing AI systems with respect to the use of personal data. However, they also note that data protection authorities are under-resourced for this task and lack specific expertise on AI issues. Experts, including those working for oversight bodies such as equality bodies and data protection authorities, agree that the expertise of existing oversight bodies needs to be strengthened to allow them to provide effective oversight of AI related issues. According to the experts, this can be challenging given that these bodies' resources are already stretched. They also highlighted the important role of relevant civil society organisations specialised in the fields of technology, digital rights and algorithms. They can enhance accountability in the use of AI systems.

FRA OPINION 3 The EU and Member States should ensure that effective accountability systems are in place to monitor and, where needed, effectively address any negative impact of AI systems on fundamental rights. They should consider, in addition to fundamental rights impact assessments (see FRA opinion 2), introducing specific safeguards to ensure that the accountability regime is effective. This could include a legal requirement to make available enough information to allow for an assessment of the fundamental rights impact of AI systems. This would enable external monitoring and human rights oversight by competent bodies. The EU and Member States should also make better use of existing oversight expert structures to protect fundamental rights when using AI. These include data protection authorities, equality bodies, national human rights institutions, ombuds institutions and consumer protection bodies. Additional resources should be earmarked to establish effective accountability systems by 'upskilling' and diversifying staff working for oversight bodies. This would allow them to deal with complex issues linked to developing and using AI. Similarly, the appropriate bodies should be equipped with sufficient resources, powers and – importantly – expertise to prevent and assess fundamental rights violations and effectively support those whose fundamental rights are affected by AI. Facilitating cooperation between appropriate bodies at national and European level can help share expertise and experience. Engaging with other actors with relevant expertise – such as specialist civil society organisations – can also help. When implementing such actions at national level, Member States should consider using available EU funding mechanisms.

Specific safeguards to ensure non-discrimination when using AI

The obligation to respect the principle of non-discrimination is enshrined in Article 2 of the TEU, Article 10 of the TFEU (requiring the Union to combat discrimination on a number of grounds), and Articles 20 and 21 of the Charter (equality before the law and non-discrimination on a range of grounds). More specific and detailed provisions in several EU directives also enshrine this principle, with varying scopes of application. Automation and the use of AI can greatly increase the efficiency of services and can scale up tasks that humans would not be able to undertake. However, it is necessary to ensure that services and decisions based on AI are not discriminatory. Recognising this, the European Commission recently highlighted the need for additional legislation to safeguard non-discrimination when using AI in the EU anti-racism action plan 2020-2025. Most interviewees are in principle aware that discrimination might happen. Yet, they rarely raised this issue themselves. Only few believe their systems could actually

discriminate. Interviewees also rarely mentioned detailed assessments of potential discrimination, meaning that there is a lack of in-depth assessment of potential discrimination. A common perception is that omitting information about protected attributes, such as gender, age or ethnic origin, can guarantee that an AI system does not discriminate. This is not necessarily true, however. Information potentially indicating protected characteristics (proxies), which can often be found in datasets, could lead to discrimination. In certain cases, AI systems can also be used to test for and detect discriminatory behaviour, which can be encoded in datasets. However, very few interviewees mentioned the possibility of collecting such information about disadvantaged groups to detect potential discrimination. In the absence of in-depth analysis of potential discrimination in the actual use of AI systems, there is also almost no discussion and analysis of the potential positive effect of using algorithms to make decisions fairer. Moreover, none of the interviewees working on AI mentioned using AI to detect possible discrimination as a positive outcome, in the sense that discrimination can be better detected when data are analysed for potential bias. Since detecting potential discrimination through the use of AI and algorithms remains challenging, and interviewees only briefly addressed the issue, different measures are needed to address this. These include the requirement to consider issues linked to discrimination when assessing the use of AI, and investment into further studies of potential discrimination that use a diverse range of methodologies. This could involve, for example, discrimination testing. This could build on similar established methodologies for testing bias in everyday life, such as with respect to job applications, where the applicant's name is changed to (indirectly) identify ethnicity. In relation to AI applications, such tests could involve the possible creation of fake profiles for online tools, which only differ with respect to protected attributes. In this way, the outcomes can be checked with respect to potential discrimination. Research could also benefit from advanced statistical analysis to detect differences in datasets concerning protected groups, and therefore can be used as a basis for exploring potential discrimination. Finally, some research interviews underscored that results from complex machine learning algorithms are often very difficult to understand and explain. Thus, further research to better understand and explain such results (so-called 'explainable AI') can also help to better detect discrimination when using AI

FRA OPINION 4 EU Member States should consider encouraging companies and public administration to assess any potentially discriminatory outcomes when using AI systems. The European Commission and Member States should consider providing funding for targeted research on potentially discriminatory impacts of the use of AI and algorithms. Such research would benefit from the adaptation of established research methodologies, from the social sciences, that are employed to identify potential discrimination in different areas – ranging from recruitment to customer profiling. Building on the results of such research, guidance and tools to support those using AI to detect possible discriminatory outcomes should be developed.

More guidance on data protection
Data protection is critical in the development and use of AI. Article 8 (1) of the Charter and Article 16 (1) of the TFEU provide that everyone has the right to the protection of their personal data. The GDPR and the Law Enforcement Directive (Directive (EU) 201

/680) further elaborate on this right, and include many provisions applicable to the use of AI. The interviewees indicated that most of the AI systems they employ use personal data, meaning data protection is affected in many different ways. However, a few applications – according to the interviewees – do not use personal data, or only use anonymised data, and hence data protection law would not apply. If personal data are used, all data protection related principles and provisions apply. This report highlights an important issue linked to data protection, which is also relevant for other fundamental rights with respect to automated decision making. According to a Eurobarometer survey, only 40 % of Europeans know that they can have a say when decisions are automated. Knowledge about this right is considerably higher among those working with AI – the majority of interviewees raised this issue. However, many of the interviewees, including experts, argued that more clarity is needed on the scope and meaning of legal provisions on automated decision making. In the area of social benefits, interviewees mentioned only one example of fully automated, rule-based decisions. All other applications they mentioned are reviewed by humans. Interviewees in public administration stressed the importance of human review of any decisions. However, they rarely described what such human review actually involves and how other information was used when reviewing output from AI systems. While interviewees disagree as to whether or not the existing legislation is sufficient, many called for more concrete interpretation of the existing data protection rules with respect to automated decision making, as enshrined in Article 22 of the GDPR

FRA OPINION 5 The European Data Protection Board (EDPB) and the European Data Protection Supervisor (EDPS) should consider providing further guidance and support to effectively implement GDPR provisions that directly apply to the use of AI for safeguarding fundamental rights, in particular as regards the meaning of personal data and its use in AI, including in AI training datasets. There is a high level of uncertainty concerning the meaning of automated decision making and the right to human review linked to the use of AI and automated decision making. Thus, the EDPB and the EDPS should also consider further clarifying the concepts of 'automated decision making' and 'human review', where they are mentioned in EU law. In addition, national data protection bodies should provide practical guidance on how data protection provisions apply to the use of AI. Such guidance could include recommendations and checklists, based on concrete use cases of AI, to support compliance with data protection provisions

Effective access to justice in cases involving AI-based decisions

Access to justice is both a process and a goal, and is crucial for individuals seeking to benefit from other procedural and substantive rights. It encompasses a number of core human rights. These include the right to a fair trial and to an effective remedy under Article 6 and 13 of the ECHR and Article 47 of the EU Charter of Fundamental Rights. Accordingly, the notion of access to justice obliges states to guarantee each individual's right to go to court – or, in some circumstances, an alternative dispute resolution body – to obtain a remedy if it is found that the individual's rights have been violated. In accordance with these standards, a victim of a human rights violation arising from the development or use of an AI system by a public or private entity has to be provided with access

to remedy before a national authority. In line with relevant case law under Article 47 of the Charter and Article 13 of the ECHR, the remedy must be "effective in practice as well as in law". The research findings identify the following preconditions for the remedy to be effective in practice in cases involving AI systems and their impact on fundamental rights: everyone needs to be aware when AI is used and informed of how and where to complain. Organisations using AI must ensure that the public is informed about their AI system and the decisions based on them. The findings show that explaining AI systems and how they make decisions in layman terms can be challenging. Intellectual property rights can hamper the provision of detailed information about how an algorithm works. In addition, certain AI systems are complex. This makes it difficult to provide meaningful information about the way a system works, and on related decisions. To tackle this problem, some companies interviewed avoid using complex methods for certain decision making altogether, because they would not be able to explain the decisions. Alternatively, they use simpler data analysis methods for the same problem to obtain some understanding about the main factors influencing certain outcomes. Some of the private sector interviewees pointed to efforts made to gradually improve their understanding of AI technology. To effectively contest decisions based on the use of AI, people need to know that AI is used, and how and where to complain. Organisations using AI need to be able to explain their AI system and decisions based on AI. FRA OPINION 6 The EU legislator and Member States should ensure effective access to justice for individuals in cases involving AI-based decisions. To ensure that available remedies are accessible in practice, the EU legislator and Member States could consider introducing a legal duty for public administration and private companies using AI systems to provide those seeking redress information about the operation of their AI systems. This includes information on how these AI systems arrive at automated decisions. This obligation would help achieve equality of arms in cases of individuals seeking justice. It would also support the effectiveness of external monitoring and human rights oversight of AI systems (see FRA opinion 3). In view of the difficulty of explaining complex AI systems, the EU, jointly with the Member States, should consider developing guidelines to support transparency efforts in this area. In so doing, they should draw on the expertise of national human rights bodies and civil society organisations active in this field

Publications:

Reports and focus papers:
Getting the future right – Artificial intelligence and fundamental rights | European Union Agency for Fundamental Rights (europa.eu)

#BigData: Discrimination in data-supported decision making | European Union Agency for Fundamental Rights (europa.eu)

Facial recognition technology: fundamental rights considerations in the context of law enforcement | European Union Agency for Fundamental Rights (europa.eu)

Data quality and artificial intelligence – mitigating bias and error to protect fundamental rights | European Union Agency for

	Fundamental Rights (europa.eu)
	Handbooks Preventing unlawful profiling today and in the future: a guide | European Union Agency for Fundamental Rights (europa.eu) Handbook on European data protection law - 2018 edition | European Union Agency for Fundamental Rights (europa.eu) Infographics: Fundamental rights in AI: What to consider | European Union Agency for Fundamental Rights (europa.eu) Artificial intelligence & its potential impact | European Union Agency for Fundamental Rights (europa.eu) List of national initiatives: AI policy initiatives (2016-2020) | European Union Agency for Fundamental Rights (europa.eu)
Date of submission	07/05/21

European Association of Archaeologists

State (where your institution is based)	**Czech Republic**
Institution: Name of the institution/body/company	European Association of Archaeologists
Personal capacity: Your socio-professional category	Higher occupations
Your stakeholder group	Academic and scientific community
2. In view of the elaboration of a legal framework on the design, development and application of AI, based on the standards of the Council of Europe on human rights, democracy and the rule of law, what kind of definition of artificial intelligence (AI) should be considered by the CAHAI	No definition, with a legal instrument focused on the effect of AI systems on human rights, de-mocracy and the rule of law
2bis. If "other" please explain below	
3. What are the reasons for your preference?	The field of so-called "Artificial Intelligence" is moving so fast and in any predictable direction, that even its technological basis will change in the next years. Even an apparently technological "neutral" is based on the ambiguous term "machine". The relevant

	aspect is not the technological basis, but the effect of any non-human automation system on human matters.
4. Please select the areas in which AI systems offer the most promising opportunities for the protection of human rights, democracy and the rule of law	• Education;• Healthcare;• Other;
4bis. If other, which areas and why?	Cultural Heritage
5. Please indicate which of the following AI system applications in your view have the greatest potential to enhance/protect human rights, democracy and the rule of law?	• AI applications to predict the possible evolution of climate change and/or natural disasters;• AI applications providing support to the healthcare system (triage, treatment delivery);• Smart personal assistants (connected devices);• Medical applications for faster and more accurate diagnoses;
6. Please briefly explain how such applications would benefit human rights, democracy and the rule of law.	Beyond the obvious application in any repetitive task, AI-systems are based on existing knowledge. Therefore, any human activity -decisions- that need huge quantities of correct -valid, true- knowledge will be benefited by the mechanical use of huge quantities of such knowledge. It can be subjective to affirm which domain is the best, whether biological, economic, social, cultural or political, because all these domains are necessary for human well-being. All domains related with human survival should be placed first on the list (healthcare, sustainability, climatic change effects, effects of human activity on environment), but we should not forget the relevance of education and socio-political issues that may affect social equality.
7. What other applications might contribute significantly to strengthening human rights, democracy and the rule of law?	The questionnaire and the related documentation do not mention the relevance of knowledge- and other AI-based systems on cultural heritage issues. Although there are thousands even millions of individual goods that define our cultural identity, most of European Heritage is formed by past things, buildings, documents and materials that should be discovered (archaeology), analyzed (history) and distributed. Given that Cultural heritage is a form of "knowledge", AI-systems are well tuned to the proper management of all this material. A better analysis of cultural ideas and materials, from the past and from the present can be obtained using appropriate AI-tools, techniques and technologies. In the same way, the public open access to all elements contributing to define all forms of collective social identity (from the family to the nation and beyond) will benefit of the current and future development of human-computer interfaces and algorithms able to integrate different sources of knowledge.
8. Please select the areas in which the deployment of AI systems poses the highest risk of violating human rights, democracy and the rule of law **8bis. Other**	• National security and counter-terrorism;
9. Please briefly explain how such applications might violate human rights, democracy and the rule of law.	Knowledge-based systems take decisions based on the knowledge they store. Therefore, depending on the nature of such knowledge the final decision "automatically" generated can be harmful. I have selected as more dangerous the risks on individual security because there is no way nowadays to secure the reliability of systems that are always partial and incomplete and may have been affected but bad design. The same is true when affecting political security (election monitoring). "Machines" are easier to manipulate that human beings.

10. **Please indicate the types of AI systems that represent the greatest risk to human rights, democracy and the rule of law**	☐Emotional analysis in the workplace to measure employees' level of engagement;• Deep fakes and cheap fakes;• AI applications for personalised media content (recommender systems);• Recruiting software/ AI applications used for assessing work performance ;
11. **Please briefly explain how such applications might violate human rights, democracy and the rule of law.**	I distinguish AI possible applications that are intrinsically harmful, from those applications whose bad use can generate obvious problems to human security. There is no way to make decisions based on individual emotions, therefore any emotional analysis at workplace clearly violates the human rights. The issue on "fakes" is not clearly stated in the questionnaire. The very idea of "fake" is subjective and ambiguous . Using mechanical systems to chase what someone may consider is a "fake" also violates human rights. When dealing with scientific knowledge, the matter is not looking for "fakes" but making available scientifically produced knowledge that by itself will reject wrong concepts of explanations. In the other cases, AI systems can be designed with perverse or selfish purposes and producing harmful results for a majority of people, although beneficial for the designers or owners of those systems.
12. **What other applications might represent a significant risk to human rights, democracy and the rule of law?**	Any application designed for the practice of violence, such as the so-called "intelligent weapons", or any device that selects "enemies", even in the case when the purpose is to defend national security.
13. **In your opinion, should the development, deployment and use of AI systems that have been proven to violate human rights or undermine democracy or the rule of law be** **13bis. Other**	Banned
14. **In your opinion, should the development, deployment and use of AI systems that pose high risks with high probability to human rights, democracy and the rule of law be:**	Regulated (binding law)
15. **In your opinion, should the development, deployment and use of AI systems that pose low risks with high probability to human rights, democracy and the rule of law be:**	Regulated (binding law)
16. **In your opinion, should the development, deployment and use of AI systems that pose high risks with low probability to human rights, democracy and the rule of law be:**	Regulated (binding law)
17. **What are the most important legal principles, rights and interests that need to be addressed and therefore justify regulating the development, deployment and use of AI systems?**	• Possibility to challenge a decision made by an AI system and access to an effective remedy;• Non-discrimination;Respect for human dignity;Equality;• Transparency;
18. **In your opinion, in what sectors/areas is a binding legal instrument needed to protect human rights, democracy and the rule of law?** **18bis. Other**	Justice;Law enforcement;Election monitoring;

19. Self-regulation by companies is more efficient than government regulation to prevent and mitigate the risk of violations of human rights, democracy and the rule of law.	I completely disagree
20. Self-regulation by companies is sufficient to prevent and mitigate the risk of violations of human rights, democracy and the rule of law	I completely disagree
21. Which of the following instruments of self-regulation do you consider to be the most efficient? **21bis. Other**	Self-regulation NEVER works
22. Existing international, regional and/or national binding and/or non-binding legal instruments are sufficient to regulate AI systems in order to ensure the protection of human rights, democracy and the rule of law.	I rather disagree
23. Please provide examples of existing international, regional and/or national (binding and/or non-binding) instruments that in your view are effective in guiding and regulating the design, development and use of AI systems to ensure compatibility with the standards for human rights, democracy and the rule of law	Most national constitutions give priority to human decisions in all issues related to human survival. Any citizen can reject a decision affecting her/him automatically generated by a system when the logical or empirical basis of the decisions are not explicit. And justice system takes always the final decision regarding the reliability of the decision.
24. If you responded disagree/completely disagree to question 22, please indicate why existing international, regional and/or national (binding and/or non-binding) legal instruments are not sufficient to regulate AI systems (select all you agree with):	• They do not provide enough guidance to the designers, developers and deployers of AI systems;
25. Please indicate other specific legal gaps that in your view need to be addressed at the level of the Council of Europe	The legal system cannot enter into the very detail of AI-based systems decisions. In any case, the most important aspect is that any citizen can ask to well trained humans -justice staff- to take decisions on previous decisions taken by machines.
26. Individuals should always be informed when they interact with an AI system in any circumstances.	I fully agree
27. Individuals should always be informed when a decision which affects them personally is made by an AI system.	I fully agree
28. Individuals should always be informed when an AI system is used in a decision-making	I fully agree

process which affects them personally.	
29. **Individuals should have a right to a meaningful explanation of algorithmic based decisions, in particular how the algorithm reached its output.**	I fully agree
30. **Individuals should always have the right that any decision taken by an AI system in the framework of judicial proceedings are reviewed by a "human" judge.**	I fully agree
31. **Individuals should have a right to demand the review of an algorithmic based decision by a human being.**	I fully agree
32. **There should always be a person responsible for reviewing algorithmic based decisions in the public sector and private companies.**	I fully agree
33. **Public institutions should not use AI systems to promote or discredit a particular way of life or opinion (e.g. "social scoring").**	I fully agree
34. **States should be obliged to design, develop and apply sustainable AI systems that respect applicable environmental protection standards.**	I fully agree
35. **The code behind AI systems used in the public and private sectors should always be accessible to the competent public authorities for the purposes of external audit.**	I fully agree
36. **There should be higher transparency standards for public entities using AI than for private entities.**	I completely disagree
37. **There should be higher standards for access to an effective remedy for individuals in relation to decisions informed and made by an AI system in the field of justice than in the field of consumer protection.**	I fully agree
38. **Member States should establish public oversight mechanisms for AI systems that may breach legally binding norms in the sphere of human rights, democracy and the rule of law.**	I fully agree
39. **Errors and flaws discovered in AI systems which have led or could lead to the violation of human rights, democracy and the rule of law**	I fully agree

must be reported to the competent authorities.	
40. The use of facial recognition in public spaces should be prohibited.	I completely disagree
41. The information obtained through the use of facial recognition systems should always be reviewed by a human being before being used for purposes that have an impact on individual freedom, such as in relation to a person boarding an airplane, upon police arrest or in the framework of judicial proceedings.	I fully agree
42. The use of AI systems in democratic processes (e.g. elections) should be strictly regulated.	I fully agree
43. Should a future legal framework at Council of Europe level include a specific liability regime in relation to AI applications?	No
44. If yes, what aspects should be covered?	
45. In your opinion, how useful would the following compliance mechanisms be in preventing and mitigating the risks to human rights, democracy and the rule of law arising from the design, development and application of AI? - **Human rights, democracy and rule of law impact assessments** - **Certification and quality labelling** - **Audits and intersectional audits** - **Regulatory sandboxes** **Continuous automated monitoring**	Highly useful Rather useful Highly useful Rather useful Indifferent/no opinion
46. Please indicate what combination of mechanisms should be preferred to efficiently protect human rights, democracy and the rule of law **46bis. Other**	• Human rights, democracy and rule of law impact assessments ;• Certification and quality labelling;• Audits and intersectional audits;

