

CDDH comments on the Parliamentary Assembly Recommendation 2182(2020) - JUSTICE BY ALGORITHM – THE ROLE OF ARTIFICIAL INTELLIGENCE IN POLICING AND CRIMINAL JUSTICE SYSTEMS

94th meeting – 15 – 18 June 2021 - CDDH(2021)R94

1. The Steering Committee for Human Rights (CDDH) takes note with interest of Parliamentary Assembly's Resolution 2342(2020) "Justice by algorithm – The role of artificial intelligence in policing and criminal justice systems", in particular the invitation addressed by the Assembly to the Committee of Ministers when assessing the necessity and feasibility of a European legal framework for artificial intelligence, to look into the serious potential impact for human rights of the use of artificial intelligence in policing and criminal justice systems.
2. In this framework, it stresses the importance of the Parliamentary Assembly Report on the role of artificial intelligence in policing and criminal justice systems.
3. The CDDH reaffirms that all member States' policing and criminal justice systems should operate under and within the same basic standards of human rights and the rule of law as they are enshrined in the European Convention on Human Rights (ETS No. 5) and interpreted by the case-law of the European Court of Human Rights.
4. The CDDH fully shares the Assembly's concerns regarding a possible regulatory patchwork that may give rise to "ethics shopping", resulting in the relocation of artificial intelligence development in states with lower ethical standards.
5. The CDDH felt that the preparation of a handbook on human rights and AI would be highly appropriate. However, to avoid duplications of CDDH activities with those of other relevant Council of Europe bodies, it was proposed to the Committee of Ministers to postpone this work until 2022-2025.
6. The CDDH follows closely the work carried out by the CAHAI and other relevant bodies such as the European Committee on Crime Problems (CDPC), i.e. its feasibility study on a future Council of Europe instrument on artificial intelligence and criminal law, and the European Committee on Legal Co-operation (CDCJ).

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Text of Recommendation 2182(2020) JUSTICE BY ALGORITHM – THE ROLE OF ARTIFICIAL INTELLIGENCE IN POLICING AND CRIMINAL JUSTICE SYSTEMS

Parliamentary Assembly

1. The Parliamentary Assembly refers to its [Resolution 2342 \(2020\)](#) "Justice by algorithm – The role of artificial intelligence in policing and criminal justice systems", which was adopted while work by the Ad hoc Committee on Artificial Intelligence (CAHAI) was ongoing within the Council of Europe.
2. The Assembly recalls that all Council of Europe member States are subject to the same basic standards of human rights and the rule of law, notably those established by the European Convention on Human Rights (ETS No. 5), as interpreted by the case law of the European Court of Human Rights. It considers that a regulatory patchwork – different standards in different countries – may give rise to "ethics shopping", resulting in the

relocation of artificial intelligence development and use to regions with lower ethical standards.

3. The Assembly therefore calls on the Committee of Ministers to take into account the particularly serious potential impact on human rights of the use of artificial intelligence in policing and criminal justice systems when assessing the necessity and feasibility of a European legal framework for artificial intelligence.