

Committee of experts on human rights dimensions of automated data processing and different forms of artificial intelligence (MSI-AUT)



**MSI-AUT(2019)08
22 March 2019**

3rd meeting, 18-19 March 2019, Strasbourg

MEETING REPORT

1. The meeting was opened by Luukas Ilves, the Chair of the MSI-AUT. Patrick Penninckx, Head of Information Society Department, welcomed members and participants and thanked them for having prepared the Declaration on the manipulative capabilities of algorithmic processes, which was swiftly and without change adopted by the Committee of Ministers and which is taken up widely both internally and externally. In his address to the Committee, Jan Kleijssen, Council of Europe Director of the Information Society – Action against Crime Directorate, reiterated the priority attention paid by the Council of Europe to the human rights dimensions of emerging technologies and AI as a transversal issue, thanked the Expert Committee for its contribution to the very successful Helsinki AI Conference ‘Governing the Game Changer’, and provided an overview of forthcoming activities of the Council of Europe related to AI development and governance.

2. The agenda (Appendix I) was adopted without change. According to the list of participants (Appendix II), of the 26 members and participants, there were 10 women (38 %) and 16 men (62%).

Conclusions and decisions

3. With respect to the draft Committee of Ministers recommendation on the human rights impacts of algorithmic systems, the MSI-AUT welcomed the revised version as prepared by the two co-rapporteurs, Pierluigi Perri and Joe McNamee. Attention was drawn to the importance of being clear and succinct in the main messages to avoid room for misinterpretation. The preamble should clarify the scope of the document as focused not only on machine learning but also other automated processes and decisions, and addressing human rights impacts in relation to the specific context, purpose, functionality and scale of use of an algorithmic system. Chapter A of the guidelines, containing the state obligations vis-à-vis the human rights impacts of algorithmic systems, should clearly indicate what action states should take with respect to the systems they design, develop and deploy themselves, or those that they procure, and what positive obligations they have towards the establishment of a legislative framework that prevents human rights violations and enhances human rights compliance, including by private actors. The chapters on data quality should more clearly differentiate between data protection principles and issues related to data quality. Both chapters, respectively on state obligations and private actor responsibilities, should be cross-checked to ensure consistency.

4. With respect to the draft study of the implications of advanced digital technologies (including AI systems) for the concept of responsibility within a human rights framework, the MSI-AUT embraced the draft executive summary and conclusions prepared by the rapporteur, Karen Yeung, and underlined the importance of providing a succinct and reader-friendly summary report, which would most likely be most read and consulted, particularly by policy makers. The group therefore suggested transferring some more detail and argument from the main report into the summary, such as on why the text focuses on 'harms, wrongs and violations', on the various models of responsibility allocation that may be identified, and about the issue of scale. The proposals for action contained in Appendix A should be as concrete as possible to resonate with policy makers, and should be consistent with the overall approach taken in the draft recommendation. It should be clear that the main goal is a reinvigoration of the human rights protection system, rather than an overhaul. Due to its non-normative and independent expert nature, however, the study may well go further than the draft recommendation and draw attention to possible future challenges that are not yet addressed. The study should be finalised and submitted to the CDMSI for discussion and approval at its next plenary in early June.

5. As regards the draft study on forms of liability and jurisdictional issues in the application of civil and administrative defamation laws in Council of Europe member states, the group welcomed the revised chapters 2 and 3 of the draft as prepared by Emeric Prevost in his capacity as external consultant, which constitute the main substantive part of the study. It was suggested to explain the slightly derogatory terminology of 'libel tourism' at the beginning of the text to ensure that the legitimacy of choice in jurisdiction is adequately reflected. It should further be made clearer in the text under what circumstances a change of jurisdiction may result in a human rights issue, using examples from as many member states as possible. The idea was welcomed to integrate the good practices chapter into the conclusions contained in chapters 2 and 3. The study should be finalised and submitted to the CDMSI for discussion and approval at its next plenary in early June.

Any other business

6. The MSI-AUT agreed to hold its fourth and final meeting in Strasbourg on 23-24 September 2019 and to continue to invite other partners and stakeholders to its meetings in line with its terms of reference.