47. **Please select which mechanism(s) should be part of either a binding instrument or a non-binding instrument to best protect human rights, democracy and the rule of law.** - **Human rights, democracy and rule of law impact assessments** - **Certification and quality labelling** - **Audits and intersectional audits** - **Regulatory sandboxes** **Continuous automated monitoring**	Binding instrument Non-binding instrument Binding instrument Non-binding instrument Non-binding instrument
47.bis. Other	I do not consider any other mechanism
48. **In your opinion, how useful would the following follow-up activities be if implemented by the Council of Europe?** - **Monitoring of AI legislation and policies in member States** - **Capacity building on Council of Europe instruments, including assistance to facilitate ratification and implementation of relevant Council of Europe instruments** - **AI Observatory for sharing good practices and exchanging information on legal, policy and technological developments related to AI systems** **Establishing a centre of expertise on AI and human rights**	Rather useful Highly useful Highly useful Rather useful
49. **What other mechanisms, if any, should be considered?**	I do not imagine any other mechanism
50. **Are there any other issues with respect to the design, development and application of AI systems in the context of human rights, democracy and the rule of law that you wish to bring to the attention of the CAHAI?**	The impact of AI-systems on Cultural Heritage and the formation of social and cultural identities have not been taken into account. Given that all identity is necessary knowledge-based, the more items and the easier its access for all citizens the better. And AI systems van have an enormous potential benefit. But, when designed with selfish purposes, or using explicitly wrong historical or social data, AI-based systems applied to Cultural heritage and social and cultural identities can violate human rights and democracy.
Date of submission	4/21/21 11:08:31

European Association of Data Protection Professionals (EADPP)

State (where your institution is based)	Maastricht, Netherlands
Institution: Name of the institution/body/company	European Association of Data Protection Professionals (EADPP)
Personal capacity: Your socio-professional category	Higher occupations
Your stakeholder group	Civil society
2. In view of the elaboration of a legal framework on the design, development and application of AI, based on the standards of the Council of Europe on human rights, democracy and the rule of law, what kind of definition of artificial intelligence (AI) should be considered by the CAHAI	A technologically-neutral and simplified definition, such as "a set of sciences, theories and tech-niques whose purpose is to reproduce by a machine the cognitive abilities of a human being" (See the CAHAI feasibility study, §5)
2bis. If "other" please explain below	
3. What are the reasons for your preference?	A wide, simplified definition, built in a technologically-neutral manner, ensures its resistance to time and unforeseen technological progress, ensuring the definition is future-proof. Furthermore, it comprises a limit closer to the need to relativize the importance of too many specific fields of science and its multidisciplinary dimension, namely computing in the human condition. A conceptual definition will limit the action of States and invert the hierarchy of values. Artificial Int, machine learning, cognitive computing and other aspects should only be considered instruments to improve living conditions, not to shape and replace Humans.
4. Please select the areas in which AI systems offer the most promising opportunities for the protection of human rights, democracy and the rule of law	• Education;• Healthcare;• Employment;
4bis. If other, which areas and why?	
5. Please indicate which of the following AI system applications in your view have the greatest potential to enhance/protect human rights, democracy and the rule of law?	• Medical applications for faster and more accurate diagnoses;• Automated fraud detection (banking, insurance);• AI applications to predict the possible evolution of climate change and/or natural disasters;• AI applications determining the allocation of social services;• AI applications to promote gender equality (e.g. analytical tools);
6. Please briefly explain how such applications would benefit human rights, democracy and the rule of law.	AI applications can have a number of benefits towards protecting human rights, democracy and the rule of law, should these applications have been developed under a legal framework which ensures they have been designed in accordance with a set of ethical principles, ensuring they are secure-by-design and private-by-design (both terms used vias vis humans) and have been risk-

assessed in relation to potential harm they can inflict to humans and their rights, as established by the ECHR.

AI can be an instrument to protect the weakest part of a society (poor, elder, unhealthy, sufferer and so on) reducing inequalities and differences.

The AI applications could improve health diagnoses system since it can process huge amount of data in short time and give accurate and precise outcome (diagnoses). Also, AI could help to tackle climate change and biodiversity loss. It can be huge help to promote gender equality through fast and accurate implementation of analytical tools.

AI is a "game changer" for climate change and environmental issues. As an example, AI is increasingly used to manage the intermittency of renewable energy, improve smart agriculture, protecting the oceans, more sustainable transport on land, better climate predictions (from Earth Institute – Columbia University);

Law enforcement and criminal justice can benefit from AI developments, and there are many AI related systems and technologies being adopted and developed for law enforcement and criminal justice purposes in the European Union (Artificial Intelligence and Law Enforcement, STUDY Requested by the LIBE committee);

AI-powered solutions can transform health care, with opportunities including disease diagnosis and monitoring, clinical workflow augmentation, and hospital optimization;

AI applied to social services can enable individuals in need to better manage their own well-being such as: can help social services agencies and organizations to use immense amounts of data they gather to create a more complete picture of an individual's needs and conditions and to protect those at risk;

AI has the potential to make positive changes in our societies by challenging oppressive gender norms. For example, AI-powered gender decoders help employers use gender-sensitive language to write job postings that are more inclusive in order to increase the diversity of their workforce (Artificial Intelligence and Gender Equality – UNESCO).

7. What other applications might contribute significantly to strengthening human rights, democracy and the rule of law?	Privacy-enhancing and/or privacy-preserving / Elections abuse AI applications / Direct democratic participation in decision making / Scientific and bioethical research
8. Please select the areas in which the deployment of AI systems poses the highest risk of violating human rights, democracy and the rule of law **8bis. Other**	• Justice;• Law enforcement;• National security and counter-terrorism;
9. Please briefly explain how such applications might violate human rights, democracy and the rule of law.	Justice: AI has already been applied to the Justice system is the US. Some Courts in some States, currently are using AI algorithms to determine the defendant's 'risk,' and consequently determine their sentence. Although in some cases, traffic court wait times has been reduced dramatically, AI algorithms have made significant mistakes, as they have been found to be biased against certain minorities. Law Enforcement: Should the information analyzed by the AI systems is anonymized (e.g. analyzing traffic in the city and

allocate patrols accordingly) and the information is not storage should it contains personal data for reasons other than what is stated, AI applications can have positive impact. The problem is not the intended use of applications but the possible use of the AI applications for reasons they were not designed or intended to use. Given the rather bad reputation and record of Law enforcement organizations, there should be strict oversight, or even better, safety clauses ensuring the AI applications would only be used as intended and/or designed in such a manner no other usage is permitted.

National Security: The AI capabilities in the hands of National security agencies have led to numerous violations of human rights (e.g. face recognition) or violation of the privacy rights of unsuspected citizens.

AI systems may jeopardize the right to a fair trial in different ways, i.e. the AI systems may not be capable of produce meaningful explanations for their decisions. That can lead to a breach of the right to equality of arms. Also, the AI systems risk interfering with rights to due process protected under Art. 6 of the European Convention of Human Rights. Especially worrying is their implementation in criminal justice context and predictive policing (problems of unjust bias, which could make discriminatory predictions). As it stated in a Study of the implications of advanced digital technologies for the concept of responsibility within a human rights framework, algorithms often obscure access to a reasoned explanation as to why certain steps were taken in a particular case. In all cases, the right to an effective remedy demands that access to an escalated system of dispute resolution is provided. While the first step may be operated through automated means, there must be a possibility to complain against the outcome to a higher internal review mechanism (reviewed by humans). It is important to be aware that the some social groups as the unemployed, children, the sick, migrants and refugees are unable or not allowed to understand the logic of the algorithmic decisions that affect them.

The Implementation of AI may affect the right to freedom of expression (Art. 10. of the ECHR), given the huge influence to global internet platforms and social media. The use of algorithms for filtering and analysing the potential hate speech on social platforms, could lead to censorship, due to unclear legal basis and unjustified criteria which are applying by Big Tech Corporations.

Systems can learn with a bias. The classification examples can have errors and biases too, so the AI system can easily go wrong. To protect human dignity any judgment mechanism must be pursued by a peer, a human.

10. Please indicate the types of AI systems that represent the greatest risk to human rights, democracy and the rule of law	Facial recognition supporting law enforcement ;Smart personal assistants (connected devices);Scoring / scoring of individuals by public entities;• AI applications to prevent the commission of a criminal offence;• AI applications in the field of banking and insurance;
11. Please briefly explain how such applications might violate human rights, democracy and the rule of law.	Facial recognition: The European Parliament has recently called for a ban on facial recognition and other biometrics in public spaces. The high risk of such an application is also identified by the EU draft AI regulation. Indeed biometrics and not just face recognition , violate the very basics of human rights, such as privacy and dignity. Same applies to the scoring of individuals.

| | Smart assistants: Let alone the illegal use by developer of smart assistants, violating the private life of individuals by recording any sound in the household (relevant decisions by DPAs and courts) smart assistants such as Alexa can also be manipulated by cyber criminals to access sensitive information.

AI to prevent commission of criminal offense: this is a very dangerous territory that should be carefully assessed for the grave risk it presents both for the violation of the right of individuals in "presumption of innocence" as well as the violation of private life of unsuspected individuals.

Obtaining bank or insurance loans through the subjectivity of emerging patterns of mathematical calculations by analyzing meta data or categorizing people by moral orientation conditions, politics is "mechanizing" people. It will be a mistake that could lead us to a new era of "darkness". The law and penal codes are the exclusive competence of the independent and sovereign Courts, therefore, surveillance and policing must comprise quantifiable and measurable objectives, society and its free interactions are not compatible with the probabilistic principles of quantum analysis.

Right to image, privacy and discretion will be neglected by tracking. Intimacy of emotions and the fragilities of People's intrinsic nature can never serve as criteria for admission, or for obtaining good or service, even to discipline and control people socially. |
|---|---|
| **12. What other applications might represent a significant risk to human rights, democracy and the rule of law?** | AI technologies are used in law enforcement, particularly in predictive policing. Such tools can negatively impact fundamental rights and result to discrimination, among others.

Profiling consumers: Companies offering their services for free mainly generate revenue through advertising, with adverts automatically targeted to individual consumers based on information about them. The availability of data about online individual behaviour combined with machine learning technologies have considerably improved the ability of commercial enterprises to target individuals. This may be done without their explicit consent, which violates their data protection rights. The most dangerous element though, is when companies - data analytics kind - use the data to predict consumer's reactions or even worse, shape their choices. This technique has been used to manipulate not just consumer behavior but also election behaviour. |
| **13. In your opinion, should the development, deployment and use of AI systems that have been proven to violate human rights or undermine democracy or the rule of law be**
13bis. Other | Banned their use (not the development) until these systems have been risk assessed they do not present high risk any more, and then allowed under a strict condition, only if such AI systems have proven to be actively and positively contributing to the development of societies. When allowed, create sandbox environment for deployment. |
| **14. In your opinion, should the development, deployment and use of AI systems that pose high risks with high probability to human rights, democracy and the rule of law be:** | Regulated (binding law) |
| **15. In your opinion, should the development, deployment and use of AI systems that pose low risks** | Regulated (binding law) |

with high probability to human rights, democracy and the rule of law be:	
16. In your opinion, should the development, deployment and use of AI systems that pose high risks with low probability to human rights, democracy and the rule of law be:	Self-regulated (ethics guidelines, voluntary certification)
17. What are the most important legal principles, rights and interests that need to be addressed and therefore justify regulating the development, deployment and use of AI systems?	Respect for human dignity;Freedom of expression, assembly and association;Privacy and data protection;• Legal certainty;• Possibility to challenge a decision made by an AI system and access to an effective remedy;
18. In your opinion, in what sectors/areas is a binding legal instrument needed to protect human rights, democracy and the rule of law? **18bis. Other**	Justice;Law enforcement;Election monitoring;
19. Self-regulation by companies is more efficient than government regulation to prevent and mitigate the risk of violations of human rights, democracy and the rule of law.	I completely disagree
20. Self-regulation by companies is sufficient to prevent and mitigate the risk of violations of human rights, democracy and the rule of law	I completely disagree
21. Which of the following instruments of self-regulation do you consider to be the most efficient? **21bis. Other**	Codes of conduct supervised by the authority
22. Existing international, regional and/or national binding and/or non-binding legal instruments are sufficient to regulate AI systems in order to ensure the protection of human rights, democracy and the rule of law.	I rather disagree
23. Please provide examples of existing international, regional and/or national (binding and/or non-binding) instruments that in your view are effective in guiding and regulating the design, development and use of AI systems to ensure compatibility with the standards for human rights, democracy and the rule of law	One could make use of GDPR and eprivacy regulations, as to facilitate parts of the design of AI systems, in relation to privacy preserving and/or privacy enhancing technologies.
24. If you responded disagree/completely disagree to question 22, please indicate why	• They provide a basis but fail to provide an effective substantive protection of human rights, democracy and the rule of law against the risks posed by AI systems;• They lack specific principles for the

existing international, regional and/or national (binding and/or non-binding) legal instruments are not sufficient to regulate AI systems (select all you agree with):	design, development and application of AI systems;• They do not provide enough guidance to the designers, developers and deployers of AI systems;
25. Please indicate other specific legal gaps that in your view need to be addressed at the level of the Council of Europe	Inclusion of the right to non-digitization. Digitization should not be assumed as a condition inherent to human life. The CoE must promote a profound debate on this matter and present guidelines for a frame of reference with guarantees of that right, namely those that have the consequence of "social and administrative ban" for those who do not adhere to digitization.
26. Individuals should always be informed when they interact with an AI system in any circumstances.	I fully agree
27. Individuals should always be informed when a decision which affects them personally is made by an AI system.	I fully agree
28. Individuals should always be informed when an AI system is used in a decision-making process which affects them personally.	I fully agree
29. Individuals should have a right to a meaningful explanation of algorithmic based decisions, in particular how the algorithm reached its output.	I fully agree
30. Individuals should always have the right that any decision taken by an AI system in the framework of judicial proceedings are reviewed by a "human" judge.	I fully agree
31. Individuals should have a right to demand the review of an algorithmic based decision by a human being.	I fully agree
32. There should always be a person responsible for reviewing algorithmic based decisions in the public sector and private companies.	I fully agree
33. Public institutions should not use AI systems to promote or discredit a particular way of life or opinion (e.g. "social scoring").	I fully agree
34. States should be obliged to design, develop and apply sustainable AI systems that respect applicable environmental protection standards.	I fully agree
35. The code behind AI systems used in the public and private sectors should always be accessible to the competent public authorities for the purposes of external audit.	I fully agree

36. **There should be higher transparency standards for public entities using AI than for private entities.**	I fully agree
37. **There should be higher standards for access to an effective remedy for individuals in relation to decisions informed and made by an AI system in the field of justice than in the field of consumer protection.**	I fully agree
38. **Member States should establish public oversight mechanisms for AI systems that may breach legally binding norms in the sphere of human rights, democracy and the rule of law.**	I fully agree
39. **Errors and flaws discovered in AI systems which have led or could lead to the violation of human rights, democracy and the rule of law must be reported to the competent authorities.**	I fully agree
40. **The use of facial recognition in public spaces should be prohibited.**	I fully agree
41. **The information obtained through the use of facial recognition systems should always be reviewed by a human being before being used for purposes that have an impact on individual freedom, such as in relation to a person boarding an airplane, upon police arrest or in the framework of judicial proceedings.**	I fully agree
42. **The use of AI systems in democratic processes (e.g. elections) should be strictly regulated.**	I fully agree
43. **Should a future legal framework at Council of Europe level include a specific liability regime in relation to AI applications?**	Yes
44. **If yes, what aspects should be covered?**	It is important to build a legal framework for collective complaints (Actio populare) as a key part of the human rights protection system regarding the implementation and specific liability of the AI systems. In that context, it would be very useful to establish some kind of monitoring system (i.e. official body with the competence and resources for dealing with complaints and to secure effective human rights protection). Other aspects to be considered: Liability of AI systems' operators; increased liability for high risk AI systems; amount/extent of compensation.

45. In your opinion, how useful would the following compliance mechanisms be in preventing and mitigating the risks to human rights, democracy and the rule of law arising from the design, development and application of AI? - **Human rights, democracy and rule of law impact assessments** - **Certification and quality labelling** - **Audits and intersectional audits** - **Regulatory sandboxes** **Continuous automated monitoring**	Highly useful Highly useful Highly useful Highly useful Rather useful
46. Please indicate what combination of mechanisms should be preferred to efficiently protect human rights, democracy and the rule of law **46bis. Other**	• Certification and quality labelling;• Audits and intersectional audits;• Regulatory sandboxes;
47. Please select which mechanism(s) should be part of either a binding instrument or a non-binding instrument to best protect human rights, democracy and the rule of law. - **Human rights, democracy and rule of law impact assessments** - **Certification and quality labelling** - **Audits and intersectional audits** - **Regulatory sandboxes** **Continuous automated monitoring**	Binding instrument Binding instrument Binding instrument Binding instrument Non-binding instrument
47.bis. Other	
48. In your opinion, how useful would the following follow-up activities be if implemented by the Council of Europe? - **Monitoring of AI legislation and policies in member States** - **Capacity building on Council of Europe instruments, including assistance to facilitate ratification and implementation of relevant Council of Europe instruments** - **AI Observatory for sharing good practices and exchanging information on legal, policy and technological**	Rather useful Highly useful Highly useful Highly useful

developments related to AI systems **Establishing a centre of expertise on AI and human rights**	
49. What other mechanisms, if any, should be considered?	
50. Are there any other issues with respect to the design, development and application of AI systems in the context of human rights, democracy and the rule of law that you wish to bring to the attention of the CAHAI?	A. Artificial intelligence and machine learning technologies should be designed, developed and used in respect of fundamental human rights and in accordance with the fairness principle, in particular by: - Considering individuals' reasonable expectations by ensuring that the use of artificial intelligence systems remains consistent with their original purposes, and that the data are used in a way that is compatible with the original purpose of their collection, - taking into consideration not only the impact that the use of artificial intelligence may have on the individual, but also the collective impact on groups and on society at large, - ensuring that artificial intelligence systems are developed in a way that facilitates human development and does not obstruct or endanger it, thus recognizing the need for delineation and boundaries on certain uses B. Artificial intelligence systems should be designed and developed responsibly, by applying the principles of privacy by default and privacy by design, in particular by: - implementing technical and organizational measures and procedures – proportional to the type of system that is developed – to ensure that data subjects' privacy and personal data are respected, both when determining the means of the processing and at the moment of data processing, - assessing and documenting the expected impacts on individuals and society at the beginning of an artificial intelligence project and for relevant developments during its entire life cycle, - identifying specific requirements for ethical and fair use of the systems and for respecting human rights as part of the development and operations of any artificial intelligence system. C. In relation to the risks posed to data subjects by any AI applications processing personal data, the EADPP invites the Council of Europe to work closely with the EDPB and the EADPP to identify possible risks and ensure that adequate safeguards are being included in the AI legal framework.
Date of submission	5/8/21 19:39:12

European Automobile Manufacturers' Association (ACEA)

State (where your institution is based)	Belgium

Institution: Name of the institution/body/company	European Automobile Manufacturers' Association (ACEA)
Personal capacity: Your socio-professional category	Higher occupations
Your stakeholder group	Private business sector
2. In view of the elaboration of a legal framework on the design, development and application of AI, based on the standards of the Council of Europe on human rights, democracy and the rule of law, what kind of definition of artificial intelligence (AI) should be considered by the CAHAI	A definition focusing on automated decision-making
2bis. If "other" please explain below	
3. What are the reasons for your preference?	It is important that the definition is both not too temporal but also not too broad. Whereas Machine Learning is now a key factor in AI, restricting to that definition creates loopholes. We encourage the CAHAI to align any future definitions with those that will be adopted by the EU in the context of the AI Act (once the final Regulation will be published).
4. Please select the areas in which AI systems offer the most promising opportunities for the protection of human rights, democracy and the rule of law	Banking, finance and insurance;Justice;• Education;•
4bis. If other, which areas and why?	
5. Please indicate which of the following AI system applications in your view have the greatest potential to enhance/protect human rights, democracy and the rule of law?	Smart personal assistants (connected devices)　; Medical applications for faster and more accurate diagnoses; AI applications to predict the possible evolution of climate change and/or naturaldisasters; AI applications for personalised media content (recommender systems); Recruiting software/ AI applications used for assessing work performance
6. Please briefly explain how such applications would benefit human rights, democracy and the rule of law.	An important potential of AI systems is the removal of bias, by checking for it explicitly.
7. What other applications might contribute significantly to strengthening human rights, democracy and the rule of law?	No answer.
8. Please select the areas in which the deployment of AI systems poses the highest risk of violating human rights, democracy and the rule of law 8bis. Other	• Justice;• Law enforcement;• Customs and border control;
9. Please briefly explain how such applications might violate	AI applications in the above-mentioned domains could be harmful whenever there is an undetected bias in the algorithms.

