

Artificial Intelligence and Human Rights

Council of Europe AI policies

Presentation

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Patrick Penninckx

Head of Information Society Department



The Council of Europe



Europe's largest intergovernmental organisation

- 46 member States and 5 observer States (Canada, 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.
- Have produced pioneering global legally binding standards involving complex technological issues, such as protection of personal data, bioethics, cybercrime, reconciling innovation and human rights protection



Committee on Artificial Intelligence



Global character of the Framework Convention

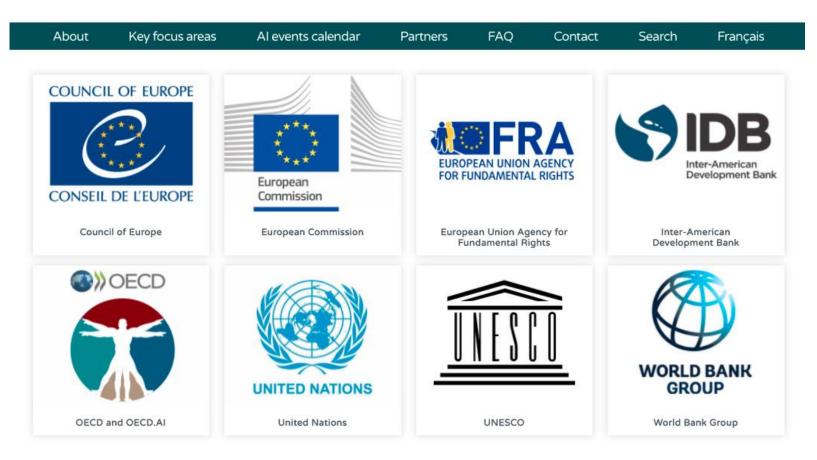
- ➤ The CoE Framework Convention shall be open to nonmember States
- In addition to the EU, ALL Observer States (Canada, Japan, the Holy See, Mexico and the United States of America) and a number of important non-member States (Argentina, Costa Rica, Israel, Peru and Uruguay), have actively and constructively engaged in the negotiations in the CAI
- At present, there is a "window of opportunity" for establishing human rights, rule of law, and democracy standards relating to the design, development and application of AI systems with a potential global reach.



Participation of other IGOs - Global Policy AI initiative



Achieving impact through intergovernmental co-operation on artificial intelligence









General points

- The CoE Framework Convention in accordance with the terms of reference of the CAI 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.
- The CoE Framework Convention is complementary with 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 primarily in the sphere of human rights law.

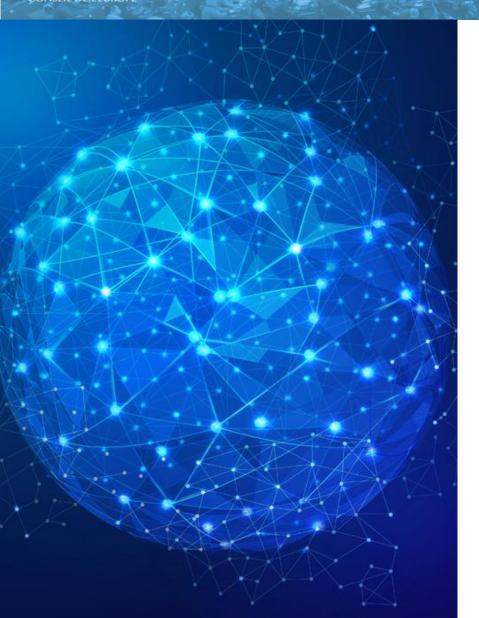




General points

- The CoE Framework Convention takes due account of relevant initiatives of other international, supranational and regional fora, in order to provide a much-needed level playing field for artificial intelligence actors in **like-minded countries** not just in Europe but **globally**.
- 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**.





Fundamental principles

- The CoE Framework Convention reaffirms the principles of human dignity and individual autonomy, equality (including gender equality and rights related to those who are subject to discrimination and/or persons in vulnerable situations) as well as protection of privacy and personal data protection.
- In addition, it contains principles related to accountability, safe innovation, responsibility for violations of human rights resulting from application of artificial intelligence systems, and the need for appropriate safety, security, data protection, cybersecurity, robustness requirements.

Procedural rights and safeguards

- In the light of interactions with the existing human rights obligations of the Parties, the CoE
 Framework Convention addresses the question of new rights and obligations and the related and equally important questions of the exact scope of such rights, their formulation and the circumstances in which they could be applicable.
- These are not in fact new rights, but rather rights enabling continued enjoyment of the existing
 universally recognised and well-established rights. Many of them deal with the issue of information
 asymmetry between the AI subject and the AI provider/AI user which results, among other things,
 from the practical reality of how AI systems operate as well as their considerable complexity.

Procedural rights and safeguards

- These rights/obligations are the following:
 - 1) The **obligation to record and store** the usage of artificial intelligence systems and **access** to relevant records by affected persons,
 - 2) The obligation to ensure availability of accessible and effective remedies for violations of human rights and fundamental freedoms resulting from the use of AI,
 - 3) The **obligation to provide effective procedural guarantees** in connection with the application of an artificial intelligence system substantially informs or takes decision(s) affecting human rights and fundamental freedoms.
 - 4) The provision of notice that one is interacting with an artificial intelligence system.
- The specific modalities of the exercise of these rights should be governed by the domestic law of the Parties.

Risk and Impact Management Requirements

- In addition to the procedural rights and safeguards, the CoE Framework Convention contains a
 chapter addressing the crucial question of essential requirements for proper supervision of AI
 systems regarding risk to and impacts on human rights, democracy and the rule of law.
- The CoE Framework Convention introduces an obligation to provide effective guidance to relevant AI providers and users on how to identify, assess, prevent and mitigate risks and adverse impacts on human rights, democracy and the rule of law.
- The relevant risk and impact management requirements should be proportionate and targeted at specific sensitive contexts where AI systems may be used.





Risk and Impact Management Requirements

- The relevant assessments should be carried iteratively.
- The relevant AI providers and users are under obligation to apply sufficient preventive and mitigation measures resulting from the application of the above risk and impact management requirements.
- The CoE Framework Convention also provides for the
 possibility for the authorities to introduce bans or moratoria
 on certain application of AI systems (so-called red lines) with
 the power to make relevant decisions belonging to the
 competent domestic authority.

Risk and Impact Management Requirements

- The CoE Framework Convention does not mention any specific red lines by name, but it refers to the kind of assessment that the competent domestic authority needs to carry out if wants to conclude that certain applications of AI systems should be banned or suspended:
 - It is essentially compliance with the human rights law/protection of democracy and rule of law obligations;
 - The need for proper assessment and mitigation of any risks in this connection.
- The Secretariat of the CAI is currently working on Human Rights, Democracy and the Rule of Law Risk and Impact Assessment (HUDERIA), a stand-alone and non-binding instrument supporting the CoE Framework Convention which will contain detailed guidance to future Parties regarding risk and impact management issues.





Democracy and Rule of Law Components

It is very clear from different known characteristics of AI systems (especially their scalability) that their use depending on the context and manner of their use may have serious adverse implications on the integrity of democratic institutions and independence of the judiciary.





Democracy and Rule of Law Components

The CoE Framework Convention contains provisions
dealing with these matters by pointing at and
addressing these issues with value-based guidance,
indication of potentially dangerous effects of AI and the
need for Parties to take measures in this connection.





Democracy and Rule of Law Components

 In addition to the high-level principles and requirements contained in the Convention, the above mentioned
 HUDERIA will contain detailed guidance regarding risk and impact management in these matters.



Information Society Department

Thanks for your attention!



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