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06/11/2020

STEERING COMMITTEE FOR HUMAN RIGHTS (CDDH)

Draft terms of reference for the CDDH Drafting Group on Human Rights and Artificial Intelligence (CDDH-INTEL)

(Proposals provided by the Bureau for examination by the CDDH
at its 93rd meeting, 14-16 December 2020)

Introduction

1. At its 92nd meeting (26-29 November 2019, CDDH(2019)R92), the CDDH decided to set up its Drafting Group on Human Rights and Artificial Intelligence (CDDH-INTEL) responsible for the preparatory work to implement the following terms of reference given to the CDDH by the Ministers' Deputies:

"On the basis of developments in member states, within the Council of Europe and in other fora, to draw up, as appropriate, a Handbook on Human Rights and Artificial Intelligence and to contribute to possible standard-setting work to be undertaken within the Organisation" (deadline 31 December 2021).

2. The CDDH decided to adopt the terms of reference of the CDDH-INTEL as well as its composition at its 93rd meeting (14-16 December 2020).

3. The present document contains a preliminary draft terms of reference prepared by the Secretariat for the attention of the Bureau. The latter, at its 104th meeting (29 October 2020) noted the numerous ongoing activities within the Council of Europe that are directly related to AI (see [Appendix](#) to this document). This raises the question of whether there could be added value of a specific activity of the CDDH in this field.

4. Without denying the interest and the need for a Handbook on Human Rights and Artificial Intelligence, the Bureau considered that, in the light of pending important discussions on the matter in other bodies, it would be perhaps premature to start such a work within the CDDH in 2021 and that it would be preferable to do so during the next

biennium, once the other bodies are in a position to present conclusions and recommendations. It wondered also whether there is a risk of duplication and whether it would be preferable to conduct it within other bodies, certainly with the cooperation of the CDDH. It recalled that the CDDH has appointed Mr Tigran GALSTYAN (Armenia) its focal point to the CAHAI.

5. Therefore, the Bureau considered it preferable to suggest to the CDDH in December 2020 not to set up the Drafting Group for 2021, nothing would prevent it from, if necessary, asking the Committee of Ministers at the end of 2021 to give it a specific mandate in the field of human rights and AI, for the 2022-2023 biennium; a mandate having a clear added value in relation to what will have been achieved within the Council of Europe in this field in 2021.

**Preliminary draft terms of reference
for the CDDH Drafting Group
on human rights and artificial intelligence**

(CDDH-INTEL)

(for the attention of the CDDH for discussion
at its 93rd meeting, 14-16 December 2020)

["The CDDH decided to establish a Drafting Group on Human Rights and Artificial Intelligence (CDDH-INTEL) with the following mandate:

On the basis of developments in member states, within the Council of Europe and in other I, and in the light in particular of the results of the meetings of the Ad Hoc Committee on Artificial Intelligence (CAHAI)¹ and of the work within the Parliamentary Assembly and the Steering Committee on the Media and the Information Society (CDMSI) aimed at preparing a draft Recommendation to member states on the human rights implications of algorithmic systems, the CDDH-INTEL is instructed to:

- (ii) Prepare a draft Manual on Human Rights and Artificial Intelligence (deadline: 15 October 2021);
- (ii) Contribute to the possible standard-setting work that would be undertaken in this field within the Organisation, notably by the CAHAI and the CDMSI, according to modalities to be defined by the CDDH (deadline: 15 October 2021)"].

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¹ 1st meeting: 18-20 November 2019; 2nd meeting: 6-8 July 2020; 3rd meeting: 15-17 December 2020.

Appendix – For the CDDH Information

Recent work within the Council of Europe concerning artificial intelligence (AI)

23 September 2020 – Committee of Ministers

1. The Committee of Ministers approved the progress report of the Ad hoc Committee on Artificial Intelligence (CAHAI), which sets out the work undertaken and progress towards the fulfilment of the committee's mandate since it was established on 11 September 2019.
2. The progress report sets out a clear roadmap for action towards a Council of Europe legal instrument based on human rights, the rule of law and democracy. Its clear relevance has also been confirmed and reinforced by the recent COVID-19 pandemic.
3. The preliminary feasibility study, providing indications on the legal framework on the design, development of artificial intelligence based on Council of Europe's standards is expected to be examined by the CAHAI at its forthcoming third plenary meeting in December 2020. 2021 will also be dedicated to multi-stakeholder consultations and to the finalisation of the elements of the legal framework on AI.

16 October 2020 - Council of Europe-University of Strasbourg

AI and Law breakfasts webinar series - 7th edition: certification of algorithmic systems, 13.00 to 14.30 (CET) - Live webinar broadcasted on BlueJeans Events (English only)

Public event – No registration required <https://primetime.bluejeans.com/a2m/live-event/rutyuhsu>

1. The AI and Law breakfasts, co-organised by the Council of Europe and the University of Strasbourg (UMR DRES), are regular meetings open to a wide public, public decision-makers, officials from international organisations and national administrations and academics, whose aim is to measure the stakes of subjects at the frontiers of digital techniques and the practice of law. The 7th edition will deal with the certification of algorithmic systems, including those relating to the latest developments in artificial intelligence (AI).
2. At a time when public opinion is very concerned about the certain consequences of some AI applications, such as discrimination or the weakening of human agency, regulators are looking for specific solutions to create trust among users. The idea of guaranteeing, through the intervention of an independent third party, the conformity of an algorithmic system to certain number of rules, including human rights principles, has been raised in academic and institutional literature, with references to other industries, such as pharmaceuticals.
3. The purpose of the webinar on the certification of algorithmic systems is to explore in a practical way both the opportunities and the functional issues of such a proposal. Hosts: Juliette Lelieur (University of Strasbourg) and Yannick Meneceur (Council of Europe)

22 October 2020 – Council of Europe AI Website

See the news on *establishing a “legally binding instrument” for democratic governance of AI*.

22 October 2020 – Parliamentary Assembly

The Parliamentary Assembly adopted on 22 October 2020 seven reports concerning the impact of Artificial Intelligence (AI) applications in various fields. These reports, accompanied by the respective Resolutions and Recommendations to the Committee of Ministers and making direct reference to the work of CAHAI, deal with the following issues:

- the need for democratic governance of AI;
- the role of AI in policing and criminal justice systems;
- preventing discrimination caused by AI;

- ethical and legal frameworks for the research and development of neurotechnology;
- AI and health care;
- consequences of AI on labour markets; and
- legal aspects of 'autonomous vehicles'.

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