

HUMAN RIGHTS,
DEMOCRACY
AND THE RULE OF LAW

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

DROITS DE L'HOMME,
DÉMOCRATIE
ET ÉTAT DE DROIT

Digital Partnership

Workshop with Digital
Companies and their
Associations, Strasbourg

Presentation
21 May 2024

New Technologies and AI

Council of Europe Convention on Artificial Intelligence
Global Instrument for AI governance

Patrick Penninckx
Head of the Digital Development and Governance Department



Europe's largest intergovernmental organisation

- **46 member States** and 5 observer States (Canada, the Holy See, Japan, Mexico and the USA)
- It has successfully developed a rights protection system, the best-known mechanism of which is the **European Court of Human Rights**. The Court was established under the **European Convention on Human Rights** which has been ratified by all the member states of the Council of Europe.
- Has produced pioneering **global legally binding standards** involving complex technological issues, such as the **protection of personal data, bioethics, cybercrime, and now also artificial intelligence**, reconciling innovation and human rights protection.

Marija Pejčinović Burić
Secretary General of the Council of Europe

European Convention on Human Rights

(1950, Convention for the Protection of Human Rights and Fundamental Freedoms and its Protocols)

Convention 108+

(1981, Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data, as amended and its Protocols)

Oviedo Convention

(1997, Convention for the Protection of Human Rights and Dignity of the Human Being with regards to the Application of Biology and Medicine and its Protocols)

Budapest Convention

(2001, Convention on Cybercrime)





the *ad hoc* Committee on Artificial Intelligence (CAHAI) fulfilled its mandate (2019-2021):

- Examined, on the basis of broad multi-stakeholder consultations, the **feasibility** and **potential elements** of a legal framework for the activities of artificial intelligence systems, based on the Council of Europe's standards on human rights, democracy and the rule of law

succeeded by the Committee on Artificial Intelligence (2022-2024):

- which has negotiated the Council of Europe's **Framework Convention on AI, and Human Rights, Democracy and the Rule of Law**
- Is currently working on the **Methodology for the risk and impact management of AI systems from the point of view of human rights, democracy and the rule of law** (HUDERIA)

Heads of State and Government expressly committed to:

*“ensuring **a leading role for the Council of Europe** in developing standards in the digital era to safeguard human rights online and offline, including by finalising, as a priority, **the Council of Europe’s Framework Convention on Artificial Intelligence**”*

REYKJAVÍK
SUMMIT
Council of Europe



SOMMET DE
REYKJAVÍK
Conseil de l'Europe

Council of Europe Summit

Reykjavik, 16-17 May 2023

Global character of the Framework Convention

- The CoE Framework Convention is **open to non-member States**
- In addition to the EU, all Observer States (**Canada, Japan, the Holy See, Mexico and the United States of America**) and a number of important non-member States (**Australia, Argentina, Costa Rica, Israel, Peru and Uruguay**), **actively and constructively participated** in the negotiations in the CAI



Participation of civil society and industry representatives in the CAI

- **multi-stakeholder involvement** in negotiating Council of Europe's treaties is part of its practice
- Both CAHAI and CAI processes saw **extensive involvement** of civil society, academia and industry representatives

68 non-state observers from civil society, private business, and academia

Global Partnership on
Artificial Intelligence (GPAI)
Access Now
AI Transparency Institute
Algorithm watch Platform
ALLAI
Centre for AI and Digital Policies (CAIDP)
Council of Bars and Law Societies of Europe
(CCBE)
European Association of Data Protection
Professionals (EADPP)
European Expertise & Expert Institute (EEEI)
Homo Digitalis
Human Rights Watch
International Bar Association (IBA)
International Chamber of Commerce (ICC)
International Research Centre on Artificial
Intelligence (IRCAI)
MediaLaws
National Institute for Research in
Digital Science and Technology (INRIA)

The Future Society
Istanbul Bar Association
Information and Technology Commission
and AI Working Group
Global Partners Digital (GPD)
Law Society of Ireland (Law Society)
VDE
Association for Electrical, Electronic &
Information Technologies
Partnership on AI
5Rights Foundation
European Consumer Organisation (BEUC)
Fair Trials
Equinet
The Future Society
World Federalist Movement /
Institute of Global Policy
Pour Demain
ETUC