human rights, democracy and the rule of law.	519
10. Please indicate the types of AI systems that represent the greatest risk to human rights, democracy and the rule of law	Facial recognition supporting law enforcement ;• Emotional analysis in the workplace to measure employees' level of engagement;Scoring / scoring of individuals by public entities;• Automated fraud detection (banking, insurance);• Deep fakes and cheap fakes;•
11. Please briefly explain how such applications might violate human rights, democracy and the rule of law.	No answer.
12. What other applications might represent a significant risk to human rights, democracy and the rule of law?	No answer.
13. In your opinion, should the development, deployment and use of AI systems that have been proven to violate human rights or undermine democracy or the rule of law be **13bis. Other**	Regulated
14. In your opinion, should the development, deployment and use of AI systems that pose high risks with high probability to human rights, democracy and the rule of law be:	Regulated (binding law)
15. In your opinion, should the development, deployment and use of AI systems that pose low risks with high probability to human rights, democracy and the rule of law be:	Self-regulated (ethics guidelines, voluntary certification)
16. In your opinion, should the development, deployment and use of AI systems that pose high risks with low probability to human rights, democracy and the rule of law be:	Regulated (binding law)
17. What are the most important legal principles, rights and interests that need to be addressed and therefore justify regulating the development, deployment and use of AI systems?	Freedom of expression, assembly and association;• Non-discrimination;Privacy and data protection;• Legal certainty;• Explainability;
18. In your opinion, in what sectors/areas is a binding legal instrument needed to protect human rights, democracy and the rule of law? **18bis. Other**	Banking, finance and insurance;Justice;Law enforcement;
19. Self-regulation by companies is more efficient than government regulation to prevent and mitigate the risk of violations of human rights, democracy and the rule of law.	I rather disagree

20. Self-regulation by companies is sufficient to prevent and mitigate the risk of violations of human rights, democracy and the rule of law	I completely disagree
21. Which of the following instruments of self-regulation do you consider to be the most efficient? 21bis. Other	Both ethics guidelines and voluntary certification
22. Existing international, regional and/or national binding and/or non-binding legal instruments are sufficient to regulate AI systems in order to ensure the protection of human rights, democracy and the rule of law.	I rather disagree
23. Please provide examples of existing international, regional and/or national (binding and/or non-binding) instruments that in your view are effective in guiding and regulating the design, development and use of AI systems to ensure compatibility with the standards for human rights, democracy and the rule of law	For the moment, none. However, we remind to take into careful consideration the new legal instrument currently discussed at European Union level, which aims at creating a horizontal framework for high-risk AI use-cases. The future requirements laid down there should not be duplicated in other international initiatives (CoE), but rather harmonised or referred to. Otherwise, legal uncertainty may arise for businesses across Europe and/or double requirements would be too burdensome, leading to an overall slowdown in the development and deployment of this technology.
24. If you responded disagree/completely disagree to question 22, please indicate why existing international, regional and/or national (binding and/or non-binding) legal instruments are not sufficient to regulate AI systems (select all you agree with):	There are too many and they are difficult to interpret and apply in the context of AI;• They lack specific principles for the design, development and application of AI systems;• They do not provide enough guidance to the designers, developers and deployers of AI systems;
25. Please indicate other specific legal gaps that in your view need to be addressed at the level of the Council of Europe	
26. Individuals should always be informed when they interact with an AI system in any circumstances.	I rather agree
27. Individuals should always be informed when a decision which affects them personally is made by an AI system.	I rather agree
28. Individuals should always be informed when an AI system is used in a decision-making process which affects them personally.	I rather agree
29. Individuals should have a right to a meaningful explanation of algorithmic based decisions, in	Indifferent/no opinion

particular how the algorithm reached its output.	
30. Individuals should always have the right that any decision taken by an AI system in the framework of judicial proceedings are reviewed by a "human" judge.	I rather agree
31. Individuals should have a right to demand the review of an algorithmic based decision by a human being.	Indifferent/no opinion
32. There should always be a person responsible for reviewing algorithmic based decisions in the public sector and private companies.	Indifferent/no opinion
33. Public institutions should not use AI systems to promote or discredit a particular way of life or opinion (e.g. "social scoring").	I fully agree
34. States should be obliged to design, develop and apply sustainable AI systems that respect applicable environmental protection standards.	I fully agree
35. The code behind AI systems used in the public and private sectors should always be accessible to the competent public authorities for the purposes of external audit.	I rather agree
36. There should be higher transparency standards for public entities using AI than for private entities.	Indifferent/no opinion
37. There should be higher standards for access to an effective remedy for individuals in relation to decisions informed and made by an AI system in the field of justice than in the field of consumer protection.	Indifferent/no opinion
38. Member States should establish public oversight mechanisms for AI systems that may breach legally binding norms in the sphere of human rights, democracy and the rule of law.	I rather agree
39. Errors and flaws discovered in AI systems which have led or could lead to the violation of human rights, democracy and the rule of law must be reported to the competent authorities.	I fully agree
40. The use of facial recognition in public spaces should be prohibited.	Indifferent/no opinion

41. The information obtained through the use of facial recognition systems should always be reviewed by a human being before being used for purposes that have an impact on individual freedom, such as in relation to a person boarding an airplane, upon police arrest or in the framework of judicial proceedings.	I rather agree
42. The use of AI systems in democratic processes (e.g. elections) should be strictly regulated.	I rather agree
43. Should a future legal framework at Council of Europe level include a specific liability regime in relation to AI applications?	No
44. If yes, what aspects should be covered?	
45. In your opinion, how useful would the following compliance mechanisms be in preventing and mitigating the risks to human rights, democracy and the rule of law arising from the design, development and application of AI? - **Human rights, democracy and rule of law impact assessments** - **Certification and quality labelling** - **Audits and intersectional audits** - **Regulatory sandboxes** **Continuous automated monitoring**	Rather useful Rather useful Rather useful Rather useful Rather useful
46. Please indicate what combination of mechanisms should be preferred to efficiently protect human rights, democracy and the rule of law **46bis. Other**	• Certification and quality labelling;• Audits and intersectional audits;• Regulatory sandboxes;
47. Please select which mechanism(s) should be part of either a binding instrument or a non-binding instrument to best protect human rights, democracy and the rule of law. - **Human rights, democracy and rule of law impact assessments** - **Certification and quality labelling**	Binding instrument Non-binding instrument Binding instrument Non-binding instrument Non-binding instrument

- **Audits and intersectional audits** - **Regulatory sandboxes** **Continuous automated monitoring**	
47.bis. Other	
48. In your opinion, how useful would the following follow-up activities be if implemented by the Council of Europe? - **Monitoring of AI legislation and policies in member States** - **Capacity building on Council of Europe instruments, including assistance to facilitate ratification and implementation of relevant Council of Europe instruments** - **AI Observatory for sharing good practices and exchanging information on legal, policy and technological developments related to AI systems** **Establishing a centre of expertise on AI and human rights**	Rather useful Indifferent/no opinion Rather useful Rather useful
49. What other mechanisms, if any, should be considered?	
50. Are there any other issues with respect to the design, development and application of AI systems in the context of human rights, democracy and the rule of law that you wish to bring to the attention of the CAHAI?	
Date of submission	5/3/21 11:43:21

European Center for Not-for-Profit Law (ECNL)

State (where your institution is based)	Netherlands
Institution: Name of the institution/body/company	European Center for Not-for-Profit Law (ECNL)

Personal capacity: Your socio-professional category	Higher occupations
Your stakeholder group	Civil society
2. In view of the elaboration of a legal framework on the design, development and application of AI, based on the standards of the Council of Europe on human rights, democracy and the rule of law, what kind of definition of artificial intelligence (AI) should be considered by the CAHAI	A definition focusing on automated decision-making
2bis. If "other" please explain below	
3. What are the reasons for your preference?	Defining artificial intelligence is incredibly tricky. For the purpose of a regulatory instrument, we need to strike the right balance between a term that is broad enough to include many AI systems, while being specific enough to provide for effective remedy when those who are subjected to the AI system want to contest it. Option 1 has the advantage of being widely applicable and focusing on the human rights impacts of AI systems rather than the technology itself, but also risks diluting the impact of the convention as it fails to consider the intricate features of AI systems and the need for adequate safeguards, measures and remedy. Option 2 has a similar large scope but is also excessively vague and imprecise. Conversely, Option 3 is excessively narrow and includes machine learning systems only, which are one subset of AI categories. ECNL recommends selecting Option 4, i.e. "a definition focusing on automated decision-making", to bring home the specific human rights risks of AI systems and steer away from more misleading or vague terms. While this definition has the downside of being quite narrow and thus risks excluding other harmful technologies, it would provide much-needed regulation for the AI systems that have the most significant human rights impacts today.
4. Please select the areas in which AI systems offer the most promising opportunities for the protection of human rights, democracy and the rule of law	• Healthcare;• Environment and climate;• Other;
4bis. If other, which areas and why?	Searching and sorting through information (e.g., search engines that use automation to suggest the most relevant information), provided that they prioritise news worthiness, elevate minority and marginalised voices, downgrade mis/disinformation and take measures to mitigate bias in algorithms. As with all AI systems, algorithmic-driven search engines often perpetuate biases and stereotypes ("garbage in, garbage out"), disproportionately impacting minority and marginalised groups.
5. Please indicate which of the following AI system applications in your view have the greatest potential to enhance/protect human rights, democracy and the rule of law?	• Medical applications for faster and more accurate diagnoses;• AI applications to predict the possible evolution of climate change and/or natural disasters;• AI applications for personalised media content (recommender systems);• AI applications to promote gender equality (e.g. analytical tools);

6. Please briefly explain how such applications would benefit human rights, democracy and the rule of law.	There is a strong imbalance of power between those that develop and deploy AI systems and the communities that are subjected to them, especially historically marginalised and under-represented groups. When considering potential opportunities that can arise from AI systems, it's important to begin with a power analysis and focus on the needs of the most at-risk communities.
	1. Who will benefit from these systems (specifically, which demographic groups and/or sectors) and who will be harmed?
	2. Is the root cause of a (social, economic, political or other) issue effectively being addressed by deploying the AI system, or are we merely offering performative and superficial solutions?
	In reality, there are no systems that only present opportunities or risks from a binary perspective, but instead systems that provide different opportunities or risks depending on the targeted population, context and situation in which they are deployed.
	1) Medical applications for faster and more accurate diagnoses: Provided that the datasets on which these are based include sufficient relevant information on vulnerable and marginalised groups and are not based on a homogeneous group, AI systems can potentially enable faster and more accurate diagnoses. This could in turn allow for more timely and cost-effective access and possible remedy for a wider group of people, thereby increasing access to healthcare. Effective public health policies must be implemented alongside any deployment of AI systems in healthcare must not unduly remove funding and resources from other health-related budgets.
	2) AI applications to predict the possible evolution of climate change and/or natural disasters: AI systems could potentially help better understand the effects of current policies on the climate and/or ecosystem. As such, they could potentially contribute to better decision-making related to protecting the climate and mitigating the effects of natural disasters. Keeping in mind that those affected mostly today are the communities that are already most vulnerable and marginalised, it is important to ensure that these systems equally benefit everyone and do not perpetuate or exacerbate inequality.
	3) AI applications for personalised media content (recommender systems): AI-driven systems have the potential to promote human rights by moderating and curating incredibly large amounts of content that is posted daily. Algorithmic content moderation and curation can make the experience more enjoyable for users by dealing with harmful or problematic content that human moderators cannot manage at such a large scale. Unfortunately, the way that AI-driven content moderation is done today often harms users instead of benefiting them. For these systems to be truly beneficial, they must instead be optimised for promoting human rights, rule of law, and democracy (e.g. by amplifying human rights campaigns, minority and marginalised voices, press and media, plurality of views, etc.). Social media platforms must urgently provide meaningful transparency into how these systems operate and make decisions, reduce data collection and processing, invest in better training content moderators and data labellers, improve the efficiency of these systems for non-dominant Western languages and contexts, and take measures to reduce bias and discriminatory outcomes which perpetuate stereotypes.
	4) AI applications to promote gender equality: Provided that other non-technical strategies to raise awareness against gender inequality are taken, and that gender includes transpersons and gender non-conforming persons, AI applications could potentially promote gender equality via affirmative action in a few narrowly-

	scoped situations. Data is rarely collected about women and gender non-conforming persons, especially women who are BIPOC (black, indigenous and people of colour), migrants or refugees, members of religious minorities, LGBTQ, disabled, or of lower socioeconomic class, among others.
7. What other applications might contribute significantly to strengthening human rights, democracy and the rule of law?	N/A
8. Please select the areas in which the deployment of AI systems poses the highest risk of violating human rights, democracy and the rule of law **8bis. Other**	• Justice;• Law enforcement;• Customs and border control;
9. Please briefly explain how such applications might violate human rights, democracy and the rule of law.	For the purpose of this questionnaire, ECNL focused on the most severe and salient human rights impacts and identified the areas that can lead to greatest physical harm, arbitrary detention, and potentially torture or death, as well as those that can prevent people from accessing life-saving opportunities: justice; law enforcement and customs and border control. There is a strong imbalance of power between those that develop and deploy these systems and the communities that are subjected to them, especially already vulnerable groups and marginalised groups. When considering potential risks that can arise from AI systems, it is important to begin with a power analysis and focus on the risks of AI systems to the most marginalised communities, as they are often disproportionately harmed. AI-driven surveillance technologies in the hands of powerful actors such as judicial bodies or law enforcement officials have the potential to do great harm, with minorities and marginalised groups, human rights defenders, activists and journalists bearing the most significant risk. Indeed, the use of AI systems risks further exacerbating existing racial and ethnic, gender, and social and economic inequalities (among others). Given the severe impacts that judicial systems, law enforcement (including national security and counter-terrorism) and customs and border control have on human rights institutional discrimination, any AI systems deployed in these sectors have the potential to cause great harm. This is especially worrisome given the institutional racism and other forms of discrimination that shape our social and political systems. Many of the policies and practices that are already entrenched with racial biases and often target already vulnerable and marginalised groups, especially black, indigenous and people of color (BIPOC), will be coded into AI systems. This will make processes and the outcomes even more opaque, while falsely appearing to be 'objective'. Mass surveillance systems, such as facial recognition and other indiscriminate biometric surveillance tools, are fundamentally incompatible with human rights. These symptoms severely impact people's right to privacy, non-discrimination, freedom of expression, assembly and association, human dignity and life, liberty and security, among others. Human rights defenders, activists, journalists and political dissidents are particularly at risk. AI-driven surveillance technologies have also been used to track, surveil and at times arrest, detail and deport refugees and migrants. Algorithmic risk assessment tools or predictive policing, which are also biased against racial and ethnic minorities, lead to increased

	incarceration of BIPOC.
	Having no red lines and/or binding regulation and meaningful oversight of these applications will most likely result in further deterioration of human rights, putting individuals (especially BIPOC) at risk of significant harm thus eroding the core principles of democracy and rule of law. Yet these systems are often developed and deployed without including BIPOC and other marginalised groups in the process.
	Besides justice, law enforcement, and border control, there are many more than the three areas prioritised above that can adversely impact human rights, democracy and rule of law. The use of AI systems in welfare systems, for example, is particularly problematic as it can lock out the most vulnerable people from accessing social care. These systems have often been used to criminalise poor et lower socio-economic people (disproportionately impacting BIPOC and other minorities), by surveilling, targeting, harassing and punishing beneficiaries. Promoted as tools to fight against fraud detesting or to optimise distribution, there are many examples where AI systems have actually exacerbated socio-economic inequalities and impacted people's right to housing, food, employment, education, social assistance, and even life.
10. Please indicate the types of AI systems that represent the greatest risk to human rights, democracy and the rule of law	Facial recognition supporting law enforcement ;Scoring / scoring of individuals by public entities;• AI applications to prevent the commission of a criminal offence;AI applications aimed at predicting recidivism ;• AI applications determining the allocation of social services;
11. Please briefly explain how such applications might violate human rights, democracy and the rule of law.	As mentioned under question 15, the use of AI systems risks further exacerbate existing racial and ethnic, gender, and social and economic inequalities (among others). When considering potential risks that can arise form AI systems, it is important to begin with a power analysis and focus the risks of AI systems to the most marginalised communities, as they are often disproportionately harmed. AI-driven surveillance technologies in the hands of powerful actors such as judicial bodies or law enforcement officials have the potential to do great harm, with minorities and marginalised groups, human rights defenders, activists and journalists bearing the most significant risk.
	Besides justice, law enforcement, and border control, there are many more than the three areas prioritized below by can adversely impact human rights, democracy and rule of law. The use of AI systems in welfare systems, for examples, is particularly problematic as it can lock out the most vulnerable people from accessing social care. These systems have often been used to criminalize poor et lower socio-economic people (disproportionately impacting BIPOC and other minorities), by surveilling, targeting, harassing, and punishing beneficiaries. Promoted as tools to fight against fraud testing or to optimise distribution, there are many examples where AI systems have instead exacerbated socio-economic inequalities and impacted people's right to housing, food, employment, education, social security and even life.
	1. Facial recognition supporting law enforcement – Allows for mass surveillance, has highly discriminatory outcomes (especially for women and gender non-conforming persons and BIPOC) and is fundamentally incompatible with human rights. Evidence shows that uses of biometric mass surveillance in Europe have resulted in violations of EU data protection law and unduly restricted people's

rights including their privacy, right to free speech, right to protest and not to be discriminated against. The widespread use of biometric surveillance, profiling and prediction is a threat to the rule of law and our most basic freedoms.

2. Scoring / scoring of individuals by public entities – Can increase inequality in access to and enjoyment of basic social and economic rights. Persons from lower socioeconomic classes and/or marginalised groups are disproportionately at risk, as AI-driven scoring systems impact their right to education (e.g. AI applications determining the allocation of educational services; AI applications used for analysing the performance of pupils/students in educational institutions such as schools and universities), right to work (e.g. algorithmic-driven hiring tools or performance assessment tools; emotional analysis in the workplace to measure employees' level of engagement, etc.), and right to social security, among others.

3. AI applications to prevent the commission of a criminal offence and AI applications aimed at predicting recidivism can lead to incarceration and limit people's freedom. Given institutional racism and biased AI systems, the use of algorithmic tools in the context of criminal justice risks perpetuating disproportionate harm to BIPOC and other vulnerable groups.

4. AI applications determining the allocation of social services – Allocating social services without proper human oversight that looks at particular circumstances of each case can lead to misjudge a person's situation. Such error disproportionately impacts already marginalised persons, especially those of lower socioeconomic class, as access to social services is often necessary for their survival.

