



CAHAI

Multi-stakeholder consultation

THIS QUESTIONNAIRE IS OPEN TO INSTITUTIONAL REPRESENTATIVES ONLY

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I formally consent to the use of my personal data and of any other information I supplied as described above. If I submit personal data or confidential information of another person, I confirm that I have obtained the authorisation to do so from that person.

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For any issues, please contact secretariat.cahai@coe.int

Pre-screening question of the survey

1. Do you answer *

As representative of an institution

In your personal capacity

2. Your family name and first name (e.g. SMITH John) *

BULHA Agatha

3. State (where your institution is based) *

Holland

4. Institution: Name of the institution/body/company *

The EYBA (European young bar association)

5. Personal capacity: Your socio-professional category *

Three class version of the categories from National Statistics Socio-economic Classification (NS-SEC), United Kingdom

- Higher occupations
- Intermediate occupations
- Lower occupations

6. Your stakeholder group *

- Government & public administration
- Private business sector
- Civil society
- Academic and scientific community
- Internet technical community

Section 1: Definition of AI Systems

7. In view of the elaboration of a legal framework on the design, development and application of AI, based on the standards of the Council of Europe on human rights, democracy and the rule of law, what kind of definition of artificial intelligence (AI) should be considered by the CAHAI *

Select one

- No definition, with a legal instrument focused on the effect of AI systems on human rights, de-mocracy and the rule of law
- A technologically-neutral and simplified definition, such as "a set of sciences, theories and tech-niques whose purpose is to reproduce by a machine the cognitive abilities of a human being" (See the CAHAI feasibility study, §5)
- A definition focusing on machine learning systems
- A definition focusing on automated decision-making
- Other
- No opinion

8. What are the reasons for your preference? *

Do not exceed 500 words

According with the study of feasibility delivered we agree that a future legal framework should endorse a neutral technology based definition

Bearing in mind the following:

- i) If the definition covers all and any aspect related to the theories, techniques whose purpose is to reproduce by a machine the cognitive abilities of a human being in any way known and/or yet to be known.
- ii) This larger definition will cover the future developments taken by any form of Artificial Intelligence; also
- iii) If the human conciseness (essence of the human being) can be subject to any development due to further interaction - the definition as designed will also cover the not yet known conciseness.
- iv) If this legal frame work is to be ruled in UE and we should take into account that, although from the legal point of view of rights we are equal - we are not equal in terms of conciseness.
- v) For instances, bearing in mind that AI will be development taken into account machine learning based on the predictability – shouldn't we take into account that emotionally we, as human beings, will not react in the same way? That a multiple of factors, included but not limited, such as place of living, local society, family values, together with genetics

Section 2.1: Opportunities and Risks arising from AI Systems

9. Please select the areas in which AI systems offer the most promising opportunities for the protection of human rights, democracy and the rule of law *

Select 3 maximum

- Banking, finance and insurance
- Justice
- Law enforcement
- Customs and border control
- Welfare
- Education
- Healthcare
- Environment and climate
- Election monitoring
- National security and counter-terrorism
- Public administration
- Employment
- Social networks/media, internet intermediaries
- Other
- No opinion

10. If other, which areas and why?

Enter your answer

11. Please indicate which of the following AI system applications in your view have the greatest potential to enhance/protect human rights, democracy and the rule of law? *

Select 5 maximum

- Facial recognition supporting law enforcement
- Emotional analysis in the workplace to measure employees' level of engagement
- Smart personal assistants (connected devices)
- Scoring of individuals by public and private entities
- Medical applications for faster and more accurate diagnoses
- Automated fraud detection (banking, insurance)
- AI applications to predict the possible evolution of climate change and/or natural disasters
- AI applications for personalised media content (recommender systems)
- Deep fakes and cheap fakes
- Recruiting software/ AI applications used for assessing work performance
- AI applications to prevent the commission of a criminal offence (e.g. anti-money laundry AI applications)
- AI applications aimed at predicting recidivism
- AI applications providing support to the healthcare system (triage, treatment delivery)
- AI applications determining the allocation of educational services
- AI applications determining the allocation of social services
- AI applications in the field of banking and insurance
- AI applications to promote gender equality (e.g. analytical tools)
- AI applications used for analysing the performance of pupils/students in educational institutions such as schools and universities

12. Please briefly explain how such applications would benefit human rights, democracy and the rule of law *

Do not exceed 750 words

The principle of how to choose the options is to understand the AI apps as a tool and also to promote equality as part of human rights and the applicability of the rule of law. All apps that are in certain way invasive of the individuals – should not be considered. For instances, the facial recognition is too intrusive in the individual privacy of the human being. Or scoring individuals – might generate even further social inequality, where some individuals

13. What other applications might contribute significantly to strengthening human rights, democracy and the rule of law? *

Applications that are not intrusive in a way that interfere with the individual privacy.
Applications that allow individual to communicate better with governmental institutions.