Council of Europe partner digital companies

Apple, AT&T,
BT, Cloudflare
Computer & Communication
Industry Association (CCIA)
Deutsche Telekom
DigitalEurope
Element AI (SalesForce)
EUROISPA
European Digital SME Alliance
European Telecommunication Network
Operators' Association (ETNO)
Global Network Initiative (GNI)
Google, GSMA, IBM,
ICCO, IEEE, INTEL,
ISOC, META, Microsoft
Orange, RIPE NCC,
Telefonica



Achieving impact through intergovernmental co-operation
on artificial intelligence

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Council of Europe

European Commission

FRA
EUROPEAN UNION AGENCY
FOR FUNDAMENTAL RIGHTS

European Union Agency for
Fundamental Rights

IDB
Inter-American
Development Bank

Inter-American
Development Bank

OECD and OECD.AI

UNITED NATIONS

United Nations

UNESCO

WORLD BANK
GROUP

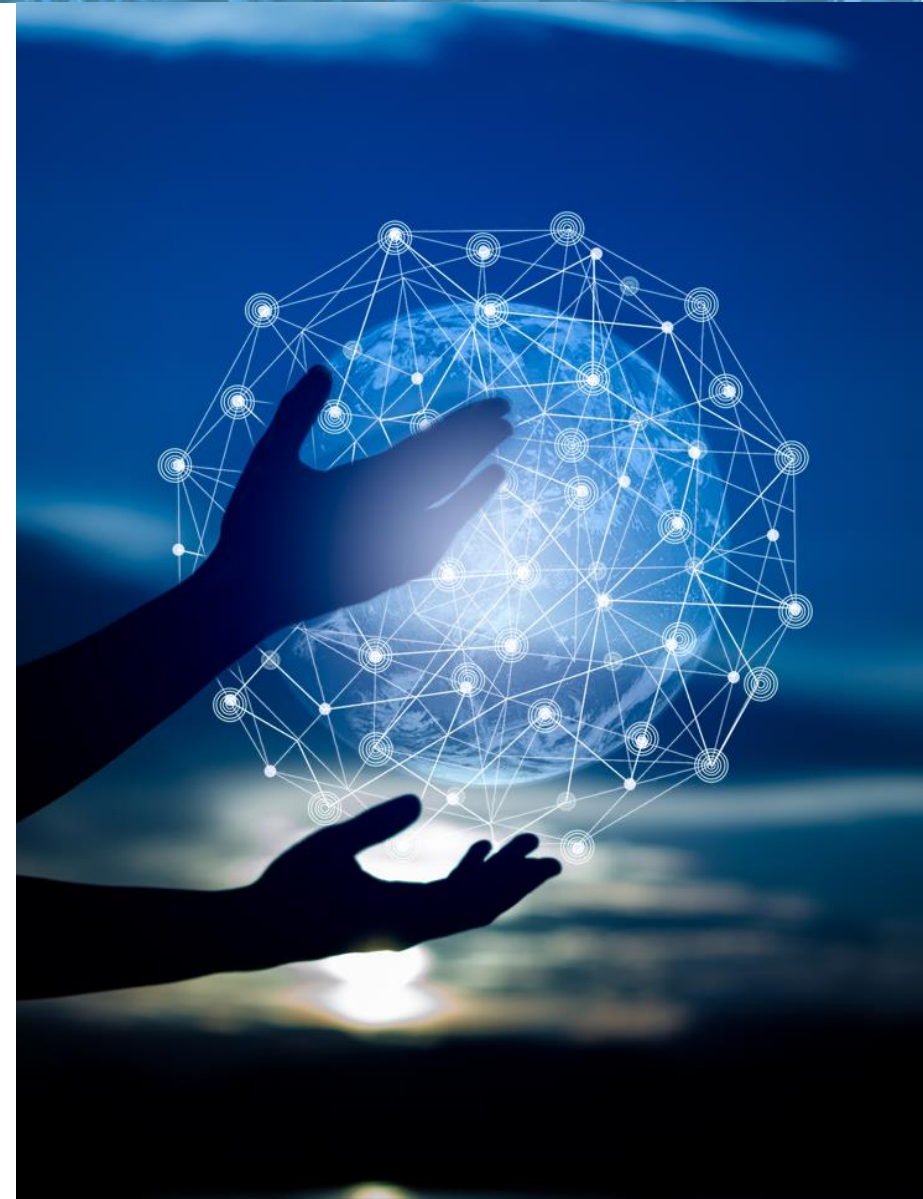
World Bank Group

General points

- Following the **unanimous adoption** in the Committee on Artificial Intelligence on 14 March 2024 and the **consultation of the Parliamentary Assembly**, the Framework Convention was adopted at the ministerial session of the Committee of Ministers on 17 May 2024.
- The CoE Framework Convention formulates fundamental principles and rules which not only **safeguard human rights, democracy and the rule of law** but at the same time are **conducive to progress and technological innovations**.

General points

- The CoE Framework Convention is complementary to **the already existing international human rights, democracy and rule of law standards** and aims at filling-in any legal gaps that may have formed as a result of rapid technological advances in the sphere of **human rights law** but also with regards to **the protection of democracy**.
