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## **STEERING COMMITTEE FOR HUMAN RIGHTS (CDDH)**

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### **Information on the Council of Europe's work on Artificial Intelligence**

#### Introduction

1. The present information note has been prepared in view of the draft Terms of Reference of CDDH for 2020–2021, under which the CDDH is tasked “on the basis of developments in the member States, within the Council of Europe and in other fora, [to] prepare, if appropriate, a Handbook on Human Rights and Artificial Intelligence and contribute to possible standard-setting work which would be undertaken within the Organisation.”<sup>1</sup> This note is without prejudice to the Committee of Ministers’ deliberations on the Terms of Reference of the CDDH for 2020–2021. Its purpose is to provide an overview of the current activities of the Council of Europe on artificial intelligence to the Bureau meeting of the CDDH (13–15 November 2019).

2. The Bureau is invited to consider asking the Secretariat to follow, as appropriate, the ongoing activities of Council of Europe on artificial intelligence, notably the meeting of Ad Hoc Committee on Artificial Intelligence (CAHAI, 18–20 November 2019) and to report on the state of play to the upcoming CDDH Plenary (26–29 November 2019).

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<sup>1</sup> The Committee of Ministers is expected to consider the draft Programme and Budget 2020-2021 – Draft Terms of Reference of Intergovernmental Structures, at its 1361<sup>st</sup> meeting which will take place from 19–21 November 2019.

CAHAI

3. At the 129<sup>th</sup> Session of the Committee of Ministers, which took place on 17 May 2019 in Helsinki, the Committee of Ministers instructed its Deputies “to examine the feasibility and potential elements on the basis of multi-stakeholder consultations, of a legal framework for the development, design and application of artificial intelligence, based on the Council of Europe’s standards on human rights, democracy and the rule of law”.<sup>2</sup>

4. At the 1353<sup>d</sup> meeting of the Ministers’ Deputies, which took place on 11 September 2019, the Deputies approved the Terms of Reference of CAHAI which is set up under Article 17 of the Statute of the Council of Europe and in accordance with Resolution CM/Res(2011)24 on intergovernmental committees and subordinate bodies, their terms of reference and working methods.<sup>3</sup>

5. Under the authority of the Committee of Ministers, CAHAI is tasked in the next biennium to “**complete the feasibility study and produce the potential elements on the basis of broad multi-stakeholder consultations, of a legal framework for the development, design and application of artificial intelligence, based on the Council of Europe’s standards on human rights, democracy and the rule of law.**” A progress report including specific proposals for further action and if need be to its working methods should be presented by 31 May 2020. The full text of CAHAI’s Terms of Reference is contained in the Appendix.

6. According to CAHAI’s Terms of Reference, “member States are invited to designate one or more representatives of the highest possible rank with recognised expertise in the field of digital governance and the legal implications of the functioning of different forms of AI relevant to the Council of Europe mandate.” Committees and other Council of Europe bodies engaged in related work may send representatives, without the right to vote and at the charge of their corresponding administrative budgets.

7. CAHAI will have its first meeting from 18 to 20 November 2019 in Strasbourg. The list of CAHAI members, the agenda and the documents of the meeting will be provided to the Bureau of the CDDH as they become available.<sup>4</sup>

A snapshot of other Council of Europe work on artificial intelligence

8. The Council of Europe’s activities on the subject matter have so far focused on developing studies, guidelines and recommendations aimed at assessing the possible impacts of Artificial Intelligence on human rights, democracy and the rule of law and identifying ways to ensure that Artificial Intelligence is developed and used in conformity with the standards of the Organisation.

9. In December 2018, the European Commission for the Efficiency of Justice (CEPEJ) adopted a European Ethical Charter on the use of Artificial Intelligence in

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<sup>2</sup> [CM/Del/Dec\(2019\)129/2a](#)

<sup>3</sup> [CM/Del/Dec\(2019\)1353/1.5-app](#)

<sup>4</sup> At the time of the writing of this document the list of CAHAI members and the meeting documents were not yet available.

judicial systems and their environment.<sup>5</sup> In February 2019, the Committee of Ministers adopted its Declaration on the manipulative capabilities of algorithmic processes.<sup>6</sup> In April 2019, the Parliamentary Assembly launched its work on draft report “Need for democratic governance of artificial intelligence”.<sup>7</sup> In May 2019, the Commissioner for Human Rights published her Recommendation “Unboxing artificial intelligence: 10 steps to protect human rights”.<sup>8</sup>

10. Artificial intelligence is a cross-cutting theme in various fields of work of the Organisation such as personal data protection, judiciary, criminal law, bioethics, elections, anti-discrimination, gender equality, education, youth, children, culture and Eurimages. More detailed information on the relevant activities is available on the website: <https://www.coe.int/AI>.

