

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

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

**MSI-AUT(2018)08  
17 October 2018**

**2nd meeting, 18-19 September 2018, Strasbourg**

## **MEETING REPORT**

1. The meeting was opened by Luukas Ilves, the Chair of the MSI-AUT. Jan Kleijssen, Council of Europe Director of the Information Society – Action against Crime Directorate, welcomed members and participants and underlined the priority attention paid by the Council of Europe to the human rights dimensions of emerging technologies and AI as a transversal issue, including within the on-going reform process. He further provided information about various activities within the organisation related to AI developments, in particular the preparation of a high-level Conference on the impacts of AI on human rights, democracy and the rule of law in Helsinki in February 2019, and about the role of the Council of Europe as observer to the EU High Level Working Group on AI, represented by Jan Kleijssen.

2. The agenda (Appendix I) was adopted without change. According to the list of participants (Appendix II), of the 30 members and participants, there were 16 women (53 %) and 14 men (47%).

### **Conclusions and decisions**

3. With respect to the draft Committee of Ministers recommendation on human rights impacts of algorithmic systems, the MSI-AUT welcomed the first version as prepared by Julia Powles in her capacity as external consultant – following the unexpected unavailability of the appointed rapporteur. Members and participants reiterated their view that the overall approach of the recommendation should be innovation-neutral, while drawing attention to the specific risks for human rights stemming from algorithmic systems and providing guidance to member states on how to minimise those risks and maximise societal benefits. They further agreed to clarify the political and legal context as well as the purpose of the draft recommendation in the Preamble and to consolidate all normative language in the guidelines. Guidelines should be restructured to differentiate more clearly between the negative and positive obligations of member states on the one hand, and the corporate social responsibility of private sector entities on the other, drawing from existing experiences (including the FAT principles) with voluntary commitments and self-regulatory approaches. It was further decided to insert new chapters on data analysis and modeling practices in both parts of the Guidelines. Given the broad terms of reference, the Committee considered it not appropriate to elaborate in more detail on specific sectors but suggested to

refer to particularly relevant fields, including the freedom of expression and algorithmic applications in the media sector, to exemplify cross-cutting issues.

4. With respect to the draft declaration on the manipulative capabilities of algorithmic processes, the MSI-AUT agreed to narrow the scope of the first draft and focus on four main messages: the need to explore challenges related to data that go beyond privacy and personal data protection concerns; the direct and indirect impact that data aggregation has on environments, thus shaping conditions also for individuals and societies that do not draw gain from technological advancements; the need to further explore and analyse the possible manipulative effects of algorithmic processing; and the necessity to reassess the effectiveness of regulatory frameworks aimed at safeguarding the fairness and integrity of electoral processes in the digital age.

5. With respect to the draft study of the concept of responsibility for AI decision-making systems within a human rights framework, the MSI-AUT welcomed the first draft as prepared by the rapporteur, Karen Yeung. While noting that writing was still ongoing, the group suggested broadening the focus of the study to consider not only personalisation and profiling/tracking abilities of AI technologies, but also other human rights relevant applications, including deep fakes. Given the specific mandate of the CDMSI, the study should draw appropriate links to the right to freedom of expression and media freedom where possible, and should also consider challenges related to social inequity and expanding digital divides. As regards the part on responsibility, the study should refer to ongoing work elsewhere related to various levels of product and civil liability for AI tools, but should remain focused on human rights induced responsibilities as the main narrative. The MSI-AUT also considered that the study should not seek to provide an overview of all existing challenges but seek to build on already existing approaches (the many hands problem, for instance), identifying concrete suggestions for policy makers as to how to operationalise shared responsibilities, adjust risk management processes, and close prevailing responsibility gaps, while taking into account questions of institutional affordability.

6. 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 first draft as prepared by Emeric Prevost in his capacity as external consultant. While noting that the study was not meant to provide an overview of practice in all member states, the MSI-AUT recommended an increase of references to civil law countries for a more balanced impression. The group also suggested clarifying the use of the term 'libel tourism' as rather laden. Finally, it was proposed to formulate any best practices that might be identified in terms of minimising or removing related risks for the freedom of expression in fairly soft language, so as to make clear that the study was meant to compile good practices rather than suggest future standards.

### **Any other business**

7. The MSI-AUT agreed to hold its third meeting in Strasbourg on 18-19 March 2019 and to continue to invite other partners and stakeholders to its meetings in line with its terms of reference.

8. 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 considered not necessary to produce abridged reports of meetings.

## **APPENDIX I**

### **AGENDA OF THE SECOND 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 first draft recommendation on the impacts of the use of algorithms on human rights (working title)
6. Presentation and discussion of the first draft study of the concept of responsibility for AI decision-making systems within a human rights framework
7. Presentation and discussion 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. Discussion of the draft declaration on the manipulative powers of algorithmic processes (working title)
9. Dates of next meetings
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](http://www.coe.int/msi-aut)  
[www.coe.int/AI](http://www.coe.int/AI)

2<sup>nd</sup> meeting, 17-18 September 2018  
Council of Europe, Strasbourg

2<sup>ème</sup> réunion, 17-18 septembre 2018  
Conseil de l'Europe, Strasbourg

25/09/2018

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

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