- The CoE Framework Convention, given the high level at which it is operating and in order to remain **future-proof**, does not regulate technology and is essentially **technology neutral**.





Scope of the Convention

- The CoE Framework Convention applies to both **public and private sectors**.
- Limited exemptions from the scope are foreseen as regards **national security** and **research and development**.
- In line with the Statute of the CoE, matters relating to **national defence** do not fall within the scope of the Convention.

Definition of an AI system

- Article 2 of the CoE Framework Convention contains a **definition of an AI system**.
- In order to prevent the proliferation of many different definitions at global level, and with a view to **facilitating international co-operation** and **harmonising the relevant terminology**, the Drafters decided to use for the purpose of the Framework Convention the OECD's definition (as revised and adopted on 8 November 2023):

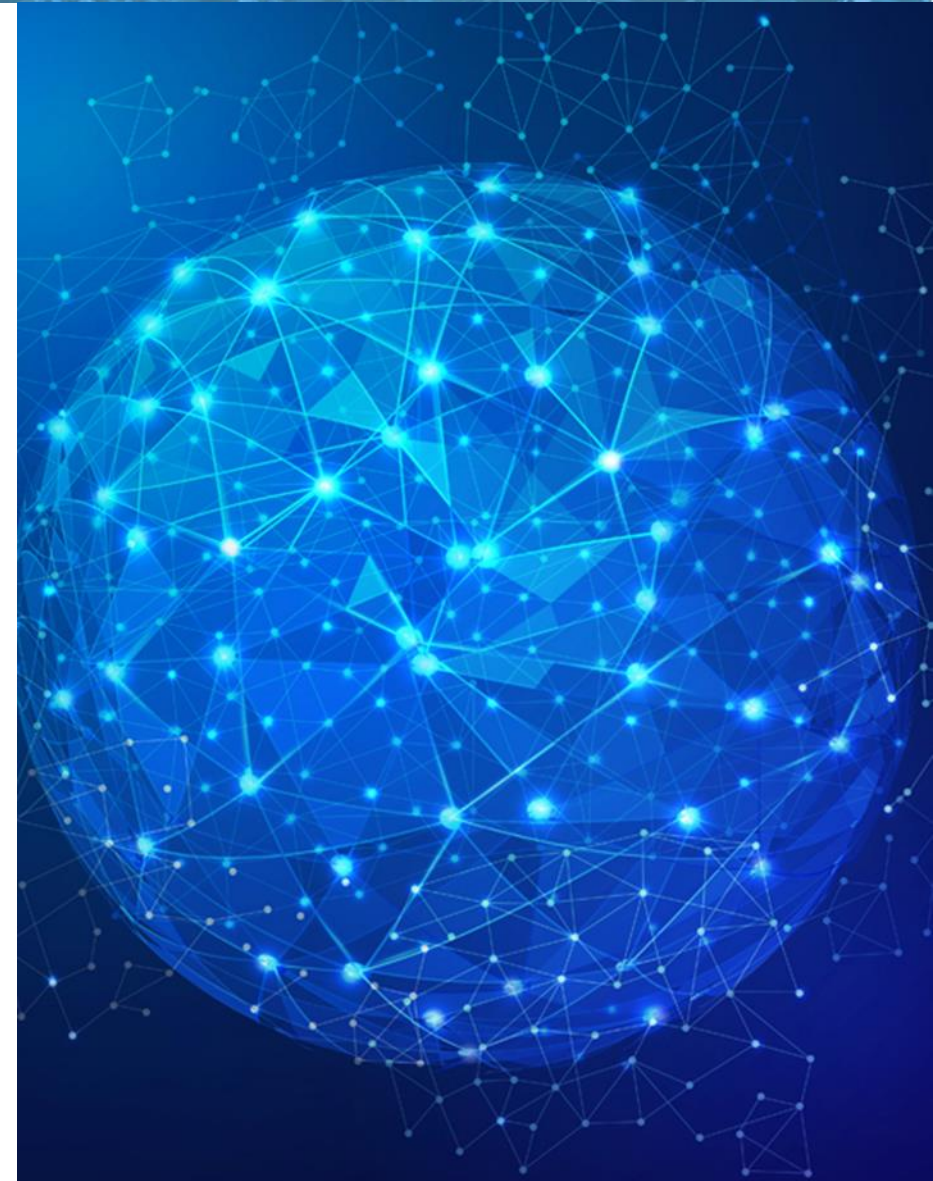
“artificial intelligence system” means a machine-based system that for explicit or implicit objectives, infers, from the input it receives, how to generate outputs such as predictions, content, recommendations or decisions that may influence physical or virtual environments. Different artificial intelligence systems vary in their levels of autonomy and adaptiveness after deployment