12. What other applications might represent a significant risk to human rights, democracy and the rule of law?	Autonomous weapons; algorithmic-driven risk assessment tools for criminal justice
13. In your opinion, should the development, deployment and use of AI systems that have been proven to violate human rights or undermine democracy or the rule of law be **13bis. Other**	Banned
14. In your opinion, should the development, deployment and use of AI systems that pose high risks with high probability to human rights, democracy and the rule of law be:	Banned
15. In your opinion, should the development, deployment and use of AI systems that pose low risks with high probability to human rights, democracy and the rule of law be:	Regulated (binding law)
16. In your opinion, should the development, deployment and use of AI systems that pose high risks with low probability to human rights, democracy and the rule of law be:	Subject to moratorium

17. What are the most important legal principles, rights and interests that need to be addressed and therefore justify regulating the development, deployment and use of AI systems?	Respect for human dignity;Freedom of expression, assembly and association;• Non-discrimination;Privacy and data protection;• Possibility to challenge a decision made by an AI system and access to an effective remedy;
18. In your opinion, in what sectors/areas is a binding legal instrument needed to protect human rights, democracy and the rule of law? 18bis. Other	Justice;Law enforcement;Public administration;
19. Self-regulation by companies is more efficient than government regulation to prevent and mitigate the risk of violations of human rights, democracy and the rule of law.	I completely disagree
20. Self-regulation by companies is sufficient to prevent and mitigate the risk of violations of human rights, democracy and the rule of law	I completely disagree
21. Which of the following instruments of self-regulation do you consider to be the most efficient? 21bis. Other	Continuous, inclusive, and transparent human rights due diligence
22. Existing international, regional and/or national binding and/or non-binding legal instruments are sufficient to regulate AI systems in order to ensure the protection of human rights, democracy and the rule of law.	I rather disagree
23. Please provide examples of existing international, regional and/or national (binding and/or non-binding) instruments that in your view are effective in guiding and regulating the design, development and use of AI systems to ensure compatibility with the standards for human rights, democracy and the rule of law	Non-exhaustive list: - UDHR, ICCPR, ICESCR (and optional protocols) - ICERD, CEDAW, CAT, CRC, ICMW, CPED, CRPD (and optional protocols) - UNGPs, OECD Due Diligence Guidance for Responsible Business Conduct, Guidelines on Multinational Enterprises - ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy, ILO Conventions - ECHR, Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data
24. If you responded disagree/completely disagree to question 22, please indicate why existing international, regional and/or national (binding and/or non-binding) legal instruments are not sufficient to regulate AI systems (select all you agree with):	• They provide a basis but fail to provide an effective substantive protection of human rights, democracy and the rule of law against the risks posed by AI systems;• They lack specific principles for the design, development and application of AI systems;• They do not provide enough guidance to the designers, developers and deployers of AI systems;They do not provide for specific rights (e.g. transparency requirements, redress mechanisms) for persons affected by AI;
25. Please indicate other specific legal gaps that in your	While existing international human rights law provides us with a legal framework to promote and seek remedy for violations of our fundamental rights, the intricate features of algorithmic systems

view need to be addressed at the level of the Council of Europe	(especially lack of transparency and accountability, large scale, etc.) require a new legal instrument. Specific legal gaps include (non-exhaustive list): a) Requiring public registers documenting the use of AI systems in public spaces and/or by public authorities. b) Establishing rigorous transparency requirements for AI designers, developers and end-users. c) Banning facial recognition and other indiscriminate or arbitrarily-targeted uses of biometrics, which can lead to unlawful mass surveillance; risk assessment tools for criminal justice and autonomous weapons. d) Providing a right to refusal of being subjected to an AI system (including the right to opt-out and to have alternative means to access or achieve a given objective). e) Requiring that private sector companies take measures to respect human rights (e.g. mandatory human rights due diligence laws). This is especially important for AI systems as they are mainly designed, developed(and often deployed by private sector companies.
26. Individuals should always be informed when they interact with an AI system in any circumstances.	I fully agree
27. Individuals should always be informed when a decision which affects them personally is made by an AI system.	I fully agree
28. Individuals should always be informed when an AI system is used in a decision-making process which affects them personally.	I fully agree
29. Individuals should have a right to a meaningful explanation of algorithmic based decisions, in particular how the algorithm reached its output.	I fully agree
30. Individuals should always have the right that any decision taken by an AI system in the framework of judicial proceedings are reviewed by a "human" judge.	I fully agree
31. Individuals should have a right to demand the review of an algorithmic based decision by a human being.	I fully agree
32. There should always be a person responsible for reviewing algorithmic based decisions in the public sector and private companies.	I fully agree
33. Public institutions should not use AI systems to promote or discredit a particular way of life or opinion (e.g. "social scoring").	I fully agree
34. States should be obliged to design, develop and apply sustainable AI systems that	I fully agree

respect applicable environmental protection standards.	
35. The code behind AI systems used in the public and private sectors should always be accessible to the competent public authorities for the purposes of external audit.	I fully agree
36. There should be higher transparency standards for public entities using AI than for private entities.	I fully agree
37. There should be higher standards for access to an effective remedy for individuals in relation to decisions informed and made by an AI system in the field of justice than in the field of consumer protection.	I fully agree
38. Member States should establish public oversight mechanisms for AI systems that may breach legally binding norms in the sphere of human rights, democracy and the rule of law.	I fully agree
39. Errors and flaws discovered in AI systems which have led or could lead to the violation of human rights, democracy and the rule of law must be reported to the competent authorities.	I fully agree
40. The use of facial recognition in public spaces should be prohibited.	I fully agree
41. The information obtained through the use of facial recognition systems should always be reviewed by a human being before being used for purposes that have an impact on individual freedom, such as in relation to a person boarding an airplane, upon police arrest or in the framework of judicial proceedings.	I fully agree
42. The use of AI systems in democratic processes (e.g. elections) should be strictly regulated.	I fully agree
43. Should a future legal framework at Council of Europe level include a specific liability regime in relation to AI applications?	Yes
44. If yes, what aspects should be covered?	a) To the extent possible, restore the victim's situation to the situation preceding any intervention of/by an AI system. b) Provide monetary compensation to victims harmed by AI systems.

	c) Establish sanctions of AI designers/developers/deployers for the harm caused by using the AI system. Sanctions should include the prohibition of further deploying the AI system unless significant changes are made to ensure that the design and/or use of the AI system is rights-respecting. d) Establish sanctions of AI designers/developers/deployers for the failure to conduct thorough human rights due diligence before and during the use of an AI system, or for failure to effectively monitor the use of the AI system. e) Sanctions of AI designers/developers/deployers for deploying an AI system that has been banned.
45. In your opinion, how useful would the following compliance mechanisms be in preventing and mitigating the risks to human rights, democracy and the rule of law arising from the design, development and application of AI? - **Human rights, democracy and rule of law impact assessments** - **Certification and quality labelling** - **Audits and intersectional audits** - **Regulatory sandboxes** **Continuous automated monitoring**	Highly useful Rather useful Highly useful Highly useful Highly useful
46. Please indicate what combination of mechanisms should be preferred to efficiently protect human rights, democracy and the rule of law **46bis. Other**	• Human rights, democracy and rule of law impact assessments ;• Audits and intersectional audits;Continuous automated monitoring;
47. Please select which mechanism(s) should be part of either a binding instrument or a non-binding instrument to best protect human rights, democracy and the rule of law. - **Human rights, democracy and rule of law impact assessments** - **Certification and quality labelling** - **Audits and intersectional audits** - **Regulatory sandboxes** **Continuous automated monitoring**	Binding instrument No opinion Binding instrument Binding instrument Binding instrument
47.bis. Other	Human rights due diligence requirements, as consistent with the UN Guiding Principles on Business and Human Rights

48. In your opinion, how useful would the following follow-up activities be if implemented by the Council of Europe? - **Monitoring of AI legislation and policies in member States** - **Capacity building on Council of Europe instruments, including assistance to facilitate ratification and implementation of relevant Council of Europe instruments** - **AI Observatory for sharing good practices and exchanging information on legal, policy and technological developments related to AI systems** **Establishing a centre of expertise on AI and human rights**	Highly useful Highly useful Rather useful Highly useful
49. What other mechanisms, if any, should be considered?	Create a platform or forum providing the opportunity to effectively engage external stakeholders, especially civil society organisations and marginalised groups. Importantly, provide them with the tools, training, resources, and information necessary to meaningfully participate in AI governance and AI accountability.
50. Are there any other issues with respect to the design, development and application of AI systems in the context of human rights, democracy and the rule of law that you wish to bring to the attention of the CAHAI?	Proactively ensure inclusion of civil society (especially under-represented groups) throughout the process cycle. Establish feedback mechanisms and shared decision-making processes to ensure participatory mechanisms. This should be a (binding) legal obligation.
Date of submission	4/27/21 20:42:13

European Committee for Home-based Priority Action for the Child and the Family

State (where your institution is based)	France
Institution: Name of the institution/body/company	European Committee for Home-based Priority Action for the Child and the Family
Personal capacity: Your socio-professional category	Higher occupations
Your stakeholder group	Civil society
2. In view of the elaboration of a legal framework on the design, development and application of AI, based on the standards of the Council of Europe on human rights,	A definition focusing on automated decision-making

democracy and the rule of law, what kind of definition of artificial intelligence (AI) should be considered by the CAHAI	
2bis. If "other" please explain below	
3. What are the reasons for your preference?	Regarding the fact that AI system is complex and covers several types of algortim systems we need to focus on the decision making process and its regulation in the context of AI use. Regarding the regulatory framework there is a need for a focused approach. Even if it will not cover all aspects but it will cover the essential one which is that of decision making processes. The latter has already an impact on the exercise of democracy, implementation of human rights and of the rule of law.
4. Please select the areas in which AI systems offer the most promising opportunities for the protection of human rights, democracy and the rule of law	• Election monitoring;National security and counter-terrorism;Banking, finance and insurance;
4bis. If other, which areas and why?	it doesn't just depend on the area. However, some of these areas requiert more gurantees for the respect of human rights and democracy in the context of AI use,.
5. Please indicate which of the following AI system applications in your view have the greatest potential to enhance/protect human rights, democracy and the rule of law?	• Recruiting software/ AI applications used for assessing work performance ;• AI applications to promote gender equality (e.g. analytical tools);• Medical applications for faster and more accurate diagnoses;• AI applications to predict the possible evolution of climate change and/or natural disasters;• AI applications in the field of banking and insurance;
6. Please briefly explain how such applications would benefit human rights, democracy and the rule of law.	1) • Medical applications for faster and more accurate diagnoses: better collection of information and more neutral analyse 2 AI applications to predict the possible evolution of climate change and/or natural disasters: evidence-based analysis of scientific data with the objective of predictability. It is important to ensure that the measure provided to protect the planet and climate are equal and equally benefit everyone and do not perpetuate or exacerbate inequality - #climatjustice 3) and 4• Recruiting software/ AI applications used for assessing work performance. / AI applications in the field of banking and insurance : Potentially AI will be able to make such assesment more objective and based on the skills expressed without any kind of discrimination. 5) AI applications should raise awareness about gender equalities, including the transpersons and gender non-conforming persons,
7. What other applications might contribute significantly to strengthening human rights, democracy and the rule of law?	N/A
8. Please select the areas in which the deployment of AI systems poses the highest risk of violating human rights, democracy and the rule of law 8bis. Other	• Welfare;• Justice;• Employment;
9. Please briefly explain how such applications might violate	The use of AI systems reinforces existing racial and ethnic, gender, and social and economic inequalities (among others). Many of the policies and practices that are already entrenched with racial biases and often target already vulnerable and marginalised

human rights, democracy and the rule of law.	groups. As Commissionnaire and other CoE bodies stated, the facial recognition and other indiscriminate biometric surveillance tools, are incompatible with human rights. Algorithmic risk assessment tools or predictive policing, which are also biased against racial and ethnic minorities lead to increased incarceration of the discrimined groupes. Access to the welfare services and access to the labour market by people who are unemployed or jobless are already poorly regulated in order to face the ongoing discrimination and restrictions. People who are entitled are not able to access to their rights and benefit from specialised services. The decisions made are biased. Profiling at the base of the algoritimes does not act against exisiting inequalities, even if it facilitates the work of the concerned services.
10. Please indicate the types of AI systems that represent the greatest risk to human rights, democracy and the rule of law	Facial recognition supporting law enforcement ;Scoring / scoring of individuals by public entities;AI applications aimed at predicting recidivism ;• AI applications determining the allocation of social services;• Emotional analysis in the workplace to measure employees' level of engagement;
11. Please briefly explain how such applications might violate human rights, democracy and the rule of law.	1) The uses of biometric mass surveillance in Europe have resulted in violations of EU data protection law. The jurisprudence of the European Court of Human Rights (ECtHR) makes clear that the capture, storage and processing of such information, even only briefly, engages art 8. The widespread use of biometric surveillance, profiling and prediction is a threat to the rule of law and our most basic freedoms. 2) AI systems may not be able to assess the emotional and relational aspects, especially in jobs that involve helping others 3) Persons from lower socioeconomic classes and/or marginalised groups are disproportionately at risk as AI-driven scoring only the sociological data and educational outcomes. 4)people's lives and their capacities to resilience are not predictable. The particular situation that may occur can lead to the misjuge of the persons capacities and to underestimation of the environmental factors that may influence the person's trajectory 5) Allocating social services without proper human oversight that looks at particular circumstances of each case can lead to misjudge a person's situation.
12. What other applications might represent a significant risk to human rights, democracy and the rule of law?	algorithmic-driven risk assessment tools in child protection system
13. In your opinion, should the development, deployment and use of AI systems that have been proven to violate human rights or undermine democracy or the rule of law be **13bis. Other**	Banned
14. In your opinion, should the development, deployment and use of AI systems that pose high risks with high probability to human rights, democracy and the rule of law be:	Banned

15. In your opinion, should the development, deployment and use of AI systems that pose low risks with high probability to human rights, democracy and the rule of law be:	Regulated (binding law)
16. In your opinion, should the development, deployment and use of AI systems that pose high risks with low probability to human rights, democracy and the rule of law be:	Subject to moratorium
17. What are the most important legal principles, rights and interests that need to be addressed and therefore justify regulating the development, deployment and use of AI systems?	Respect for human dignity;Freedom of expression, assembly and association;• Non-discrimination;Privacy and data protection;• Possibility to challenge a decision made by an AI system and access to an effective remedy;
18. In your opinion, in what sectors/areas is a binding legal instrument needed to protect human rights, democracy and the rule of law? **18bis.** Other	Law enforcement;Justice;Public administration;
19. Self-regulation by companies is more efficient than government regulation to prevent and mitigate the risk of violations of human rights, democracy and the rule of law.	I completely disagree
20. Self-regulation by companies is sufficient to prevent and mitigate the risk of violations of human rights, democracy and the rule of law	I completely disagree
21. Which of the following instruments of self-regulation do you consider to be the most efficient? **21bis.** Other	Human Rights Imact Assessment prior to any decision being taken by the AI system
22. Existing international, regional and/or national binding and/or non-binding legal instruments are sufficient to regulate AI systems in order to ensure the protection of human rights, democracy and the rule of law.	I completely disagree
23. Please provide examples of existing international, regional and/or national (binding and/or non-binding) instruments that in your view are effective in guiding and regulating the design, development and use of AI systems to ensure compatibility with the standards for human	Non-exhaustive list: - Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data - ECHR and protocols - ICCPR, ICESCR (and optional protocols) - ICERD, CEDAW, CAT, CRC, ICMW, CPED, CRPD (and optional protocols) - ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy, ILO Conventions

rights, democracy and the rule of law	
24. If you responded disagree/completely disagree to question 22, please indicate why existing international, regional and/or national (binding and/or non-binding) legal instruments are not sufficient to regulate AI systems (select all you agree with):	• They do not provide enough guidance to the designers, developers and deployers of AI systems;They do not provide for specific rights (e.g. transparency requirements, redress mechanisms) for persons affected by AI;• They lack specific principles for the design, development and application of AI systems;• They provide a basis but fail to provide an effective substantive protection of human rights, democracy and the rule of law against the risks posed by AI systems;There are too many and they are difficult to interpret and apply in the context of AI;
25. Please indicate other specific legal gaps that in your view need to be addressed at the level of the Council of Europe	a) Requiring public registers documenting the use of AI systems in public spaces and/or by public authorities. b) Establishing rigorous transparency requirements for AI designers, developers and end-users. c) Banning facial recognition and other indiscriminate or arbitrarily-targeted uses of biometrics, which can lead to unlawful mass surveillance; risk assessment tools for criminal justice and autonomous weapons. d) Providing a right to refusal of being subjected to an AI system (including the right to opt-out and to have alternative means to access or achieve a given objective). e) Requiring that private sector companies take measures to respect human rights (e.g. mandatory human rights due diligence laws). This is especially important for AI systems as they are mainly designed, developed(and often deployed by private sector companies.
26. Individuals should always be informed when they interact with an AI system in any circumstances.	I fully agree
27. Individuals should always be informed when a decision which affects them personally is made by an AI system.	I fully agree
28. Individuals should always be informed when an AI system is used in a decision-making process which affects them personally.	I fully agree
29. Individuals should have a right to a meaningful explanation of algorithmic based decisions, in particular how the algorithm reached its output.	I fully agree
30. Individuals should always have the right that any decision taken by an AI system in the framework of judicial proceedings are reviewed by a "human" judge.	I fully agree
31. Individuals should have a right to demand the review of an algorithmic based decision by a human being.	I fully agree
32. There should always be a person responsible for reviewing algorithmic based decisions in the public sector and private companies.	I fully agree

33. Public institutions should not use AI systems to promote or discredit a particular way of life or opinion (e.g. "social scoring").	I fully agree
34. States should be obliged to design, develop and apply sustainable AI systems that respect applicable environmental protection standards.	I fully agree
35. The code behind AI systems used in the public and private sectors should always be accessible to the competent public authorities for the purposes of external audit.	I fully agree
36. There should be higher transparency standards for public entities using AI than for private entities.	I fully agree
37. There should be higher standards for access to an effective remedy for individuals in relation to decisions informed and made by an AI system in the field of justice than in the field of consumer protection.	I fully agree
38. Member States should establish public oversight mechanisms for AI systems that may breach legally binding norms in the sphere of human rights, democracy and the rule of law.	I fully agree
39. Errors and flaws discovered in AI systems which have led or could lead to the violation of human rights, democracy and the rule of law must be reported to the competent authorities.	I fully agree
40. The use of facial recognition in public spaces should be prohibited.	I fully agree
41. The information obtained through the use of facial recognition systems should always be reviewed by a human being before being used for purposes that have an impact on individual freedom, such as in relation to a person boarding an airplane, upon police arrest or in the framework of judicial proceedings.	I fully agree
42. The use of AI systems in democratic processes (e.g. elections) should be strictly regulated.	I fully agree

43. Should a future legal framework at Council of Europe level include a specific liability regime in relation to AI applications?	Yes
44. If yes, what aspects should be covered?	a) To the extent possible, restore the victim's situation to the situation preceding any intervention of/by an AI system. b) Provide monetary compensation to victims harmed by AI systems. c) Establish sanctions of AI designers/developers/deployers for the harm caused by using the AI system. Sanctions should include the prohibition of further deploying the AI system unless significant changes are made to ensure that the design and/or use of the AI system is rights-respecting. d) Establish sanctions of AI designers/developers/deployers for the failure to conduct thorough human rights due diligence before and during the use of an AI system, or for failure to effectively monitor the use of the AI system. e) Sanctions of AI designers/developers/deployers for deploying an AI system that has been banned.
45. In your opinion, how useful would the following compliance mechanisms be in preventing and mitigating the risks to human rights, democracy and the rule of law arising from the design, development and application of AI? - **Human rights, democracy and rule of law impact assessments** - **Certification and quality labelling** - **Audits and intersectional audits** - **Regulatory sandboxes** **Continuous automated monitoring**	Highly useful Rather useful Rather useful Highly useful Highly useful
46. Please indicate what combination of mechanisms should be preferred to efficiently protect human rights, democracy and the rule of law **46bis. Other**	• Human rights, democracy and rule of law impact assessments ;Continuous automated monitoring;international new convention;
47. Please select which mechanism(s) should be part of either a binding instrument or a non-binding instrument to best protect human rights, democracy and the rule of law. - **Human rights, democracy and rule of law impact assessments** - **Certification and quality labelling** - **Audits and intersectional audits** - **Regulatory sandboxes** **Continuous automated monitoring**	Binding instrument Binding instrument Binding instrument Binding instrument Binding instrument

47.bis. Other	those which align with HR and Business regulations
48. In your opinion, how useful would the following follow-up activities be if implemented by the Council of Europe? - **Monitoring of AI legislation and policies in member States** - **Capacity building on Council of Europe instruments, including assistance to facilitate ratification and implementation of relevant Council of Europe instruments** - **AI Observatory for sharing good practices and exchanging information on legal, policy and technological developments related to AI systems** **Establishing a centre of expertise on AI and human rights**	Highly useful Highly useful Highly useful Highly useful
49. What other mechanisms, if any, should be considered?	To establish a specific platform for dialogue between different stakeholders especially those who are concerned by the subject and who are not involved in the debate on AI debate (currently dominated by tech representatives and legal experts). Such platform can be also ressources based and provide the tools, training, resources, and information necessary to meaningfully participate in AI governance and AI accountability.
50. Are there any other issues with respect to the design, development and application of AI systems in the context of human rights, democracy and the rule of law that you wish to bring to the attention of the CAHAI?	Ensure participation of civil society (especially under-represented groups). Establish feedback mechanisms and shared decision-making processes to ensure participatory framwork. This should be a legal obligation.
Date of submission	5/8/21 17:53:42

European Council of Doctoral Candidates and Junior Researchers

State (where your institution is based)	Belgium
Institution: Name of the institution/body/company	European Council of Doctoral Candidates and Junior Researchers
Personal capacity: Your socio-professional category	Higher occupations
Your stakeholder group	Civil society

2. In view of the elaboration of a legal framework on the design, development and application of AI, based on the standards of the Council of Europe on human rights, democracy and the rule of law, what kind of definition of artificial intelligence (AI) should be considered by the CAHAI	A definition focusing on automated decision-making
2bis. If "other" please explain below	
3. What are the reasons for your preference?	Decision making process and its regulation should be priority and is essential for democracy and human rights protection.
4. Please select the areas in which AI systems offer the most promising opportunities for the protection of human rights, democracy and the rule of law	• Education;• Healthcare;• Environment and climate;
4bis. If other, which areas and why?	These areas are the least problematic thus can be quickly implemented and set standards.
5. Please indicate which of the following AI system applications in your view have the greatest potential to enhance/protect human rights, democracy and the rule of law?	• Medical applications for faster and more accurate diagnoses;• AI applications to predict the possible evolution of climate change and/or natural disasters;• Deep fakes and cheap fakes;• AI applications to promote gender equality (e.g. analytical tools);
6. Please briefly explain how such applications would benefit human rights, democracy and the rule of law.	1. Medical applications to stop immediate threats and prevent violence or deterioring of inequalities. 2. Climate change is generally a topic on which most people agree on the importance. AI can speed up the solutions, global climate migration to some extent and try to find commonly agreed standards. 3. Deep fakes are dangerous with such a high speed of spreading disinformation, AI is crucial to recognise and stop it. 4. With actual problems that AI is causing gender, nationality, race based inequalities, finding a sollution to change this trend and support all kinds of equalities is an interesting concept.
7. What other applications might contribute significantly to strengthening human rights, democracy and the rule of law?	Nothing comes to my mind now
8. Please select the areas in which the deployment of AI systems poses the highest risk of violating human rights, democracy and the rule of law **8bis. Other**	• Banking, finance and insurance;• National security and counter-terrorism;• Social networks/media, internet intermediaries ;
9. Please briefly explain how such applications might violate human rights, democracy and the rule of law.	1. Banking etc has already showed how problematic and discriminatory AI can be (e.g. credit limis allowed to men vs women) 2. It has too high level of inaccuracy (e.g. face recognition) 3. The way AI is used in social media etc has already proved to be too problematic and the owners are not at.all interested in changing this situation. That is why it needs.to be closely supervised and pressured by the States.