Section 2.2: Impact on human rights, democracy and the rule of law

14. Please select the areas in which the deployment of AI systems poses the highest risk of violating human rights, democracy and the rule of law *

Select 3 maximum

- Banking, finance and insurance
- Justice
- Law enforcement
- Customs and border control
- Welfare
- Education
- Healthcare
- Environment and climate
- Election monitoring
- National security and counter-terrorism
- Public administration
- Employment

Social networks/media, internet intermediaries

No opinion

Other

15. Please briefly explain how such applications might violate human rights, democracy and the rule of law *

Do not exceed 750 words

Might violate human rights as AI systems are not taking into consideration the conscious of the human being and/or the emotional side – and that is what defines the human being: its consciousness.

16. Please indicate the types of AI systems that represent the greatest risk to human rights, democracy and the rule of law *

5 maximum

Facial recognition supporting law enforcement

Emotional analysis in the workplace to measure employees' level of engagement

Smart personal assistants (connected devices)

Scoring / scoring of individuals by public entities

Medical applications for faster and more accurate diagnoses

Automated fraud detection (banking, insurance)

AI applications to predict the possible evolution of climate change and/or natural disasters;

AI applications for personalised media content (recommender systems)

Deep fakes and cheap fakes

Recruiting software/ AI applications used for assessing work performance

AI applications to prevent the commission of a criminal offence

AI applications aimed at predicting recidivism

AI applications providing support to the healthcare system (triage, treatment delivery)

- AI applications determining the allocation of educational services
- AI applications determining the allocation of social services
- AI applications in the field of banking and insurance
- AI applications to promote gender equality (e.g. analytical tools)
- AI applications used for analysing the performance of pupils/students in educational institutions such as schools and universities

17. Please briefly explain how such applications might violate human rights, democracy and the rule of law *

Do not exceed 750 words

In general, all seem too much intrusive (individual privacy). From the list of 5 chosen, the most risky is the public score where individuals are given points to be a better citizens? Who defines the rules for this? The Government? Should be Government rule in a way that should define the individual course of action in this behaviour? Isn't this a way to rule that can lead

18. What other applications might represent a significant risk to human rights, democracy and the rule of law? *

All applications that are subject to be intrusive in the individual privacy in a way that is manipulation the course of action and behaviour.

19. In your opinion, should the development, deployment and use of AI systems that have been proven to violate human rights or undermine democracy or the rule of law be *

- Banned
- Not banned
- No opinion
- Other

20. In your opinion, should the development, deployment and use of AI systems that pose high risks* with high probability** to human rights, democracy and the rule of law be *

* High negative impact on human rights, democracy and rule of law

** High probability of occurrence of these risks

- Banned
- Subject to moratorium
- Regulated (binding law)
- Self-regulated (ethics guidelines, voluntary certification)
- None of the above
- No opinion

21. In your opinion, should the development, deployment and use of AI systems that pose low risks* with high probability** to human rights, democracy and the rule of law be *

* Low negative impact on human rights, democracy and rule of law

** High probability of occurrence of these risks

- Banned
- Subject to moratorium
- Regulated (binding law)
- Self-regulated (ethics guidelines, voluntary certification)
- None of the above
- No opinion

22. In your opinion, should the development, deployment and use of AI systems that pose high risks* with low probability** to human rights, democracy and the rule of law be *

* High negative impact on human rights, democracy and rule of law

** Low probability of occurrence of these risks

- Banned

- Subject to moratorium
- Regulated (binding law)
- Self-regulated (ethics guidelines, voluntary certification)
- None of the above
- No opinion

23. What are the most important legal principles, rights and interests that need to be addressed and therefore justify regulating the development, deployment and use of AI systems? *

Select 5 maximum

- Respect for human dignity
- Political pluralism
- Equality
- Social security
- Freedom of expression, assembly and association
- Non-discrimination
- Privacy and data protection
- Personal integrity
- Legal certainty
- Transparency
- Explainability
- Possibility to challenge a decision made by an AI system and access to an effective remedy

24. In your opinion, in what sectors/areas is a binding legal instrument needed to protect human rights, democracy and the rule of law? *

Select 3 maximum

- Banking, finance and insurance

- Justice
- Law enforcement
- Customs and border control
- Welfare
- Education
- Healthcare
- Social networks/media, internet intermediaries
- Environment and climate
- Election monitoring
- Public administration
- No opinion
-

Section 3: Potential Gaps in Existing Binding Legal Instruments Applicable to AI

In the following section, please indicate to what extent you agree or disagree with the following statements or if you have no opinion on a given issue.