Fundamental principles

- The CoE Framework Convention requires activities within the lifecycle of AI systems to comply with certain fundamental principles. These are the principles of **human dignity and individual autonomy, equality and non-discrimination** as well as the principles of **protection of privacy** and **personal data protection**.
- In addition, the Framework Convention also requires compliance with the principles of **transparency and oversight, accountability and responsibility**, the principle of **safe innovation** and the principle of **reliability**.

Remedies, procedural rights and safeguards

- 1) The obligation **to document** the relevant **information regarding AI system** and the relevant **information regarding its usage** and to make it **available to affected persons**,
- 2) Such information should be **sufficient to contest the decision(s)** made or substantially based on the use of the AI system and **the use of the system** itself,
- 3) **Effective possibility** to lodge a complaint to competent authorities.



Remedies, procedural rights and safeguards

- 4) The obligation to **provide effective procedural guarantees, safeguards and rights** to affected persons in connection with the application of an artificial intelligence system where an artificial intelligence system significantly impacts upon the enjoyment of human rights and fundamental freedoms,
- 5) The **provision of notice** that one is interacting with an artificial intelligence system.



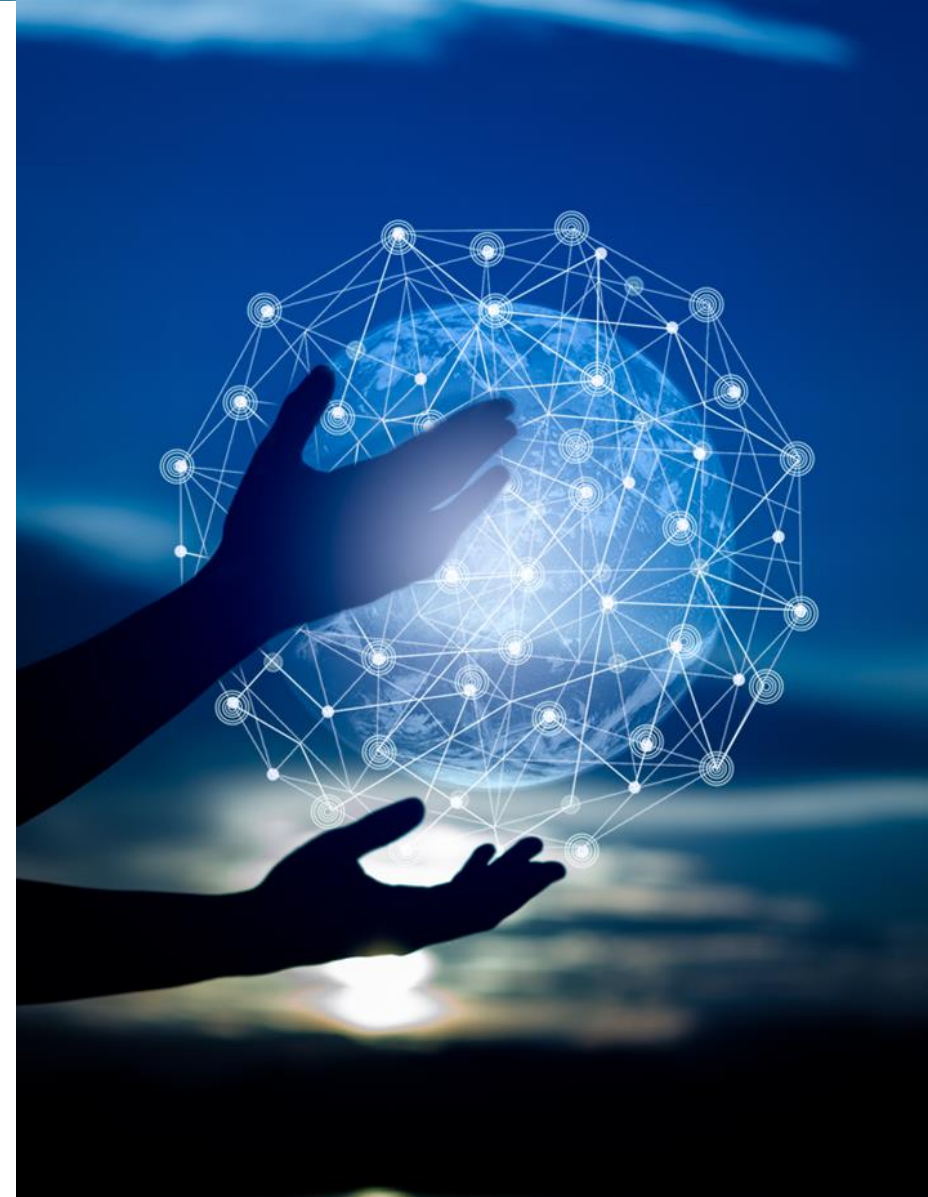


Risk and Impact Management Requirements

- Critical and crucial element of the governance of AI systems
- Obligation for relevant AI actors to carry out **Risk and Impact Assessments** in respect of actual and potential impacts on Human Rights, Democracy and the Rule of Law