10. **Please indicate the types of AI systems that represent the greatest risk to human rights, democracy and the rule of law**	Facial recognition supporting law enforcement ;• Emotional analysis in the workplace to measure employees' level of engagement;Scoring / scoring of individuals by public entities;• AI applications determining the allocation of social services;AI applications aimed at predicting recidivism ;
11. **Please briefly explain how such applications might violate human rights, democracy and the rule of law.**	These have been widely ised in some places and show how highly they violate human rights, democracy and rule of law
12. **What other applications might represent a significant risk to human rights, democracy and the rule of law?**	All kinds that are in the hands of autocrats and.tyrants.
13. **In your opinion, should the development, deployment and use of AI systems that have been proven to violate human rights or undermine democracy or the rule of law be** **13bis. Other**	Banned
14. **In your opinion, should the development, deployment and use of AI systems that pose high risks with high probability to human rights, democracy and the rule of law be:**	Banned
15. **In your opinion, should the development, deployment and use of AI systems that pose low risks with high probability to human rights, democracy and the rule of law be:**	Regulated (binding law)
16. **In your opinion, should the development, deployment and use of AI systems that pose high risks with low probability to human rights, democracy and the rule of law be:**	Subject to moratorium
17. **What are the most important legal principles, rights and interests that need to be addressed and therefore justify regulating the development, deployment and use of AI systems?**	Respect for human dignity;Freedom of expression, assembly and association;Privacy and data protection;• Transparency;• Possibility to challenge a decision made by an AI system and access to an effective remedy;
18. **In your opinion, in what sectors/areas is a binding legal instrument needed to protect human rights, democracy and the rule of law?** **18bis. Other**	Justice;Law enforcement;• Social networks/media, internet intermediaries ;
19. **Self-regulation by companies is more efficient than government regulation to prevent and mitigate the risk of violations of human rights, democracy and the rule of law.**	I completely disagree
20. **Self-regulation by companies is sufficient to prevent and mitigate the risk of violations**	I completely disagree

of human rights, democracy and the rule of law	
21. Which of the following instruments of self-regulation do you consider to be the most efficient? **21bis. Other**	Human rights standards
22. Existing international, regional and/or national binding and/or non-binding legal instruments are sufficient to regulate AI systems in order to ensure the protection of human rights, democracy and the rule of law.	I completely disagree
23. Please provide examples of existing international, regional and/or national (binding and/or non-binding) instruments that in your view are effective in guiding and regulating the design, development and use of AI systems to ensure compatibility with the standards for human rights, democracy and the rule of law	Just a few examples: - Convention on Protection of Individuals with regard to Automatic Processing of Personal Data - ICCPR - ICESCR - ECHR
24. If you responded disagree/completely disagree to question 22, please indicate why existing international, regional and/or national (binding and/or non-binding) legal instruments are not sufficient to regulate AI systems (select all you agree with):	There are too many and they are difficult to interpret and apply in the context of AI;• They provide a basis but fail to provide an effective substantive protection of human rights, democracy and the rule of law against the risks posed by AI systems;• They lack specific principles for the design, development and application of AI systems;• They do not provide enough guidance to the designers, developers and deployers of AI systems;They do not provide for specific rights (e.g. transparency requirements, redress mechanisms) for persons affected by AI;• They create barriers to the design, development and application of AI systems;
25. Please indicate other specific legal gaps that in your view need to be addressed at the level of the Council of Europe	- public registers should document the use of AI systems by public authorities. - Obligatory transparency of AI creation and usage - Protection of victims and ban of the use of biometric data in all types of state surveliance - Ban of scrapping data by private companies - clear rules and option to refuse the use of AI by everyone
26. Individuals should always be informed when they interact with an AI system in any circumstances.	I fully agree
27. Individuals should always be informed when a decision which affects them personally is made by an AI system.	I fully agree
28. Individuals should always be informed when an AI system is used in a decision-making process which affects them personally.	I fully agree
29. Individuals should have a right to a meaningful explanation of algorithmic based decisions, in	I fully agree

particular how the algorithm reached its output.	
30. Individuals should always have the right that any decision taken by an AI system in the framework of judicial proceedings are reviewed by a "human" judge.	I fully agree
31. Individuals should have a right to demand the review of an algorithmic based decision by a human being.	I fully agree
32. There should always be a person responsible for reviewing algorithmic based decisions in the public sector and private companies.	I fully agree
33. Public institutions should not use AI systems to promote or discredit a particular way of life or opinion (e.g. "social scoring").	I fully agree
34. States should be obliged to design, develop and apply sustainable AI systems that respect applicable environmental protection standards.	I fully agree
35. The code behind AI systems used in the public and private sectors should always be accessible to the competent public authorities for the purposes of external audit.	I fully agree
36. There should be higher transparency standards for public entities using AI than for private entities.	I fully agree
37. There should be higher standards for access to an effective remedy for individuals in relation to decisions informed and made by an AI system in the field of justice than in the field of consumer protection.	I fully agree
38. Member States should establish public oversight mechanisms for AI systems that may breach legally binding norms in the sphere of human rights, democracy and the rule of law.	I fully agree
39. Errors and flaws discovered in AI systems which have led or could lead to the violation of human rights, democracy and the rule of law must be reported to the competent authorities.	I fully agree
40. The use of facial recognition in public spaces should be prohibited.	I fully agree

41. The information obtained through the use of facial recognition systems should always be reviewed by a human being before being used for purposes that have an impact on individual freedom, such as in relation to a person boarding an airplane, upon police arrest or in the framework of judicial proceedings.	I fully agree
42. The use of AI systems in democratic processes (e.g. elections) should be strictly regulated.	I fully agree
43. Should a future legal framework at Council of Europe level include a specific liability regime in relation to AI applications?	Yes
44. If yes, what aspects should be covered?	- sanctions of AI owners, designers and developers - restoring the harm done to the victims
45. In your opinion, how useful would the following compliance mechanisms be in preventing and mitigating the risks to human rights, democracy and the rule of law arising from the design, development and application of AI? - **Human rights, democracy and rule of law impact assessments** - **Certification and quality labelling** - **Audits and intersectional audits** - **Regulatory sandboxes** **Continuous automated monitoring**	Highly useful Rather useful Highly useful Rather useful Highly useful
46. Please indicate what combination of mechanisms should be preferred to efficiently protect human rights, democracy and the rule of law **46bis. Other**	• Human rights, democracy and rule of law impact assessments ;Continuous automated monitoring;One European document;
47. Please select which mechanism(s) should be part of either a binding instrument or a non-binding instrument to best protect human rights, democracy and the rule of law. - **Human rights, democracy and rule of law impact assessments** - **Certification and quality labelling**	Binding instrument Binding instrument Binding instrument Binding instrument Binding instrument

- **Audits and intersectional audits** - **Regulatory sandboxes** **Continuous automated monitoring**	
47.bis. Other	.
48. In your opinion, how useful would the following follow-up activities be if implemented by the Council of Europe? - **Monitoring of AI legislation and policies in member States** - **Capacity building on Council of Europe instruments, including assistance to facilitate ratification and implementation of relevant Council of Europe instruments** - **AI Observatory for sharing good practices and exchanging information on legal, policy and technological developments related to AI systems** **Establishing a centre of expertise on AI and human rights**	Highly useful Highly useful Highly useful Highly useful
49. What other mechanisms, if any, should be considered?	Accountability body, involving INGOs and NGOs in monitoring
50. Are there any other issues with respect to the design, development and application of AI systems in the context of human rights, democracy and the rule of law that you wish to bring to the attention of the CAHAI?	Protection of INGOs and NGOs which monitor AI, ensuring financing for their work
Date of submission	5/8/21 21:57:18

European Digital Rights (EDRi)

State (where your institution is based)	Belgium
Institution: Name of the institution/body/company	European Digital Rights (EDRi)

Personal capacity: Your socio-professional category	Intermediate occupations
Your stakeholder group	Civil society
2. In view of the elaboration of a legal framework on the design, development and application of AI, based on the standards of the Council of Europe on human rights, democracy and the rule of law, what kind of definition of artificial intelligence (AI) should be considered by the CAHAI	Other
2bis. If "other" please explain below	Whilst the options listed here have some merits, they all have limitations too: the first option would cause challenges for people to access their rights over uses of AI if there is no definition at all; the second option does not sufficiently acknowledge the intrinsic issues of human rights, democracy and the rule of law as recognised in option one – and it also sets the definition of AI as being linked to the "purpose" of such a system "to reproduce by machine the cognitive abilities of a human being" which fails to capture the full range of purposes, intentions and abilities of AI systems; the third option covers just one narrow, specific method within the broader field of AI and therefore does not capture the full scope of harmful automated or algorithmic systems; and the fourth option, while better than the third, is also too narrow and could exclude things like biometric mass surveillance practices which can be harmful even when they are not used to make a 'decision'.
3. What are the reasons for your preference?	Whilst the options listed here have some merits, they all have limitations too: the first option would cause challenges for people to access their rights over uses of AI if there is no definition at all; the second option does not sufficiently acknowledge the intrinsic issues of human rights, democracy and the rule of law as recognised in option one – and it also sets the definition of AI as being linked to the "purpose" of such a system "to reproduce by machine the cognitive abilities of a human being" which fails to capture the full range of purposes, intentions and abilities of AI systems; the third option covers just one narrow, specific method within the broader field of AI and therefore does not capture the full scope of harmful automated or algorithmic systems; and the fourth option, while better than the third, is also too narrow and could exclude things like biometric mass surveillance practices which can be harmful even when they are not used to make a 'decision'.
4. Please select the areas in which AI systems offer the most promising opportunities for the protection of human rights, democracy and the rule of law	• Other;
4bis. If other, which areas and why?	We believe that it is challenging to select an entire area. The term AI encompasses a wide range of technological applications that could provide positive outcomes in a number of areas, including many of the above mentioned. However, any sweeping statement of artificial intelligence as unequivocally positive eclipses the myriad context-specific risks and potential harms in any application of AI. It overlooks the important distinction between how an AI system is developed compared to the realities of its deployment

	and how it functions in use, as well as the intended and unintended consequences of any use of AI, regardless of sector. Instead of starting with the assumption that AI is a promising opportunity for human rights, we advocate that the protection of fundamental rights must be the starting point in all contexts.
5. Please indicate which of the following AI system applications in your view have the greatest potential to enhance/protect human rights, democracy and the rule of law?	• AI applications to predict the possible evolution of climate change and/or natural disasters;
6. Please briefly explain how such applications would benefit human rights, democracy and the rule of law.	Again, we find the assumption that AI systems will enhance and protect fundamental rights to be the wrong starting point, and instead advocate that the protection of fundamental rights be the starting point. As such, applications such as 'facial recognition supporting law enforcement' (as well as for any other public, administrative or commercial use if such a use could amount to mass surveillance under EDRi's definition), 'emotional analysis in the workplace to measure employees' level of engagement', 'Scoring of individuals by public and private entities', 'AI applications aimed at predicting recidivism', 'AI applications determining the allocation of educational services' and 'A applications determining the allocation of social services' are clearly manifestly incompatible with European and international fundamental rights laws in that they intrinsically and unduly infringe upon a wide range of people's rights and freedoms and therefore must be outright prohibited.

Furthermore, many of the other applications listed here must at a minimum be limited, safeguarded and potentially also banned due to their undue infringement on people's rights and freedoms. AI systems have the ability to exacerbate surveillance and intrusion into our personal lives, reflect and reinforce some of the deepest societal inequalities, fundamentally alter the delivery of public and essential services, vastly undermine vital data protection legislation, and disrupt the democratic process itself. As the question requires us to select at least one option, we have chosen 'AI applications to predict the possible evolution of climate change and/or natural disasters' as the least problematic of the applications listed here.

In addition, AI is furthering the power asymmetry between those who develop and employ AI technologies, and those who interact with and are subject to them. This is why any AI-based / ADM tools for the purpose of allocating or restricting people's access to their rights, in particular those which risk embedding and/or exacerbating structural discrimination and inequality, must be treated with upmost caution. For this reason, the explicit inclusion of marginalised and affected communities in the development of all AI legislation and policy must also be a priority. |
| **7.   What other applications might contribute significantly to strengthening human rights, democracy and the rule of law?** | Again, we advocate for an approach that mitigates the threat that AI poses to fundamental rights and democracy. For example, the promotion of, and resort to, AI systems for public purposes, whether in the public sector or in de facto public domains, such as social media platforms, poses real questions for transparency and democratic oversight of decisions made in the public domain. The procurement, design, testing, and deployment of AI systems in areas such as healthcare, social services, housing, policing, migration and other areas demonstrates real issues relating to the influence of private actors in public governance, opacity, and a real |

	potential impact on many fundamental rights of people who may not know, consent to or have the opportunity to object to or contest decisions made by an automated system. In addition, many AI systems have been deployed in areas of public concern without justification or scientific evidence. For these reasons, EDRi advocates for a prohibition on the following unacceptable use cases, due to their fundamental incompatibility with rights, democracy and justice and principles of necessity and proportionality: (1) Biometric mass surveillance (i.e. the indiscriminate or arbitrarily-targeted surveillance of people's biometric characteristics in public or publicly-accessible spaces by any actor, public or private); (2) Uses of AI at the border and in migration control; (3) Social scoring and AI systems determining access to social rights and benefits; (4) Predictive policing; (5) Use of risk assessment tools in the criminal justice system and pre-trial context and (6) Any other application that unduly restricts people's human rights in accordance with EDRi's positions at https://edri.org/wp-content/uploads/2020/06/AI_EDRiRecommendations.pdf and https://edri.org/wp-content/uploads/2020/05/Paper-Ban-Biometric-Mass-Surveillance.pdf.
8. Please select the areas in which the deployment of AI systems poses the highest risk of violating human rights, democracy and the rule of law **8bis. Other**	• Law enforcement;• Customs and border control;• Welfare;
9. Please briefly explain how such applications might violate human rights, democracy and the rule of law.	The ability to select only 3 options obscures the wide range of fields in which AI is intrinsically very risky, with a high number of impermissible use cases, including: Justice, Law enforcement, Customs & border control, Welfare, Education, Healthcare, National security & counter-terrorism, Public administration, Employment, Social networks/media. We would therefore like to emphasise that not selecting certain options in no way endorses said options, and instead that any use of AI carries potential risks, regardless of the field, due to the complexities and opacity in the use of these systems, and the difference between a system in development compared to in use. AI systems are increasingly used in all areas of life – to monitor us at protests, to identify us for access to health and public services, to make predictions about our behaviour or how much 'risk' we pose. Without clear safeguards, these systems could further the power imbalance between those who develop and use AI and those who are subject to them. Civil society has demonstrated how AI that is being used in Europe for predictive policing, mass surveillance, at the border and to judge and predict our behaviour on the basis of our bodies, emotions and sensitive identity traits (like race, gender identity and disability) is in complete violation of our rights and disproportionately affect marginalised groups. Impacted rights include: 1. Privacy & data protection: the increased use of AI poses inherent risks to existing data protection rights and standards. More structurally, AI relies on the processing of large amounts of data for training and accuracy, raising major questions for consent and personal privacy as general principles. Many uses of AI function through the use of non-personal data or sensitive inferences of personal information about individuals, therefore threatening

	anonymity and the spirit of the rights enshrined in European data protection law.
	2. Equality & non-discrimination: AI and other automated systems are likely to worsen discrimination, due to greater scales of operation, increased unlikelihood that humans will challenge its decisions (automation bias), and lower levels of transparency about how such decisions are made.
	3. Procedural rights & access to justice: The deployment of artificial intelligence in the criminal justice system and other public areas for the purposes of risk assessment, or the delivery of any process rights pose particular issues for the rights of individuals to participate in the justice process and also to challenge and gain information for decisions made about them.
	This leads to other harms such as:
	1. Democracy, transparency: The promotion of, and resort to, AI systems for public purposes, whether in the public sector or in de facto public domains, such as social media platforms, poses real questions for transparency and democratic oversight of decisions made in the public domain. The procurement, design, testing, and deployment of AI systems in areas such as healthcare, social services, housing, policing and migration demonstrates real issues relating to the influence of private actors in public governance, opacity, and potential impact on many fundamental rights of people who may not know, consent or have the opportunity to object to/ contest decisions made by an automated system.
	2. Surveillance: There are grave concerns related to the extent to which AI will facilitate and necessitate mass surveillance in public and private spaces – for example biometric mass surveillance practices such as the use of facial recognition against protesters by law enforcement, or by supermarkets against shoppers. In addition, numerous examples demonstrate how AI has been used to facilitate analysis of individuals on the basis of inferences about sexual orientation, emotion recognition and the veracity of claims made in the processing of visa applications. As such, risks of surveillance, profiling & discrimination are connected.
10. Please indicate the types of AI systems that represent the greatest risk to human rights, democracy and the rule of law	Facial recognition supporting law enforcement ;• Emotional analysis in the workplace to measure employees' level of engagement;Scoring / scoring of individuals by public entities;AI applications aimed at predicting recidivism ;• AI applications determining the allocation of social services;
11. Please briefly explain how such applications might violate human rights, democracy and the rule of law.	AI systems have been deployed in various contexts in a manner that threatens the allocation of social and economic rights and benefits (including but not limited to allocation of social services, educational services etc). For example, in the areas of welfare resource allocation, eligibility assessment and fraud detection, the deployment of AI systems to predict risk, verify people's identity and calculate their benefits greatly impacts people's access to vital public services and has a potentially grave impact on the fundamental right to social security and social assistance. This is due to the likelihood of discriminatory profiling, mistaken results and the inherent fundamental rights risks associated with the processing of sensitive biometric data. A number of examples demonstrate how automated decision-making systems are negatively impacting and targeting poor, migrant and working class people, including the deployment of SyRI in the Netherlands and the use of data-driven systems in Poland to profile unemployed people, with severe implications for data protection and non-discrimination rights. Further, uses in the context of employment and education have highlighted highly-

	intrusive worker and student surveillance, including social scoring systems, intensive monitoring for performance targets, and other measures which limit work autonomy, diminish well-being and limit workers' and students' privacy and fundamental rights. There have also been cases of discriminatory use of AI technologies against persons with disabilities by state and private entities in the allocation of social benefits and access to education/
	Uses of predictive modelling to forecast where, and by whom, certain types of crimes are likely to be committed repeatedly score poor, working class, racialised and migrant communities with a higher likelihood of presumed future criminality. As highlighted by the European Parliament, deployment of such predictive policing can result in "grave misuse". The use of apparently "neutral" factors, such as postal code, in practice serve as a proxy for race and other protected characteristics, reflecting histories of over-policing of certain communities, exacerbating racial biases and affording false objectivity to patterns of racial profiling. A number of predictive policing systems have been demonstrated to disproportionately include racialised people, in complete disaccord with actual crime rates. Predictive policing systems undermine the presumption of innocence and other due process rights by treating people as individually suspicious based on inferences about a wider group.
	The use of algorithms in criminal justice matters to profile individuals within legal decision-making processes presents severe threats to fundamental rights. Such tools base their assessments on a vast collection of personal data unrelated to the defendants' alleged misconduct. This collection of personal data for the purpose of predicting the risk of recidivism cannot be perceived as necessary nor proportionate to the perceived purpose, in particular considering the implications for the right to respect for private life and the presumption of innocence. Substantial evidence has shown that the introduction of such systems in criminal justice systems has resulted in unjust and discriminatory outcomes. It may be impossible for legal professionals to understand the reasoning behind the outcomes of the system.
	In general, any system from q.17 could have a significant potential to manipulate persons through subliminal techniques beyond their consciousness/exploit vulnerabilities of specific groups to materially distort their behaviour in a manner that is likely to cause them or another person psychological or physical harm. Another big issue with current AI systems is the flawed tendency of those using them to interpret or describe the patterns captured in the AI models as causative rather than correlations of unknown veracity, accuracy or impact
12. What other applications might represent a significant risk to human rights, democracy and the rule of law?	All forms of biometric mass surveillance (e.g. the use of facial biometric data or any other biometric characteristics) for the indiscriminate or arbitrarily-targeted identification, categorisation or classification of people – whether used in real-time or post modes – in public or publicly-accessible spaces including online public spaces – whether used for law enforcement purposes, or by public/administrative authorities, or by private/commercial actors/entities - pose an unacceptable threat to a wide range of

fundamental rights and democratic principles. By removing people's capacity for anonymity in public spaces and degrading their unique identity to a series of data points held in an opaque a biometric template often without their consent or even their knowledge, the process of biometric capture, processing and storage poses a serious threat to human dignity. Furthermore, it can create a "chilling effect" whereby people are disincentivised from protesting, voting or participating in public life; the work of journalists and human rights defenders becomes harder and potentially less safe; and whistle-blowers trying to expose corruption can no longer do so securely. This can limit media freedom and plurality and the ability of citizens and journalists to hold power to account. This can also curtail everybody's free expression, free assembly and even free thought and access to information. It can furthermore make people feel less comfortable in public spaces, which in turn can make it harder for people to access confidential medical advice, to give just one example. In the context of democratic backsliding in many countries, these risks are even more grave.