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<sup>5</sup> Available at <https://rm.coe.int/ethical-charter-en-for-publication-4-december-2018/16808f699c>

<sup>6</sup> Available at <https://www.coe.int/en/web/data-protection/-/declaration-by-the-committee-of-ministers-on-the-manipulative-capabilities-of-algorithmic-processes> In March 2018 the Committee of Ministers had adopted the relevant Recommendation CM/Rec(2018)2 on the roles and responsibilities of internet intermediaries, which is available at [https://search.coe.int/cm/Pages/result\\_details.aspx?ObjectID=0900001680790e14](https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=0900001680790e14)

<sup>7</sup> Motion for a resolution, Doc. 14868, 10 April 2019, available at <http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=27616&lang=en>

<sup>8</sup> Available at <https://www.coe.int/en/web/artificial-intelligence/-/unboxing-artificial-intelligence-10-steps-to-protect-human-rights>

## Appendix

### Ad hoc Committee on Artificial Intelligence (CAHAI) Terms of Reference

*Set up by the Committee of Ministers under Article 17 of the Statute of the Council of Europe and in accordance with Resolution [CM/Res\(2011\)24](#) on intergovernmental committees and subordinate bodies, their terms of reference and working methods.*

**Type of committee:** Ad hoc Committee

Terms of reference valid from: **date of adoption until 31 December 2021**

PILLAR/PROGRAMME/SUB-PROGRAMME
<p><b>Pillar:</b> Rule of Law  <b>Sector:</b> Strengthening the Rule of Law  <b>Programme:</b> Information society and internet governance</p>
MAIN TASKS
<p>Under the authority of the Committee of Ministers, the CAHAI is instructed to:</p> <ul style="list-style-type: none"> <li>- examine the feasibility and potential elements on the basis of broad multi-stakeholder consultations, of a legal framework for the development, design and application of artificial intelligence, based on the Council of Europe's standards on human rights, democracy and the rule of law.</li> </ul> <p>When fulfilling this task, the Ad hoc Committee shall:</p> <ul style="list-style-type: none"> <li>- take into account the standards of the Council of Europe relevant to the design, development and application of digital technologies, in the fields of human rights, democracy and the rule of law, in particular on the basis of existing legal instruments;</li> <li>- take into account relevant existing universal and regional international legal instruments, work undertaken by other Council of Europe bodies as well as ongoing work in other international and regional organisations;</li> <li>- take due account of a gender perspective, building cohesive societies and promoting and protecting rights of persons with disabilities in the performance of its tasks.</li> </ul>
SPECIFIC TASKS
<p>Complete the feasibility study and produce the potential elements on the basis of broad multi-stakeholder consultations, of a legal framework for the development, design and application of artificial intelligence, based on the Council of Europe's standards on human rights, democracy and the rule of law.</p> <p>A progress report including specific proposals for further action and if need be to its working methods should be presented by 31 May 2020.</p>

## COMPOSITION

### Members:

Governments of member States are invited to designate one or more representatives of the highest possible rank with recognised expertise in the field of digital governance and the legal implications of the functioning of different forms of AI relevant to the Council of Europe mandate.

The Council of Europe will bear the travel and subsistence expenses of one representative from each member State (two in the case of the State whose representative has been elected Chair). Member States may send other representatives without defrayal of expenses.

Each member of the committee shall have one vote. Where a government designates more than one member, only one of them is entitled to take part in the voting.

### Participants:

The following may send representatives, without the right to vote and at the charge of their corresponding administrative budgets:

- Parliamentary Assembly of the Council of Europe;
- Congress of Local and Regional Authorities of the Council of Europe;
- European Court of Human Rights;
- Council of Europe Commissioner for Human Rights;
- Conference of INGOs of the Council of Europe;
- Committees and other Council of Europe bodies engaged in related work as appropriate;
- Eurimages, European Audiovisual Observatory

The following may send a representative without the right to vote and without defrayal of expenses:

- European Union (including, as appropriate, the Fundamental Rights Agency);
- Observer States to the Council of Europe: Canada, Holy See, Japan, Mexico, United States of America;
- other international organisations including: Organisation for Security and Co-operation in Europe (OSCE), Organisation for Economic Co-operation and Development (OECD), World Health Organisation (WHO), United Nations Educational, Scientific and Cultural Organisation (UNESCO) and other UN agencies and international organisations

### Observers:

The following may send representatives, without the right to vote and without defrayal of expenses:

- the European Network of National Human Rights Institutions;
- Council of Europe partner internet companies;
- civil society organisations, other private sector and academic actors, relevant to the work of the Ad hoc Committee, as appropriate and in accordance with paragraph 8 of Resolution [CM/Res\(2011\)24](#) on intergovernmental committees and subordinate bodies, their terms of reference and working methods.

## WORKING METHODS

The rules of procedure of the Committee are governed by Resolution [CM/Res\(2011\)24](#) on intergovernmental committees and subordinate bodies, their terms of reference and working methods.

The Committee will appoint a Rapporteur on Gender Equality from amongst its members.

The Committee shall co-ordinate and consult with other intergovernmental committees working on the subject.

Whenever appropriate, it will prioritise environmentally sound working methods, such as virtual meetings facilitated by information technology and written consultations.

**Plenary meetings**

48 members, 1 meeting in 2019, 3 days  
 48 members, 2 meetings in 2020, 3 days  
 48 members, 2 meetings in 2021, 3 days

**Bureau**

7 members, 2 meetings in 2020, 2 days  
 7 members, 2 meetings in 2021, 2 days

**BUDGETARY INFORMATION\***

	Meetings per year	Number of days	Members	Plenary €	Bureau €	Subordinate structures / Working groups	Secretariat (A, B)
2019	1	3	48	40 000			1A; 0.5B
2020	2	3	48	80 000	19 000	14 600	1A; 0.5B
2021	2	3	48	80 000	19 000	14 600	1A; 0.5B

\* The costs are indicative and take into consideration the per diem/ travel for staff and member States' representatives, interpretation, translation and document printing. Costs calculated on the basis of the per diem and recharged services costs at their 2019 level and will be adjusted for 2020-2021.