- Relevant **assessments** should be carried **iteratively**

Risk and Impact Management Requirements

- Obligation to apply **sufficient preventive and mitigation measures** resulting from the application of the above **assessments**.
- Possibility for the authorities to **introduce bans or moratoria on certain application of AI systems** (so-called “red lines”).
- The CAI is working on a **Human Rights, Democracy and the Rule of Law Risk and Impact Assessment (HUDERIA)**, a stand-alone and non-binding instrument supporting the Framework Convention with **detailed guidance on risk and impact management issues**.



The AI Act and the CoE Framework Convention: complementarity

- The EU has recently adopted **a regulation laying down harmonised rules** on the placing of the market, putting into service and use of AI systems in the Union (“the AI Act”)
- The AI Act and the CoE Framework Convention are **complementary** instruments – one **replacing domestic legislation in the EU Member States** with directly applicable EU law, the other **addressing intergovernmental cooperation** on how to regulate the activities within the lifecycle of AI systems in relation to human rights, democracy and the rule of law
- The EU was one of the **major participants** in the negotiations of the Framework Convention representing its 27 member states and negotiating on their behalf

Next steps and relevance for the Digital Partnership

- The Framework Convention was **adopted** at the ministerial session of the Committee of Ministers on 17 May 2024 in Strasbourg and will be **opened for signature** on 5 September 2024 in Vilnius, Lithuania.
- Work on AI and other new and emerging digital technologies will continue across the various sectors of the Council of Europe.
- Interaction and cooperation with Partners will involve AI-related topics.