It is important also to note that these risks and threats are usually felt even more intensely by poor, working class, racialised and marginalised communities who already suffer the greatest brunt of over-policing, the most barriers to accessing justice, and are the most subject to automated decision-making in welfare or other social services. Furthermore, many biometric mass surveillance systems are also underpinned by arbitrary and harmful stereotyped categories which reduce human identity into a series of check-boxes which are determined by the developers of the systems, rather than allowing people to identify themselves freely (e.g. based on gender, race/ethnicity or disability) which can be especially harmful for trans or non-binary individuals, racialised people and people with disabilities. Some systems also use people's facial or bodily biometric data to make predictions or judgments about their emotional state or their intentions. The use of automated biometric systems to make these predictions and guesses about people lacks a fundamental ethical and legal justification (and frequently lack a credible scientific basis)/ Similarly, the use of biometric systems in ways that can or will lead to mass surveillance is fundamentally unnecessary and disproportionate and cannot be justified under European or international human rights law.

13. In your opinion, should the development, deployment and use of AI systems that have been proven to violate human rights or undermine democracy or the rule of law be **13bis. Other**	Banned
14. In your opinion, should the development, deployment and use of AI systems that pose high risks with high probability to human rights, democracy and the rule of law be:	Banned
15. In your opinion, should the development, deployment and use of AI systems that pose low risks with high probability to human rights, democracy and the rule of law be:	Regulated (binding law)

16. In your opinion, should the development, deployment and use of AI systems that pose high risks with low probability to human rights, democracy and the rule of law be:	Banned
17. What are the most important legal principles, rights and interests that need to be addressed and therefore justify regulating the development, deployment and use of AI systems?	Freedom of expression, assembly and association;• Non-discrimination;Privacy and data protection;• Explainability;• Possibility to challenge a decision made by an AI system and access to an effective remedy;
18. In your opinion, in what sectors/areas is a binding legal instrument needed to protect human rights, democracy and the rule of law? **18bis. Other**	Justice;Law enforcement;Public administration;
19. Self-regulation by companies is more efficient than government regulation to prevent and mitigate the risk of violations of human rights, democracy and the rule of law.	I completely disagree
20. Self-regulation by companies is sufficient to prevent and mitigate the risk of violations of human rights, democracy and the rule of law	I completely disagree
21. Which of the following instruments of self-regulation do you consider to be the most efficient? **21bis. Other**	Self-regulation is a seriously insufficient basis to protect people's fundamental rights when it comes to uses of AI. Whilst ethics guidelines may be used to complement binding rules, it is critical that developers of high risk and potentially also lower risk AI are subject to mandatory controls and rules without the ability to exercise their own discretion – otherwise the ones profiting from the development and use of AI will be the ones with the power to regulate (or not regulate) it. People, not companies, need to be the centre of AI regulation. Mandatory registration of certain AI systems posing particular risk to fundamental rights may a useful form of self-documentation, but only as a part of a broader regulatory eco-system that includes third party assessment of AI systems before they are put into use.
22. Existing international, regional and/or national binding and/or non-binding legal instruments are sufficient to regulate AI systems in order to ensure the protection of human rights, democracy and the rule of law.	I rather disagree
23. Please provide examples of existing international, regional and/or national (binding and/or non-binding) instruments that in your view are effective in guiding and regulating the design, development and use of AI systems to ensure compatibility with the standards for human	- Convention 108+ - GDPR - Directive 2016/680 - Racial Equality Directive (Directive 2000/43/EC) - Employment Equality Directive (2000/78/EC) - Charter of Fundamental Rights of the European Union - European Convention on Human Rights

rights, democracy and the rule of law	
24. **If you responded disagree/completely disagree to question 22, please indicate why existing international, regional and/or national (binding and/or non-binding) legal instruments are not sufficient to regulate AI systems (select all you agree with):**	• They provide a basis but fail to provide an effective substantive protection of human rights, democracy and the rule of law against the risks posed by AI systems; They do not provide for specific rights (e.g. transparency requirements, redress mechanisms) for persons affected by AI;
25. **Please indicate other specific legal gaps that in your view need to be addressed at the level of the Council of Europe**	We agree with the position of Homo Digitalis that is that it will be important to create a new set of rights in order to deal with the use of AI systems in our societies. One of these rights should be the right to reasoning/explainability of AI systems when the latter are used by public authorities to assist the decision making process (via risk assessment scores etc) or to take decisions by themselves without human intervention. Probably, essential elements of this right could already be found in the right to good administration, i.e. amongst others the duty of a public authority to provide reasoning for its decision making processes. The right to good administration is part of the EU Charter of fundamental rights (Art. 41). However, it is not considered to be a right under the European Convention of Human Rights. That we need to take into consideration the difference of EU and Council of Europe. Nevertheless, the European Court of Human rights has recognized the principle of good governance in its set case law, most notably in the Moskal case of 2009 et seq, where the Court has spelled out an increasing number of requirements that national administrations have to respect when acting under their duties. So, Homo Digitalis' idea is to open a debate and ask CAHAI members whether do we need a right to good administration that fits the digital age at Council of Europe level. Another major gap is the right to non-discrimination, which is primarily limited to a series of limited and defined protected groups. However, in EU and national law, many groups do not enjoy full protection of discrimination law (undocumented people, trans and non-binary people) but also are not always protected on ground such as forms of work (ie. sex work, precarious work) or socio-economic background or financial history. Depending on the particular uses of certain forms of AI, these gaps may have potentially harmful consequences.
26. **Individuals should always be informed when they interact with an AI system in any circumstances.**	I fully agree
27. **Individuals should always be informed when a decision which affects them personally is made by an AI system.**	I fully agree
28. **Individuals should always be informed when an AI system is used in a decision-making process which affects them personally.**	I fully agree
29. **Individuals should have a right to a meaningful explanation of algorithmic based decisions, in**	I fully agree

particular how the algorithm reached its output.	
30. Individuals should always have the right that any decision taken by an AI system in the framework of judicial proceedings are reviewed by a "human" judge.	I fully agree
31. Individuals should have a right to demand the review of an algorithmic based decision by a human being.	I fully agree
32. There should always be a person responsible for reviewing algorithmic based decisions in the public sector and private companies.	I fully agree
33. Public institutions should not use AI systems to promote or discredit a particular way of life or opinion (e.g. "social scoring").	I fully agree
34. States should be obliged to design, develop and apply sustainable AI systems that respect applicable environmental protection standards.	I fully agree
35. The code behind AI systems used in the public and private sectors should always be accessible to the competent public authorities for the purposes of external audit.	I fully agree
36. There should be higher transparency standards for public entities using AI than for private entities.	I rather agree
37. There should be higher standards for access to an effective remedy for individuals in relation to decisions informed and made by an AI system in the field of justice than in the field of consumer protection.	I rather agree
38. Member States should establish public oversight mechanisms for AI systems that may breach legally binding norms in the sphere of human rights, democracy and the rule of law.	I fully agree
39. Errors and flaws discovered in AI systems which have led or could lead to the violation of human rights, democracy and the rule of law must be reported to the competent authorities.	I fully agree
40. The use of facial recognition in public spaces should be prohibited.	I fully agree

41. **The information obtained through the use of facial recognition systems should always be reviewed by a human being before being used for purposes that have an impact on individual freedom, such as in relation to a person boarding an airplane, upon police arrest or in the framework of judicial proceedings.**	I fully agree
42. **The use of AI systems in democratic processes (e.g. elections) should be strictly regulated.**	I fully agree
43. **Should a future legal framework at Council of Europe level include a specific liability regime in relation to AI applications?**	Yes
44. **If yes, what aspects should be covered?**	- Joint liability schemes when more actors are involved. - Burden of proof to the developers/ deployers side and not the user/victim side.
45. **In your opinion, how useful would the following compliance mechanisms be in preventing and mitigating the risks to human rights, democracy and the rule of law arising from the design, development and application of AI?** - **Human rights, democracy and rule of law impact assessments** - **Certification and quality labelling** - **Audits and intersectional audits** - **Regulatory sandboxes** **Continuous automated monitoring**	Highly useful Rather not useful Highly useful Not useful Rather useful
46. **Please indicate what combination of mechanisms should be preferred to efficiently protect human rights, democracy and the rule of law** **46bis. Other**	• Human rights, democracy and rule of law impact assessments ;☐Audits and intersectional audits;Prohibitions ("red lines") on unacceptable use cases; and the inclusion of environmental impact assessments along with human rights, democracy and rule of law ones.;
47. **Please select which mechanism(s) should be part of either a binding instrument or a non-binding instrument to best protect human rights, democracy and the rule of law.** - **Human rights, democracy and rule of law impact assessments** - **Certification and quality labelling**	Binding instrument Binding instrument Binding instrument Non-binding instrument Binding instrument

- **Audits and intersectional audits** - **Regulatory sandboxes** **Continuous automated monitoring**	
47.bis. Other	Prohibitions ("red lines") on unacceptable use cases should be part of a binding instrument, as should environmental impact assessments.
48. In your opinion, how useful would the following follow-up activities be if implemented by the Council of Europe? - **Monitoring of AI legislation and policies in member States** - **Capacity building on Council of Europe instruments, including assistance to facilitate ratification and implementation of relevant Council of Europe instruments** - **AI Observatory for sharing good practices and exchanging information on legal, policy and technological developments related to AI systems** **Establishing a centre of expertise on AI and human rights**	Rather useful Highly useful Rather useful Highly useful
49. What other mechanisms, if any, should be considered?	The inclusion of "environmental impact" in the proposals for scrutiny of the potential harms and costs of the development, use and implementation of AI systems in various contexts.
50. Are there any other issues with respect to the design, development and application of AI systems in the context of human rights, democracy and the rule of law that you wish to bring to the attention of the CAHAI?	Many of the questions in this survey arbitrarily limit the number of options that can be selected, for example the question "Please indicate the types of AI systems that represent the greatest risk to human rights, democracy and the rule of law" allows one to submit only 5 types as a maximum, when in fact most, if not all, of these types pose a high risks to fundamental rights. The same goes for many other questions, for example "in what sectors/areas is a binding legal instrument needed to protect human rights, democracy and the rule of law?" where the respondent is able to choose only three answers – when in fact, regardless of sector, all uses of AI which pose a threat to fundamental rights should be subject to mandatory rules. We would also like to emphasise the intrinsic limitations of any approach that relies on self-regulation. We have already seen the voluntary codes of ethics have not stopped fundamental rights violations as a result of uses of AI. Binding rules for uses of technology that can harm people and society are essential to prevent harms.

	It is also critical that genuine rights to redress and remedy for impacted people are a part of binding legislation. At the core, issues of AI are issues of power. Therefore it is critical that civil society, academics and especially impacted communities are involved in decisions about these technologies. The explicit inclusion of marginalised and affected communities in the development of all AI legislation and policy moving forward must be a key priority. Addressing issues of power and discrimination also means drawing red lines against any use cases that unduly infringe upon people's fundamental rights and freedoms.
Date of submission	5/5/21 17:17:15

European Trade Union Confederation

State (where your institution is based)	Belgium
Institution: Name of the institution/body/company	European Trade Union Confederation
Personal capacity: Your socio-professional category	Higher occupations
Your stakeholder group	Civil society
2. In view of the elaboration of a legal framework on the design, development and application of AI, based on the standards of the Council of Europe on human rights, democracy and the rule of law, what kind of definition of artificial intelligence (AI) should be considered by the CAHAI	No definition, with a legal instrument focused on the effect of AI systems on human rights, de-mocracy and the rule of law
2bis. If "other" please explain below	
3. What are the reasons for your preference?	AI refers to self-learning systems which can take over many human tasks (machine learning). AI is data driven: it is about data, linking data, putting information into a context, knowledge to be applied and reflected upon. Combined with robotics and access to big data, AI technologies form the backbone of the digital economy. They impact the daily life of citizens and have reached the workplaces. As such, the introduction and use of AI are key issues for work and society. In "Artificial intelligence: a game changer for the world of work" (ETUI, 2018), AI is defined as "the level of intelligence such that a machine can carry out most human professions at least as well as a typical human". Also, in "A law on robotics and artificial intelligence in the EU?" it is pointed out another interesting idea around the difficulties and threats of coming along with a definition on AI: "A divergence of scientific opinion led to the definitions

	becoming political compromises, and the negotiations on their revision are still ongoing. We can perhaps learn a useful lesson here: trying to achieve a strict definition and categorisation for regulatory purposes is not always the best option, and the European Parliament should perhaps be careful not to become bogged down in discussions aimed at defining that which is scarcely definable".
4. Please select the areas in which AI systems offer the most promising opportunities for the protection of human rights, democracy and the rule of law	• Employment;
4bis. If other, which areas and why?	
5. Please indicate which of the following AI system applications in your view have the greatest potential to enhance/protect human rights, democracy and the rule of law?	Emotional analysis in the workplace to measure employees' level of engagement;• Recruiting software/ AI applications used for assessing work performance ;
6. Please briefly explain how such applications would benefit human rights, democracy and the rule of law.	Tracking and surveillance technologies are increasingly present in society, which puts workplace privacy and data protection at risk. Workplace surveillance can involve direct, indirect and remote technologies and analytics. They often unduly impact workers and threaten their rights, such as the freedom of association, of expression, non-discrimination and digital freedoms. They also amplify existing inequalities. Surveillance is not, by default, legitimate, necessary or proportionate at the workplace. AI and digital strategies must ensure that labour inspectorates and trade unions are effectively empowered to control the extent and the lawfulness of AI related surveillance technologies. Workplace surveillance can involve direct, indirect and remote technologies and analytics. They often unduly impact workers and threaten their rights, such as the freedom of association, of expression, non-discrimination and digital freedoms. Facial recognition and other remote identification systems are intrusive technologies that can be used in multiple negative ways. The impacts of this technology and its possible risks should be assessed. GDPR states that processing biometric data for the cause of identifying individuals is prohibited, except for specific circumstances. Yet, there are still unsolved dilemmas about their implementation in policing and enforcement. The biggest risk is that facial recognition can create a mass surveillance across the world, increase inequalities exponentially and exacerbate biases. The aspect of how these systems collect and processes personal data, needs to have a deeper discussion in cooperation with social partners. Surveillance, monitoring, and tracking practices are not only intrusive but raise specific concerns about data protection. Related risks including the misuse of these technologies are extremely high, given the economic and financial importance of, and weight given to, data nowadays. Processing workers' data is becoming increasingly complex and given the development of technologies that can analyse not only physical traits and biometric data, but also perform facial recognition and even detect emotions or behaviours. To protect workers from undue surveillance, article 88

	of the GDPR should be revised or the European Data Protection Board should provide guidelines to enlarge its scope.
7. What other applications might contribute significantly to strengthening human rights, democracy and the rule of law?	AI seems to lead to a new era of personal control, revealing new capacities for state surveillance of individuals, in particular when it becomes binding and compulsory by making it part of ordinary law. More substantially, it may also create new cases of discrimination and stigmatisation, via contact tracing or proximity tracing. The trustworthiness and usefulness of these AI algorithms are therefore key and should be addressed to prevent inequalities. The extensive use of AI technologies may also lead to the acceptance of such applications, even when the pandemic crisis is over, to maintain public order or control employees. Therefore, the question of the limitation and control of AI technologies impacting freedom and rights should be addressed.
8. Please select the areas in which the deployment of AI systems poses the highest risk of violating human rights, democracy and the rule of law **8bis. Other**	• Employment;• Welfare;• Justice;
9. Please briefly explain how such applications might violate human rights, democracy and the rule of law.	Unregulated AI technologies at the workplace can lead to disproportionate and undue surveillance at work, discriminatory treatments on the basis of biased algorithms, and abuse of data protection and privacy.
10. Please indicate the types of AI systems that represent the greatest risk to human rights, democracy and the rule of law	☐Emotional analysis in the workplace to measure employees' level of engagement;• Recruiting software/ AI applications used for assessing work performance ;Scoring / scoring of individuals by public entities;
11. Please briefly explain how such applications might violate human rights, democracy and the rule of law.	Unregulated AI technologies at the workplace can lead to disproportionate and undue surveillance at work, discriminatory treatments on the basis of biased algorithms, and abuse of data protection and privacy.
12. What other applications might represent a significant risk to human rights, democracy and the rule of law?	Applications used to allocate tasks at work and to organise schedules.
13. In your opinion, should the development, deployment and use of AI systems that have been proven to violate human rights or undermine democracy or the rule of law be **13bis. Other**	Banned
14. In your opinion, should the development, deployment and use of AI systems that pose high risks with high probability to human rights, democracy and the rule of law be:	Banned
15. In your opinion, should the development, deployment and use of AI systems that pose low risks with high probability to human rights, democracy and the rule of law be:	Regulated (binding law)
16. In your opinion, should the development, deployment and use of AI systems that pose high risks with low probability to human	Regulated (binding law)

rights, democracy and the rule of law be:	
17. What are the most important legal principles, rights and interests that need to be addressed and therefore justify regulating the development, deployment and use of AI systems?	Respect for human dignity;• Non-discrimination;Privacy and data protection;• Possibility to challenge a decision made by an AI system and access to an effective remedy;• Personal integrity ;
18. In your opinion, in what sectors/areas is a binding legal instrument needed to protect human rights, democracy and the rule of law? 18bis. Other	Employment;
19. Self-regulation by companies is more efficient than government regulation to prevent and mitigate the risk of violations of human rights, democracy and the rule of law.	I completely disagree
20. Self-regulation by companies is sufficient to prevent and mitigate the risk of violations of human rights, democracy and the rule of law	I completely disagree
21. Which of the following instruments of self-regulation do you consider to be the most efficient? 21bis. Other	Voluntary guidelines have reduced and fragmented impacts, and their effectiveness is very limited. Codes of conduct are written to guide expected behaviour or to make promises regarding certain values. They are used by private corporations or international organisations as voluntary and self-regulatory instruments,and are therefore not legally binding (Biason 2018). When they are issued by international associations or organisations, they can or cannot be adopted by companies. Evidence shows that their impact is very limited, that companies using them have a limited ability to evaluate their success or implementation and that they are affected by a lack of independent monitoring (Auplat 2012,Jenkins 2001). There are no means to enforce them and the lack of explicit sanctions for non-compliance is a concern (King, A. A., and Lenox, M. J. 2000). Revak (2011) even reports that there has not been any successful lawsuit against private corporations for violations of their codes. Relying o
22. Existing international, regional and/or national binding and/or non-binding legal instruments are sufficient to regulate AI systems in order to ensure the protection of human rights, democracy and the rule of law.	I completely disagree
23. Please provide examples of existing international, regional and/or national (binding and/or non-binding) instruments that in your view are effective in guiding and regulating the design, development and use of AI systems to ensure compatibility with the standards for human	International Standards The first fundamental principle in the 'Declaration of Philadelphia' of the International Labour Organization (ILO), is that "labour is not a commodity". When it comes to AI and data strategies, workers' data and workers' privacy are not a commodity either, such data should not be extracted and processed for business profit or for any other commercial purposes.