25. Self-regulation by companies is more efficient than government regulation to prevent and mitigate the risk of violations of human rights, democracy and the rule of law *

1=I completely disagree; 2=I rather disagree; 3=Indifferent/no opinion; 4=I rather agree; 5=I fully agree;

I completely disagree 1 2 3 4 5 I fully agree

26. Self-regulation by companies is sufficient to prevent and mitigate the risk of violations of human rights, democracy and the rule of law *

1=I completely disagree; 2=I rather disagree; 3=Indifferent/no opinion; 4=I rather agree; 5=I fully agree;

1 2 3 4 5

I completely disagree I fully agree

27. Which of the following instruments of self-regulation do you consider to be the most efficient? *

- Ethics guidelines
- Voluntary certification
- No opinion
- ethic guidelines with law principles and/or law b

28. Existing international, regional and/or national binding and/or non-binding legal instruments are sufficient to regulate AI systems in order to ensure the protection of human rights, democracy and the rule of law *

1=I completely disagree; 2=I rather disagree; 3=Indifferent/no opinion; 4=I rather agree; 5=I fully agree;

I completely disagree 1 2 3 4 5 I fully agree

29. If you responded disagree/completely disagree to previous question, please indicate why existing international, regional and/or national (binding and/or non-binding) legal instruments are not sufficient to regulate AI systems

Select all you agree with

- There are too many and they are difficult to interpret and apply in the context of AI
- They provide a basis but fail to provide an effective substantive protection of human rights, democracy and the rule of law against the risks posed by AI systems
- They lack specific principles for the design, development and application of AI systems
- They do not provide enough guidance to the designers, developers and deployers of AI systems
- They do not provide for specific rights (e.g. transparency requirements, redress mechanisms) for persons affected by AI
- They create barriers to the design, development and application of AI systems

30. Please provide examples of existing international, regional and/or national (binding and/or non-binding) instruments that in your view are effective in guiding and regulating the design, development and use of AI systems to ensure compatibility with the standards for human rights, democracy and the rule of law *

Do not exceed 750 words

The universal declaration of human rights, European Convention of Human Rights; Constitution (each country legal frame*)

31. Please indicate other specific legal gaps that in your view need to be addressed at the level of the Council of Europe

Do not exceed 750 words

Enter your answer

Section 4: Elements of a Legal Framework on AI Systems

In relation to some AI systems, we can reasonably foresee a significant risk to human rights, democracy and the rule of law. Bearing this in mind, in the following section, please indicate to what extent you agree or disagree with the following statements or if you have no opinion on a given issue.

32. Please indicate to what extent you agree or disagree with the following statements or if you have no opinion on a given issue *

| | I completely disagree | I rather disagree | Indifferent/no opinion | I rather agree | I fully agree |
|---|-----------------------|-----------------------|------------------------|-----------------------|----------------------------------|
| Individuals should always be informed when they interact with an AI system in any circumstances | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> |
| Individuals should always be informed when a decision which affects them | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> |

personally is made by an AI system

Individuals should always be informed when an AI system is used in a decision-making process which affects them personally



Individuals should have a right to a meaningful explanation of algorithmic based decisions, in particular how the algorithm reached its output



Individuals should always have the right that any decision taken by an AI system in the framework of judicial proceedings are reviewed by a "human" judge



Individuals should have a right to demand the review of an algorithmic based decision by a human being



There should always be a person responsible for reviewing algorithmic based decisions in the public sector and private companies



Public institutions should not use AI systems to promote or discredit a particular way of life or opinion (e.g. "social scoring")



States should be obliged to design, develop and apply sustainable AI systems that respect applicable environmental protection standards



The code behind AI systems used in the public and private sectors should always be accessible to the



competent public authorities
for the purposes of external
audit

There should be higher
transparency standards for
public entities using AI than
for private entities