Thanks for your
attention !



further resources:

www.coe.int/internetgovernance

www.coe.int/dataprotection

www.coe.int/cybercrime

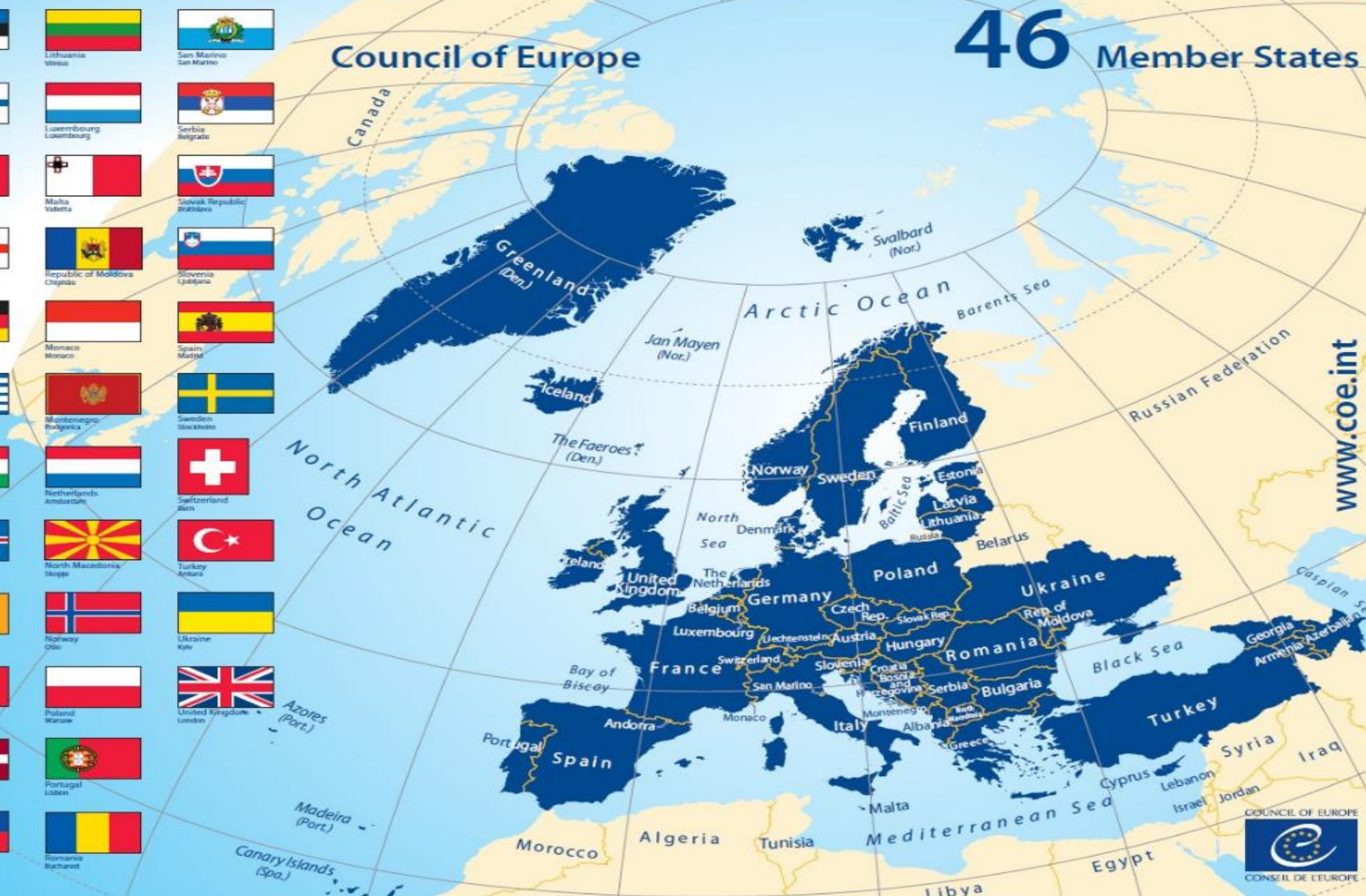
www.coe.int/AI

Facebook and X

CoE Digital Governance

46 Member States

Council of Europe



www.coe.int