rights, democracy and the rule of law	The ILO Centenary Declaration for the future of work adopted by the International Labour Conference at its 108th session, in Geneva, on 21 June 2019, refers in its section III that 'The Conference calls upon all Members, (...) to work individually and collectively, on the basis of tripartism and social dialogue, and with the support of the ILO, to further develop its human-centred approach to the future of work by (…) promoting sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all through policies and measures that ensure appropriate privacy and personal data protection, and respond to challenges and opportunities in the world of work relating to the digital transformation of work.
	Also, at the international level, the OECD has published 'Principles on AI', it specifically calls for workers to be supported for a fair transition.
	European Union
	The Treaty of the European Union foresees that 'everyone has the right to the protection of their personal data. The European Parliament and the Council (…), shall lay down the rules relating to the protection of individuals with regard to the processing of personal data by Union institutions, bodies, offices and agencies, and by the Member States when carrying out activities that fall within the scope of Union law, and the rules relating to the free movement of such data.
	The Charter of fundamental rights of the EU foresees that 'Everyone has the right to the protection of personal data concerning him or her. Such data must be processed fairly for specified purposes and on the basis of the consent of the person concerned or some other legitimate basis laid down by law. Everyone has the right of access to data which has been collected concerning him or her, and the right to have it rectified. Compliance with these rules shall be subject to control by an independent authority'.
	The Fundamental Rights Agency FRA dedicated a large range of its activities to data protection.
	The European Framework Directive on Safety and Health has not been adapted and revised taking into account emerging and new risks pertaining to AI. It is however worth mentioning the general principle provided by the Framework Directive of setting the responsibility on risk prevention on the employer. The General Data Protection Regulation has only one provision referring to processing worker's data at the workplace. ETUC and trade unions have repeatedly requested that these instruments should be adapted according to the reality of the workplaces of today.
	In 2019, the EC issued guidelines on ethics for trustworthy AI, this was elaborated by the High-Level Expert Group on AI, according to which AI should be lawful (i.e. respecting all applicable laws and regulations), ethical (i.e. in line with ethical principles and values, and robust (both from a technical perspective while taking into account its social environment). AI technologies should meet 7 requirements: 1. human dimension and oversight, 2. technical robustness and safety, 3. privacy and data governance, 4. transparency, 5. diversity non-discrimination and fairness, 6.

	environmental and societal well-being and 7. accountability. The 2020 European Social Partners Framework Agreement on digitalisation includes a section on Artificial Intelligence recalling the need for the human-in-control principle, in which there is a commitment to respect and comply with safety and security controls.
24. If you responded disagree/completely disagree to question 22, please indicate why existing international, regional and/or national (binding and/or non-binding) legal instruments are not sufficient to regulate AI systems (select all you agree with):	They do not provide for specific rights (e.g. transparency requirements, redress mechanisms) for persons affected by AI;
25. Please indicate other specific legal gaps that in your view need to be addressed at the level of the Council of Europe	Surveillance, monitoring, and tracking practices, which are not only intrusive but also raise specific concerns about data protection. Risks at work related to the misuse of AI technologies . Safeguards for the right to privacy and the right to data protection Analysis on the human rights impacts of algorithmic systems. Addressing the limitation and control of AI technologies impacting freedom and rights.
26. Individuals should always be informed when they interact with an AI system in any circumstances.	I rather agree
27. Individuals should always be informed when a decision which affects them personally is made by an AI system.	I fully agree
28. Individuals should always be informed when an AI system is used in a decision-making process which affects them personally.	I fully agree
29. Individuals should have a right to a meaningful explanation of algorithmic based decisions, in particular how the algorithm reached its output.	I fully agree
30. Individuals should always have the right that any decision taken by an AI system in the framework of judicial proceedings are reviewed by a "human" judge.	I fully agree
31. Individuals should have a right to demand the review of an algorithmic based decision by a human being.	I fully agree
32. There should always be a person responsible for reviewing algorithmic based decisions in the public sector and private companies.	I fully agree

33. Public institutions should not use AI systems to promote or discredit a particular way of life or opinion (e.g. "social scoring").	I fully agree
34. States should be obliged to design, develop and apply sustainable AI systems that respect applicable environmental protection standards.	I fully agree
35. The code behind AI systems used in the public and private sectors should always be accessible to the competent public authorities for the purposes of external audit.	I fully agree
36. There should be higher transparency standards for public entities using AI than for private entities.	I completely disagree
37. There should be higher standards for access to an effective remedy for individuals in relation to decisions informed and made by an AI system in the field of justice than in the field of consumer protection.	Indifferent/no opinion
38. Member States should establish public oversight mechanisms for AI systems that may breach legally binding norms in the sphere of human rights, democracy and the rule of law.	I fully agree
39. Errors and flaws discovered in AI systems which have led or could lead to the violation of human rights, democracy and the rule of law must be reported to the competent authorities.	I fully agree
40. The use of facial recognition in public spaces should be prohibited.	I fully agree
41. The information obtained through the use of facial recognition systems should always be reviewed by a human being before being used for purposes that have an impact on individual freedom, such as in relation to a person boarding an airplane, upon police arrest or in the framework of judicial proceedings.	I fully agree
42. The use of AI systems in democratic processes (e.g. elections) should be strictly regulated.	I fully agree

43. Should a future legal framework at Council of Europe level include a specific liability regime in relation to AI applications?	Yes
44. If yes, what aspects should be covered?	The framework should provide for rules on business and developers' liability, including the reversal of the burden of proof in favour of workers, to balance the limited access to information to workers. Liability should rest on developers, coders, AI designers and business, and not with AI systems. Liability procedures should address material and non-material damages caused by AI-systems compared to cases without involvement of an AI-system. The liability regim should be applicable for all AI-systems and not only those considered of "high risks".
45. In your opinion, how useful would the following compliance mechanisms be in preventing and mitigating the risks to human rights, democracy and the rule of law arising from the design, development and application of AI? - **Human rights, democracy and rule of law impact assessments** - **Certification and quality labelling** - **Audits and intersectional audits** - **Regulatory sandboxes** **Continuous automated monitoring**	Highly useful Not useful Indifferent/no opinion Not useful Rather not useful
46. Please indicate what combination of mechanisms should be preferred to efficiently protect human rights, democracy and the rule of law **46bis. Other**	• Human rights, democracy and rule of law impact assessments ;• Audits and intersectional audits;Binding legislation;
47. Please select which mechanism(s) should be part of either a binding instrument or a non-binding instrument to best protect human rights, democracy and the rule of law. - **Human rights, democracy and rule of law impact assessments** - **Certification and quality labelling** - **Audits and intersectional audits** - **Regulatory sandboxes** **Continuous automated monitoring**	Binding instrument No opinion No opinion No opinion No opinion
47.bis. Other	Binding legislation to guarantee the application of existing labour legislation (including collective agreements) and the information and consultation of consultations of workers' representatives (trade unions) whenever AI is deployed at company level.

48. In your opinion, how useful would the following follow-up activities be if implemented by the Council of Europe? - **Monitoring of AI legislation and policies in member States** - **Capacity building on Council of Europe instruments, including assistance to facilitate ratification and implementation of relevant Council of Europe instruments** - **AI Observatory for sharing good practices and exchanging information on legal, policy and technological developments related to AI systems** **Establishing a centre of expertise on AI and human rights**	Highly useful Rather useful Rather useful Highly useful
49. What other mechanisms, if any, should be considered?	
50. Are there any other issues with respect to the design, development and application of AI systems in the context of human rights, democracy and the rule of law that you wish to bring to the attention of the CAHAI?	There is little applicable AI legislation in Europe, in general and even less when it comes to the workplace. This will inevitably lead to wide differentiation in terms of protection, with a clear bias for putting on the market AI technologies on the basis of productivity and competitiveness. A legal and empowering European framework for AI based on human rights is needed, including labour and trade union rights and ethical rules. The framework should address the specificity of the workplace, including the bargaining inequality between workers and employers through the strengthening workers' participation in the design, deployment, use and monitoring of AI technology. The principle of 'human remains in control' should apply to workers and managers. Such framework should maintain and reinforce workers' protection, prevent disproportionate and undue surveillance at work, prohibit discriminatory treatments on the basis of biased algorithms, and prevent abuse of data protection and privacy, ensuring compliance and going beyond GDPR and maintaining their privacy when not at work. AI applications affecting workers' rights and working conditions should be classified as high-risk in principle and subject to appropriate regulation.
Date of submission	4/29/21 15:26:33

European Union of Rechtspfleger EUR

State (where your institution is based)	France
Institution: Name of the institution/body/company	European Union of Rechtspfleger EUR
Personal capacity: Your socio-professional category	Higher occupations

Your stakeholder group	Government & public administration
2. In view of the elaboration of a legal framework on the design, development and application of AI, based on the standards of the Council of Europe on human rights, democracy and the rule of law, what kind of definition of artificial intelligence (AI) should be considered by the CAHAI	No definition, with a legal instrument focused on the effect of AI systems on human rights, de-mocracy and the rule of law
2bis. If "other" please explain below	
3. What are the reasons for your preference?	AI has a direct impact on many aspects of society. A single definition would not do it justice. Definitions must be found for all relevant aspects to which society can respond in each case.
4. Please select the areas in which AI systems offer the most promising opportunities for the protection of human rights, democracy and the rule of law	• Election monitoring;Social networks/media, internet intermediaries ;• Healthcare;
4bis. If other, which areas and why?	
5. Please indicate which of the following AI system applications in your view have the greatest potential to enhance/protect human rights, democracy and the rule of law?	• Medical applications for faster and more accurate diagnoses;• AI applications to predict the possible evolution of climate change and/or natural disasters;• AI applications providing support to the healthcare system (triage, treatment delivery);• AI applications determining the allocation of educational services;
6. Please briefly explain how such applications would benefit human rights, democracy and the rule of law.	AI must not be used as an alternative to human decision-making. However, AI can be a support for this decision and independently control automated processes, as long as this control can be evaluated and influenced by humans at any time. Final decisions by AI lead to an inhuman and technocratic society.
7. What other applications might contribute significantly to strengthening human rights, democracy and the rule of law?	AI is able to promote the exchange of human contacts through automated transport systems. This exchange is necessary to avoid conflicts by improving mutual understanding. Similarly, AI is capable of improving electronic communication by adopting intelligent translation systems and data flow controls.
8. Please select the areas in which the deployment of AI systems poses the highest risk of violating human rights, democracy and the rule of law **8bis. Other**	• Justice;• Law enforcement;• Banking, finance and insurance;
9. Please briefly explain how such applications might violate human rights, democracy and the rule of law.	The answer is already give in my pevious statements.
10. Please indicate the types of AI systems that represent the greatest risk to human rights, democracy and the rule of law	Facial recognition supporting law enforcement ;• Emotional analysis in the workplace to measure employees' level of engagement;Scoring / scoring of individuals by public entities;• Automated fraud detection (banking, insurance);• Recruiting software/ AI applications used for assessing work performance ;•

11. Please briefly explain how such applications might violate human rights, democracy and the rule of law.	In all the above-mentioned areas, it is primarily the human evaluation of facts that counts. A purely logical and technical view, however, excludes this aspect. This means that the decisions made by an AI could be inhumane. This means that in these areas AI may only be introduced with sensible rules.
12. What other applications might represent a significant risk to human rights, democracy and the rule of law?	Those, that lead to AI decisions without any human factor.
13. In your opinion, should the development, deployment and use of AI systems that have been proven to violate human rights or undermine democracy or the rule of law be **13bis. Other**	adjusted
14. In your opinion, should the development, deployment and use of AI systems that pose high risks with high probability to human rights, democracy and the rule of law be:	Regulated (binding law)
15. In your opinion, should the development, deployment and use of AI systems that pose low risks with high probability to human rights, democracy and the rule of law be:	Subject to moratorium
16. In your opinion, should the development, deployment and use of AI systems that pose high risks with low probability to human rights, democracy and the rule of law be:	Regulated (binding law)
17. What are the most important legal principles, rights and interests that need to be addressed and therefore justify regulating the development, deployment and use of AI systems?	Respect for human dignity;• Non-discrimination;• Legal certainty;Political pluralism;
18. In your opinion, in what sectors/areas is a binding legal instrument needed to protect human rights, democracy and the rule of law? **18bis. Other**	Justice;Law enforcement;Public administration;
19. Self-regulation by companies is more efficient than government regulation to prevent and mitigate the risk of violations of human rights, democracy and the rule of law.	I completely disagree
20. Self-regulation by companies is sufficient to prevent and mitigate the risk of violations of human rights, democracy and the rule of law	I rather disagree

21. **Which of the following instruments of self-regulation do you consider to be the most efficient?** **21bis. Other**	Ethics guidelines
22. **Existing international, regional and/or national binding and/or non-binding legal instruments are sufficient to regulate AI systems in order to ensure the protection of human rights, democracy and the rule of law.**	I rather disagree
23. **Please provide examples of existing international, regional and/or national (binding and/or non-binding) instruments that in your view are effective in guiding and regulating the design, development and use of AI systems to ensure compatibility with the standards for human rights, democracy and the rule of law**	I don't know any.
24. **If you responded disagree/completely disagree to question 22, please indicate why existing international, regional and/or national (binding and/or non-binding) legal instruments are not sufficient to regulate AI systems (select all you agree with):**	• They provide a basis but fail to provide an effective substantive protection of human rights, democracy and the rule of law against the risks posed by AI systems;• They lack specific principles for the design, development and application of AI systems;There are too many and they are difficult to interpret and apply in the context of AI;
25. **Please indicate other specific legal gaps that in your view need to be addressed at the level of the Council of Europe**	I believe that AI is only now beginning to penetrate the minds of political leaders. Until now, it has been assumed that it is technical automation. The idea that it can replace human decisions is only just becoming conscious. That is why it is necessary to think about legal and ethical rules in all areas of society.
26. **Individuals should always be informed when they interact with an AI system in any circumstances.**	I rather agree
27. **Individuals should always be informed when a decision which affects them personally is made by an AI system.**	I fully agree
28. **Individuals should always be informed when an AI system is used in a decision-making process which affects them personally.**	I rather disagree
29. **Individuals should have a right to a meaningful explanation of algorithmic based decisions, in particular how the algorithm reached its output.**	I rather disagree
30. **Individuals should always have the right that any decision taken by an AI system in the**	I rather agree

framework of judicial proceedings are reviewed by a "human" judge.	
31. Individuals should have a right to demand the review of an algorithmic based decision by a human being.	I fully agree
32. There should always be a person responsible for reviewing algorithmic based decisions in the public sector and private companies.	I fully agree
33. Public institutions should not use AI systems to promote or discredit a particular way of life or opinion (e.g. "social scoring").	I fully agree
34. States should be obliged to design, develop and apply sustainable AI systems that respect applicable environmental protection standards.	I rather agree
35. The code behind AI systems used in the public and private sectors should always be accessible to the competent public authorities for the purposes of external audit.	I rather agree
36. There should be higher transparency standards for public entities using AI than for private entities.	Indifferent/no opinion
37. There should be higher standards for access to an effective remedy for individuals in relation to decisions informed and made by an AI system in the field of justice than in the field of consumer protection.	I rather agree
38. Member States should establish public oversight mechanisms for AI systems that may breach legally binding norms in the sphere of human rights, democracy and the rule of law.	I rather agree
39. Errors and flaws discovered in AI systems which have led or could lead to the violation of human rights, democracy and the rule of law must be reported to the competent authorities.	I rather agree
40. The use of facial recognition in public spaces should be prohibited.	I rather disagree
41. The information obtained through the use of facial recognition systems should always be reviewed by a human being before being used for	I fully agree

purposes that have an impact on individual freedom, such as in relation to a person boarding an airplane, upon police arrest or in the framework of judicial proceedings.	
42. The use of AI systems in democratic processes (e.g. elections) should be strictly regulated.	I fully agree
43. Should a future legal framework at Council of Europe level include a specific liability regime in relation to AI applications?	No opinion
44. If yes, what aspects should be covered?	
45. In your opinion, how useful would the following compliance mechanisms be in preventing and mitigating the risks to human rights, democracy and the rule of law arising from the design, development and application of AI? - **Human rights, democracy and rule of law impact assessments** - **Certification and quality labelling** - **Audits and intersectional audits** - **Regulatory sandboxes** **Continuous automated monitoring**	Indifferent/no opinion Rather useful Indifferent/no opinion Indifferent/no opinion Rather useful
46. Please indicate what combination of mechanisms should be preferred to efficiently protect human rights, democracy and the rule of law **46bis. Other**	Continuous automated monitoring;• Certification and quality labelling;
47. Please select which mechanism(s) should be part of either a binding instrument or a non-binding instrument to best protect human rights, democracy and the rule of law. - **Human rights, democracy and rule of law impact assessments** - **Certification and quality labelling** - **Audits and intersectional audits** - **Regulatory sandboxes** **Continuous automated monitoring**	No opinion Binding instrument No opinion No opinion Non-binding instrument
47.bis. Other	

48. In your opinion, how useful would the following follow-up activities be if implemented by the Council of Europe? - **Monitoring of AI legislation and policies in member States** - **Capacity building on Council of Europe instruments, including assistance to facilitate ratification and implementation of relevant Council of Europe instruments** - **AI Observatory for sharing good practices and exchanging information on legal, policy and technological developments related to AI systems** **Establishing a centre of expertise on AI and human rights**	Rather useful Indifferent/no opinion Rather useful Rather useful
49. What other mechanisms, if any, should be considered?	
50. Are there any other issues with respect to the design, development and application of AI systems in the context of human rights, democracy and the rule of law that you wish to bring to the attention of the CAHAI?	
Date of submission	5/8/21 17:00:13

European Youth Forum

State (where your institution is based)	Brussels
Institution: Name of the institution/body/company	European Youth Forum
Personal capacity: Your socio-professional category	Higher occupations
Your stakeholder group	Civil society
2. In view of the elaboration of a legal framework on the design, development and application of AI, based on the standards of the Council of Europe on human rights, democracy and the rule of law, what kind of definition of artificial intelligence (AI) should be considered by the CAHAI	A definition focusing on automated decision-making

2bis. If "other" please explain below	
3. What are the reasons for your preference?	While this definition has the downside of being quite narrow and thus risks excluding other harmful technologies, it would provide much-needed regulation for the AI systems that have the most significant human rights impacts today. Civil society organisation AlgorithmWatch defines automated decision-making systems ("ADM") as "a socio-technological framework that encompasses a decision-making model, an algorithm that translates this model into computable code, the data this code uses as an input—either to 'learn' from it or to analyse it by applying the model—and the entire political and economic environment surrounding its use. This means that the decision itself to apply an ADM system for a certain purpose—as well as the way it is developed (i.e. by a public sector entity or a commercial company), procured and finally deployed— are parts of this framework.
4. Please select the areas in which AI systems offer the most promising opportunities for the protection of human rights, democracy and the rule of law	• Environment and climate;• Public administration;Social networks/media, internet intermediaries ;
4bis. If other, which areas and why?	Searching and sorting through information (e.g., search engines that use automation to suggest the most relevant information), provided that they prioritise news worthiness, elevate minority and marginalised voices, downgrade mis/disinformation and take measures to mitigate bias in algorithms. As with all AI systems, algorithmic driven search engines often perpetuate biases and stereotypes, disproportionately impacting minority and marginalised groups.
5. Please indicate which of the following AI system applications in your view have the greatest potential to enhance/protect human rights, democracy and the rule of law?	• Medical applications for faster and more accurate diagnoses;• AI applications to predict the possible evolution of climate change and/or natural disasters;• AI applications for personalised media content (recommender systems);• Deep fakes and cheap fakes;• AI applications to promote gender equality (e.g. analytical tools);
6. Please briefly explain how such applications would benefit human rights, democracy and the rule of law.	1) Medical applications for faster and more accurate diagnoses: Provided that the datasets on which these are based include sufficient relevant information on vulnerable and marginalised groups and are not based on a homogeneous group, AI systems can potentially enable faster and more accurate diagnoses. This could in turn allow for more timely and cost-effective access and possible remedy for a wider group of people, thereby increasing access to healthcare. This would not only strengthen the right to health(care) but also democracy, as it could allow for broader access in society. Keeping in mind that those who have the least access to healthcare today are the communities that are already most vulnerable and marginalised, it is important to ensure that these systems equally benefit everyone. 2) AI applications to predict the possible evolution of climate change and/or natural disasters: AI systems could potentially help better understand the effects of current policies on the climate and/or ecosystem. As such, they could potentially contribute to better decision-making related to protecting the climate and mitigating the effects of natural disasters. Keeping in mind that those affected mostly today are the communities that are already most vulnerable and marginalised, it is important to ensure that these systems equally benefit everyone and do not perpetuate or exacerbate inequality. 3) AI applications for personalised media content (recommender

systems): AI-driven systems have the potential to promote human rights by moderating and curating incredibly large amounts of content that is posted daily. Algorithmic content moderation and curation can make the experience more enjoyable for users by dealing with harmful or problematic content that human moderators cannot manage at such a large scale. Unfortunately, the way that AI-driven content moderation is done today often harms users (especially the most vulnerable ones) instead of benefiting them. Indeed, most algorithmic content curation systems are optimised for prolonging online engagement (with the end goal of increasing revenue from targeted advertising), thereby prioritising sensational (and often harmful) content and amplifying powerful voices. Other troubling concerns relate to the limited accuracy of these systems, unjustified impacts on freedom of expression through overly broad content take-downs and silencing minority voices, as well as perpetuating biases and stereotypes ("garbage in, garbage out"). It is extremely difficult (if not impossible) to rightfully grasp and interpret local contexts in which online content is being generated at such large scale. For these systems to be truly beneficial, they must instead be optimised for promoting human rights, rule of law, and democracy (e.g. by amplifying human rights campaigns, minority and marginalised voices, press and media, plurality of views, etc.).