7. In line with established practice, the Secretariat will prepare a draft meeting report to be sent to the Chair and Vice-Chair for consideration. Thereafter, the Secretariat will send the draft report to the MSI-AUT, allowing for comments within five full working days. In the absence of comments the report will be deemed finalised and will be transmitted to the CDMSI for information. The progress of work of the MSI-AUT will be reflected in its draft documents and the reports of its meetings. Therefore, it is not considered necessary to produce abridged reports of meetings.

APPENDIX I

AGENDA OF THE THIRD MEETING

1. Opening of the meeting
2. Welcoming remarks by Jan Kleijssen, Director, Information Society - Action against Crime Directorate, Directorate General Human Rights and Rule of Law
3. Adoption of the agenda
4. Information by the Secretariat
5. Presentation and discussion of the revised draft recommendation on the human rights impacts of algorithmic systems
6. Discussion and finalisation of the revised draft study of the implications of advanced digital technologies (including AI systems) for the concept of responsibility within a human rights framework
7. Discussion and finalisation of the draft study on forms of liability and jurisdictional issues in the application of civil and administrative defamation laws in Council of Europe member states
8. Dates of next meeting
10. Other business

APPENDIX II

LIST OF PARTICIPANTS / LISTE DES PARTICIPANTS

**Committee of experts on human rights dimensions of automated data processing
and different forms of artificial (MSI-AUT)**

***Comité d'experts sur les dimensions des droits de l'homme dans le traitement des
données et les différentes formes d'intelligence artificielle (MSI-AUT)***

www.coe.int/msi-aut
www.coe.int/AI

3rd meeting, 18 – 19 March 2019
Council of Europe, Strasbourg

3^{ème} réunion, 18 – 19 mars 2019
Conseil de l'Europe, Strasbourg

18/03/2019

List of participants / Liste des participants

COMMITTEE MEMBERS / MEMBRES DU COMITE

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Professor of Informatics – University of Zurich - Head, Dynamic and Distributed Information Systems Group

Professeur d'informatique - Université de Zurich. Chef, Groupe des systèmes d'information dynamiques et distribués

Jorge CANCIO

International Relations Specialist, Federal Office of Communications (OFCOM) – Switzerland
Spécialiste en relations internationales, Office fédéral de la communication (OFCOM) – Suisse

Luciano FLORIDI

Professor of Philosophy and Ethics of Information – Oxford University - Director of the Digital Ethics Lab of the Oxford Internet Institute - Apologised

Professeur de philosophie et d'éthique de l'information - Université d'Oxford. Directeur du Laboratoire d'éthique numérique (Oxford Internet Institute) – Excusé

Seda GÜRSES

Post-doctoral Fellow at the Centre for Computer Security and Industrial Cryptography COSIC/ESAT, Department of Electrical Engineering – Catholic University of Leuven - Apologised

Chercheuse postdoctorale au Centre de sécurité informatique et de cryptographie industrielle COSIC/ESAT, Département de génie électrique, Université catholique de Louvain - Excusée

Gabrielle GUILLEMIN

Senior Legal Officer – ARTICLE 19 - Apologised

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Natali HELBERGER

Professor of Information Law, University of Amsterdam – The Netherlands - Apologised
Professeur de droit de l'information, Université d'Amsterdam - Pays-Bas - Excusée

Luukas ILVES

Chair of MSI-AUT, Deputy Director and Senior Fellow – Lisbon Council – Estonia
Président du MSI-AUT, Directeur adjoint et maître de recherche - Conseil de Lisbonne - Estonie

Tanja KERŠEVAN SMOKVINA

Gender Equality rapporteur of MSI-AUT, Visiting Lecturer, Faculty of Electrical Engineering and Computer Science, University of Maribor. Senior Consultant at the Media Governance Institute – Slovenia - Apologised

Rapporteur sur l'égalité de genre du MSI-AUT, Conférencière invitée, Faculté de génie électrique et informatique, Université de Maribor. Consultant senior à l'Institut de gouvernance des médias - Slovénie - Excusée

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Consultant, Co-Rapporteur pour le projet de recommandation sur les systèmes algorithmiques - Irlande

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