



/ Joint Statement

Joint Civil Society Statement ahead of the Inaugural Meeting of the Committee on Artificial Intelligence (CAI) at the Council of Europe

4 April 2022

Today, the Committee on Artificial Intelligence (CAI) at the Council of Europe holds its inaugural meeting. Over the next two years, it will host the negotiations on a new legal framework on the development, design, and application of Artificial Intelligence (AI) systems. As civil society organisations, we are looking forward to participating in and contributing to CAI. We urge Member States to use the opportunity these negotiations offer to create a governance framework for the use of AI systems that is truly oriented at the Council of Europe's mandate: the protection of human rights, democracy, and the rule of law.

The work of CAI will build on that of its predecessor, the Ad Hoc Committee on Artificial Intelligence (CAHAI). From 2019 to 2021, CAHAI was charged with examining the feasibility and potential elements of a legal framework on AI in the Council of Europe. As observer organisations, we intensely contributed to this process.

[CAHAI's final recommendations](#) were adopted at its final plenary in December 2021 and will now inform the negotiations being launched in CAI. As civil society organisations participating in or observing the process over the last two years, we are concerned that the **CAHAI's recommendations fall short of what is needed in terms of ensuring full respect for and protection of human rights, democracy, and the rule of law.** The intention to narrow down the scope of the new instrument reflected in the recommendations undermines the Council of Europe's mission to protect human rights, democracy, and the rule of law in the context of AI systems. Therefore, despite some commendable recommendations, civil society would oppose a new instrument unless it comprehensively covers the use of AI systems, including for national security purposes and potential dual use systems.

Against this background, we call upon the members of CAI:

(i) to unambiguously include within the scope of the future legal instrument AI systems used in the context of national security.

Today, a wide array of AI systems is already used in the context of or under the guise of national security – tomorrow, this is likely to significantly increase. A prominent example are tools used for surveillance purposes, which typically come with serious risks to and chilling effects on people’s general enjoyment of human rights – effects that typically manifest themselves in even more severe ways for individuals and groups at risk of discrimination, such as marginalised communities.

(ii) to unambiguously include within the scope of the future legal instrument civilian uses of AI systems that are potentially ‘dual use’, i.e., which could be used for both military and non-military purposes.

The concept of ‘dual use’ in the context of AI systems is not only vague but also does not denote a limited and special category of AI systems: In principle, a wide range of AI systems could be used for both civilian or military purposes. To exclude all AI systems that are potentially ‘dual use’, i.e., which could in principle also be used for military purposes, would exempt countless systems from scrutiny. All civilian uses of AI systems, regardless of whether they can be regarded as ‘dual use’, must explicitly be covered by a legal instrument on AI that sets out to protect human rights, democracy, and the rule of law.

(iii) to ensure that any new legal framework complements and reinforces international human rights frameworks and does not undermine or seek to replace existing human rights standards applicable to AI.

While AI is still an emerging technology which raises new risks to human rights and questions around how best to protect them, the existing international human rights framework continues to apply. CAHAI’s recommendations noted the risk of “duplicating or even fragmenting existing general standards of international law, including human rights law”. We hope that CAI remains conscious of this throughout its work and ensures that any new framework complements and reinforces existing international human rights standards, and in no way fragments or undermines them.

(iv) to continue in and reinforce the spirit of its predecessor CAHAI with respect to the inclusion and meaningful participation of civil society.

Civil society organisations provide not only a source of experience and expertise on how standards of human rights, democracy, and the rule of law apply to AI systems, but give a voice to those potentially adversely impacted by the use of these systems. Thus, it is our hope that CAI and its working methods will mirror the Council of Europe’s commitment

to include civil society as essential contributors to its activities, and will ensure that civil society organisations, in particular those representing marginalised groups, can both meaningfully participate in and be consulted during the negotiating process. To this effect, we also urge the CAI to be wary of the power imbalance that is created when negotiations are taking place in a hybrid format, with civil society observers (who have the same right to speak as anyone else) unable to participate in person.

As organisations admitted as observers to CAI, we will seize the opportunity our participation and contribution offer and work towards a legal instrument on the development, design, and application of AI that truly protects people's most fundamental rights, adheres to democracy and the common good, and upholds the rule of law.

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