4)Deep fakes and cheap fakes are hard to recognise and deal with for even well trained professionals. The AI could help people understand better what they are seeing and fact check the information.

5) AI applications to promote gender equality (e.g. analytical tools): Provided that safeguards are taken to prevent discriminatory outcomes and that gender is seen as non-binary to include transpersons and gender non-conforming persons, AI applications could potentially promote gender equality via affirmative action in a few narrowly-scoped situations. Data is rarely collected about women and gender non conforming persons – especially women who are BIPOC (black, indigenous and people of colour), migrants or refugees, members of religious minorities, LGBTQ, disabled, or of lower socioeconomic class, among others – yet disaggregated data can be helpful in promoting gender equality.

7. What other applications might contribute significantly to strengthening human rights, democracy and the rule of law?	N/A
8. Please select the areas in which the deployment of AI systems poses the highest risk of violating human rights, democracy and the rule of law **8bis. Other**	• Welfare;• Education;• Employment;
9. Please briefly explain how such applications might violate human rights, democracy and the rule of law.	Welfare: perpetuation of existing age-based discrimination against youth in the welfare system, coupled with other forms of discrimination (eg: being of a certain socio-economic or racial background) without recourse to appeal. Social scoring as a means for selecting who receives what and how much of social welfare might also discriminate against youth, whether due to for example a lack of accumulation of a "high score" before entering into independence/adulthood (such as for example, if a high school is allocated on the basis of number of years of work, or the type of contract - this is problematic given that over 50% of young people in the EU are on temporary contracts and many more are in other

	non-standard forms of work). Furthermore social scoring could be used to retaliate against young people who exert their other human rights (such as freedom of protest or of free speech).
	Education: Besides general considerations around data privacy, the deployment of new technologies in education risks exacerbating the digital divide without adequate policy responses in place for young people from vulnerable and marginalised backgrounds. For example, according to the OECD, 1 in 5 young people from disadvantaged schools do not have access to a computer for schoolwork, which impacted on their right to education during the COVID-19 pandemic. OECD (2020), "Governance for Youth, Trust and Intergenerational Justice: Fit for All Generations?" Available at: https://doi.org/10.1787/c3e5cb8a-en.
	Employment: AI in recruitment risks discriminating against young people who already face the highest levels of unemployment and risk of poverty in the EU and especially against young people from marginalised backgrounds. The digitalisation of the work place is already having significant impacts on youth. The emergence of platform work, primarily taken on by young people, has led to the growth of new non-standard forms of work that often include precarious working conditions such as low wages, no basic rights like paid sick leave, and lack of access to social protection. Other examples include the effects of digital tools on young people's work-life balance. Use of emails, smartphones, instant messaging have blurred the line between our private and personal lives as employees become accessible to employers at any time or place. Young people are more vulnerable to the consequences of constant connectivity and thus new technologies could risk having serious consequences for their mental health and wellbeing. Moreover, the deployment of new monitoring and surveillance technologies in the workplace also raises concerns about the production of data at work, the ownership of this data, and young workers' right to privacy. Technology that tracks the productivity of employees can be used unjustly and violate their rights as well as discriminate against certain groups.
10. Please indicate the types of AI systems that represent the greatest risk to human rights, democracy and the rule of law	Facial recognition supporting law enforcement ;• Recruiting software/ AI applications used for assessing work performance ;AI applications aimed at predicting recidivism ;• AI applications determining the allocation of social services;• AI applications used for analysing the performance of pupils/students in educational institutions such as schools and universities;
11. Please briefly explain how such applications might violate human rights, democracy and the rule of law.	1.Facial recognition supporting law enforcement – Allows for mass surveillance, has highly discriminatory outcomes (especially for women and gender non-conforming persons and BIPOC) and is fundamentally incompatible with human rights. Evidence shows that uses of biometric mass surveillance in Europe have resulted in violations of EU data protection law and unduly restricted people's rights including their privacy, right to free speech, right to protest and not to be discriminated against. The widespread use of biometric surveillance, profiling and prediction is a threat to the rule of law and our most basic freedoms.
	2. Recruiting software/ AI applications used for assessing work performance : AI in recruitment risks discriminating against young people who already face the highest levels of unemployment and risk of poverty in the EU and especially against young people from marginalised backgrounds. Moreover, the deployment of new monitoring and surveillance technologies in the workplace also raises concerns about the production of data at work, the ownership of this data, and young workers' right to privacy. Technology that tracks the productivity of employees can be used

	unjustly and violate their rights as well as discriminate against certain groups (eg: penalising a young person who is less tech-savvy).
	3.AI applications aimed at predicting recidivism can lead to incarceration and limit people's freedom. Given institutional racism and biased AI systems, the use of algorithmic tools in the context of criminal justice risks perpetuating disproportionate harm to BIPOC and other vulnerable groups, including young people.
	4. AI applications determining the allocation of social services – Allocating social services without proper human oversight that looks at particular circumstances of each case can lead to misjudge a person's situation. Such error disproportionately impacts already marginalised persons, especially those of lower socioeconomic class, as access to social services is often necessary for their survival. It is linked to the above-mentioned point on welfare too and how it can disproportionately negatively affect young people.
	5.AI applications used for analysing the performance of pupils/students in educational institutions such as schools and universities - the use of this type of technologies in the UK recently highlights its weaknesses. In this case scores were allocated on the basis of predictions, not actual performance. There is the risk of perpetuation of discrimination against certain groups of children and youth on, for example, the basis that they come from a socio-economic background where education attainment is low, also young people from cultural, ethnical and linguistic minorities.
12. What other applications might represent a significant risk to human rights, democracy and the rule of law?	Autonomous weapons; algorithmic-driven risk assessment tools for criminal justice
13. In your opinion, should the development, deployment and use of AI systems that have been proven to violate human rights or undermine democracy or the rule of law be **13bis. Other**	Banned
14. In your opinion, should the development, deployment and use of AI systems that pose high risks with high probability to human rights, democracy and the rule of law be:	Banned
15. In your opinion, should the development, deployment and use of AI systems that pose low risks with high probability to human rights, democracy and the rule of law be:	No opinion
16. In your opinion, should the development, deployment and use of AI systems that pose high risks with low probability to human rights, democracy and the rule of law be:	No opinion
17. What are the most important legal principles, rights and interests that need to be addressed and therefore justify regulating the development,	Respect for human dignity;Freedom of expression, assembly and association;• Non-discrimination;Privacy and data protection;• Possibility to challenge a decision made by an AI system and access to an effective remedy;

deployment and use of AI systems?	577
18. **In your opinion, in what sectors/areas is a binding legal instrument needed to protect human rights, democracy and the rule of law?** **18bis. Other**	Law enforcement;• Social networks/media, internet intermediaries ;Public administration;
19. **Self-regulation by companies is more efficient than government regulation to prevent and mitigate the risk of violations of human rights, democracy and the rule of law.**	I completely disagree
20. **Self-regulation by companies is sufficient to prevent and mitigate the risk of violations of human rights, democracy and the rule of law**	I completely disagree
21. **Which of the following instruments of self-regulation do you consider to be the most efficient?** **21bis. Other**	Continuous, inclusive, and transparent human rights due diligence
22. **Existing international, regional and/or national binding and/or non-binding legal instruments are sufficient to regulate AI systems in order to ensure the protection of human rights, democracy and the rule of law.**	I rather disagree
23. **Please provide examples of existing international, regional and/or national (binding and/or non-binding) instruments that in your view are effective in guiding and regulating the design, development and use of AI systems to ensure compatibility with the standards for human rights, democracy and the rule of law**	N/A
24. **If you responded disagree/completely disagree to question 22, please indicate why existing international, regional and/or national (binding and/or non-binding) legal instruments are not sufficient to regulate AI systems (select all you agree with):**	• They provide a basis but fail to provide an effective substantive protection of human rights, democracy and the rule of law against the risks posed by AI systems;• They lack specific principles for the design, development and application of AI systems;• They do not provide enough guidance to the designers, developers and deployers of AI systems;They do not provide for specific rights (e.g. transparency requirements, redress mechanisms) for persons affected by AI;
25. **Please indicate other specific legal gaps that in your view need to be addressed at the level of the Council of Europe**	a) Requiring public registers documenting the use of AI systems in public spaces and/or by public authorities. b) Establishing rigorous transparency requirements for AI designers, developers and end users. c) Banning facial recognition and other indiscriminate or arbitrarily-targeted uses of biometrics, which can lead to unlawful mass surveillance; risk assessment tools for criminal justice and

	autonomous weapons. d) Providing a right to refusal of being subjected to an AI system (including the right to opt-out and to have alternative means to access or achieve a given objective). e) Requiring that private sector companies take measures to respect human rights (e.g. mandatory human rights due diligence laws). This is especially important for AI systems as they are mainly designed, developed(and often deployed by private sector companies. e) Requiring to consult public before applying AI systems, especially in the areas where discrimination and human rights violations are more likely to happen.
26. Individuals should always be informed when they interact with an AI system in any circumstances.	I fully agree
27. Individuals should always be informed when a decision which affects them personally is made by an AI system.	I fully agree
28. Individuals should always be informed when an AI system is used in a decision-making process which affects them personally.	I fully agree
29. Individuals should have a right to a meaningful explanation of algorithmic based decisions, in particular how the algorithm reached its output.	I fully agree
30. Individuals should always have the right that any decision taken by an AI system in the framework of judicial proceedings are reviewed by a "human" judge.	I fully agree
31. Individuals should have a right to demand the review of an algorithmic based decision by a human being.	I fully agree
32. There should always be a person responsible for reviewing algorithmic based decisions in the public sector and private companies.	I fully agree
33. Public institutions should not use AI systems to promote or discredit a particular way of life or opinion (e.g. "social scoring").	I fully agree
34. States should be obliged to design, develop and apply sustainable AI systems that respect applicable environmental protection standards.	I fully agree
35. The code behind AI systems used in the public and private sectors should always be accessible to the competent public authorities for the purposes of external audit.	I fully agree

36. **There should be higher transparency standards for public entities using AI than for private entities.**	I fully agree
37. **There should be higher standards for access to an effective remedy for individuals in relation to decisions informed and made by an AI system in the field of justice than in the field of consumer protection.**	I fully agree
38. **Member States should establish public oversight mechanisms for AI systems that may breach legally binding norms in the sphere of human rights, democracy and the rule of law.**	I fully agree
39. **Errors and flaws discovered in AI systems which have led or could lead to the violation of human rights, democracy and the rule of law must be reported to the competent authorities.**	I fully agree
40. **The use of facial recognition in public spaces should be prohibited.**	Indifferent/no opinion
41. **The information obtained through the use of facial recognition systems should always be reviewed by a human being before being used for purposes that have an impact on individual freedom, such as in relation to a person boarding an airplane, upon police arrest or in the framework of judicial proceedings.**	I fully agree
42. **The use of AI systems in democratic processes (e.g. elections) should be strictly regulated.**	I fully agree
43. **Should a future legal framework at Council of Europe level include a specific liability regime in relation to AI applications?**	Yes
44. **If yes, what aspects should be covered?**	a) To the extent possible, restore the victim's situation to the situation preceding any intervention of/by an AI system. b) Provide monetary compensation to victims harmed by AI systems. c) Establish sanctions of AI designers/developers/deployers for the harm caused by using the AI system. Sanctions should include the prohibition of further deploying the AI system unless significant changes are made to ensure that the design and/or use of the AI system is rights-respecting. d) Establish sanctions of AI designers/developers/deployers for the failure to conduct thorough human rights due diligence before and during the use of an AI system, or for failure to effectively monitor the use of the AI system.

	e) Sanctions of AI designers/developers/deployers for deploying an AI system that has been banned.
45. In your opinion, how useful would the following compliance mechanisms be in preventing and mitigating the risks to human rights, democracy and the rule of law arising from the design, development and application of AI? - **Human rights, democracy and rule of law impact assessments** - **Certification and quality labelling** - **Audits and intersectional audits** - **Regulatory sandboxes** **Continuous automated monitoring**	Highly useful Rather useful Highly useful Highly useful Highly useful
46. Please indicate what combination of mechanisms should be preferred to efficiently protect human rights, democracy and the rule of law **46bis. Other**	• Human rights, democracy and rule of law impact assessments ;• Audits and intersectional audits;Continuous automated monitoring;
47. Please select which mechanism(s) should be part of either a binding instrument or a non-binding instrument to best protect human rights, democracy and the rule of law. - **Human rights, democracy and rule of law impact assessments** - **Certification and quality labelling** - **Audits and intersectional audits** - **Regulatory sandboxes** **Continuous automated monitoring**	Binding instrument No opinion Binding instrument Binding instrument Binding instrument
47.bis. Other	
48. In your opinion, how useful would the following follow-up activities be if implemented by the Council of Europe? - **Monitoring of AI legislation and policies in member States** - **Capacity building on Council of Europe instruments, including assistance to facilitate ratification and implementation of relevant Council of Europe instruments** - **AI Observatory for sharing good practices and**	Highly useful Highly useful Rather useful Highly useful

exchanging information on legal, policy and technological developments related to AI systems **Establishing a centre of expertise on AI and human rights**	581
49. What other mechanisms, if any, should be considered?	Create a platform or forum providing the opportunity to effectively engage external stakeholders, especially civil society organisations and marginalised groups. E.g. digitalisation and AI specifically will significantly impact the lives of young people but most youth organisations who are representing young people's opinions and fight for their rights have no capacity yet to engage in these topics. Importantly, provide them with the tools, training, resources, and information necessary to meaningfully participate in AI governance and AI accountability.
50. Are there any other issues with respect to the design, development and application of AI systems in the context of human rights, democracy and the rule of law that you wish to bring to the attention of the CAHAI?	Proactively ensure inclusion of civil society (especially under-represented groups like young people) throughout the process cycle. Establish feedback mechanisms and shared decision making processes to ensure participatory mechanisms. This should be a (binding) legal obligation.
Date of submission	5/6/21 16:44:05

Letter addressed by the European Commission

EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR COMMUNICATIONS NETWORKS, CONTENT AND TECHNOLOGY
Directorate A: Artificial Intelligence and Digital Industry
The Director

DIRECTORATE-GENERAL JUSTICE AND CONSUMERS
Directorate C: Fundamental rights and rule of law
The Director

Brussels, 6 May 2021

Dear Ms Claudia Luciani and Mr Jan Kleijssen,

The European Commission is pleased to contribute to the ongoing multi-stakeholder consultation on the main elements of a possible future Council of Europe legal framework on artificial intelligence (AI) to protect human rights, democracy and the rule of law.

To promote the development of AI and address the potential risks it poses to safety and fundamental rights, the Commission adopted on 21 April an ambitious package with the overall objective to ensure that AI is human-centric and trustworthy. The package is the result of 3 years of intense preparatory work and includes an overarching Communication[1] setting out the broader context and vision towards a common European approach to AI, a proposal for a regulatory framework laying down harmonised rules on AI[2] and a revised Coordinated plan on AI, which puts forward a set of concrete joint actions for the Commission and the EU Member States on how to achieve global leadership on trustworthy AI[3].

The Commission's proposal for a regulatory framework on AI represents a key milestone towards protecting safety and fundamental rights and hence ensuring trust in the development and uptake of AI, in a way that is compliant with the fundamental rights and EU values and which are fully consistent with the Council of Europe legal instruments. The proposal addresses many issues that are relevant for the ongoing deliberations taking place in the Council of Europe Ad Hoc Committee on AI (CAHAI), including the definition of AI systems, the risk-based approach, the concrete requirements and obligations applicable to the design, development and use of AI systems across the full AI value chain as well as a compliance mechanism for the enforcement of the new rules. The proposed draft regulation also lays down a ban on a limited set of uses of AI that contravene EU values or violate fundamental rights. The proposed rules are filling gaps in the existing Union acquis and are in full consistency with the existing legislation on fundamental rights, data protection, product safety and services. The reasons underlying all policy choices made in the proposal (including as regards discarded alternatives)

---

[1] Commission Communication, 'Fostering a European approach to Artificial Intelligence', COM(2021)205 final.

[2] Commission Proposal for a Regulation of the European Parliament and of the Council laying down harmonised rules on Artificial Intelligence (Artificial Intelligence Act) and amending certain Union legislative acts, COM(2021)206 final.

[3] Commission Communication 'Coordinated Plan on Artificial Intelligence', COM(2018)795 final.

and the expected impacts are explained in detail in the Impact Assessment accompanying the proposal[4].

The proposal sets out the current position of the Commission on the issues at stake, thus launching the EU legislative process for the adoption of the first ever comprehensive regulation on Artificial Intelligence in the EU and globally. While the final text of the regulation will be subject to further changes to be agreed by the European Parliament and the Council of the EU in their capacity as co-legislators, the content of the proposal can provide valuable input to the ongoing stakeholder consultation and deliberations in CAHAI on preparing the first international instrument on AI.

The Commission remains fully committed to actively participate in this process and cooperate with the Council of Europe and CAHAI Secretariat with a view to ensuring full consistency between these two parallel processes and to working for a successful adoption of these novel legal acts that are of key importance for reaping the benefits of the AI technology in full compliance with our shared values.

Yours faithfully,

Electronically signed   Electronically signed

Lucilla SIOLI   Emmanuel CRABIT
Director in charge of   Director in charge of
Artificial Intelligence and Digital Industry   Fundamental Rights and Rule of Law
DG CONNECT. A   DG JUST. C

---

[4] Commission Staff Working Document Impact Assessment Accompanying the Proposal for a Regulation of the European Parliament and of the Council laying down harmonised rules on Artificial Intelligence (Artificial Intelligence Act) and amending certain Union legislative, SWD(2021)84 final.