There should be higher
standards for access to an
effective remedy for
individuals in relation to
decisions informed and
made by an AI system in the
field of justice than in the
field of consumer pro-
tection



Member States should
establish public oversight
mechanisms for AI systems
that may breach legally
binding norms in the sphere
of human rights, democracy
and the rule of law



Errors and flaws discovered
in AI systems which have led
or could lead to the violation
of human rights, democracy
and the rule of law must be
reported to the competent
authorities



The use of facial recognition
in public spaces should be
prohibited



The information obtained
through the use of facial
recognition systems should
always be reviewed by a
human being before being
used for purposes that have
an impact on individual
freedom, such as in relation
to a person boarding an
airplane, upon police arrest
or in the framework of
judicial proceedings



The use of AI systems in democratic processes (e.g. elections) should be strictly regulated



33. Should a future legal framework at Council of Europe level include a specific liability regime in relation to AI applications? *

- Yes
- No
- No opinion

34. If yes, what aspects should be covered?

Do not exceed 500 words

Enter your answer

Section 5: Policies and Measures for Development

35. In your opinion, how useful would the following compliance mechanisms be in preventing and mitigating the risks to human rights, democracy and the rule of law arising from the design, development and application of AI? *

** Intersectional audits consider intersection of multiple sensitive attributes (race, gender, etc) jointly instead of attributes alone - for an example of such audits with machine learning, see for instance: Morina, Giulio & Oliinyk, Viktoriia & Waton, Julian & Marusic, Ines & Georgatzis, Konstantinos. (2019). Auditing and Achieving Intersectional Fairness in Classification Problems*

| | Not useful | Rather not useful | Indifferent/no opinion | Rather useful | Highly useful |
|--|-----------------------|-----------------------|------------------------|----------------------------------|----------------------------------|
| Human rights, democracy and rule of law impact assessments | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> |
| Certification and quality labelling | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> | <input type="radio"/> |

| | | | | | |
|-----------------------------------|-----------------------|-----------------------|-----------------------|----------------------------------|----------------------------------|
| Audits and intersectional audits* | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> | <input type="radio"/> |
| Regulatory sandboxes | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> | <input type="radio"/> |
| Continuous automated monitoring | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> |

36. Please indicate what combination of mechanisms should be preferred to efficiently protect human rights, democracy and the rule of law *

Select 3 maximum

- Human rights, democracy and rule of law impact assessments
- Certification and quality labelling
- Audits and intersectional audits
- Regulatory sandboxes
- Continuous automated monitoring
- Other

37. Please select which mechanism(s) should be part of either a binding instrument or a non-binding instrument to best protect human rights, democracy and the rule of law *

| | Binding instrument | Non-binding instrument | No opinion |
|--|----------------------------------|------------------------|-----------------------|
| Human rights, democracy and rule of law impact assessments | <input checked="" type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Certification and quality labelling | <input checked="" type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Audits and intersectional audits* | <input checked="" type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Regulatory sandboxes | <input checked="" type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Continuous automated monitoring | <input checked="" type="radio"/> | <input type="radio"/> | <input type="radio"/> |

monitoring

38. If any other mechanism(s) should be considered, please list them and mention if they should be part of either a binding or non binding instrument

Do not exceed 500 words

Enter your answer

39. In your opinion, how useful would the following follow-up activities be if implemented by the Council of Europe? *

| | Not useful | Rather not useful | Indifferent/no opinion | Rather useful | Highly useful |
|--|-----------------------|-----------------------|------------------------|----------------------------------|----------------------------------|
| Monitoring of AI legislation and policies in member States | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> |
| Capacity building on Council of Europe instruments, including assistance to facilitate ratification and implementation of relevant Council of Europe instruments | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> | <input type="radio"/> |
| AI Observatory for sharing good practices and exchanging information on legal, policy and technological developments related to AI systems | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> |
| Establishing a centre of expertise on AI and human rights | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> |

40. What other mechanisms, if any, should be considered?

Do not exceed 500 words

Enter your answer

41. Are there any other issues with respect to the design, development and application of AI systems in the context of human rights, democracy and the rule of law that you wish to bring to the attention of the CAHAI?

Do not exceed 750 words

Please always consider the essence of the human being as part of your analyses. At the end we are trying to rule to protect the individuals and its essence. Conscience is what make us humans - that should always be the premise.

42. Please could you provide your e-mail address in case we need to contact your regarding the questionnaire you have just completed. Thank you. *

agathabulha@jblawoffice.co

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