



**CAHAI/Council of Europe**  
**Proposed recommendation for a Legal framework for the development, design and application of AI (Dec 2021)**

**5 Key Points**

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## Significance of CAHAI/CoE

- Ad hoc Committee on Artificial Intelligence (CAHAI)
  - 129 representatives: 47 Council of Europe's members, 6 observer states, 24 Council of Europe bodies, 9 international organisations, 26 internet companies and 17 human rights, civil society, and academic organisations
  - Mandated to examine **feasibility and potential elements** on the basis of broad **multi-stakeholder consultations**, of a legal framework for the development, design and application of AI, based on CoE's standards on **human rights, democracy** and the **rule of law**
- The Council of Europe (CoE)
  - Europe's leading human rights organisation
  - Includes 47 countries, 28 of which are members of the European Union
  - All member states have signed the **European Convention on Human Rights**, a **treaty** designed to protect **human rights, democracy** and the **rule of law**
  - Committee of Ministers (next sept)

## Thematic Issues

- “[A] common legal framework containing certain minimum standards for AI development, design, and application in relation to human rights, democracy and the rule of law”
- Considering existing universal and regional international legal instruments (e.g. Convention 108+)
- Covers both public and private actors
- Key values
  - Human dignity, Freedom and Autonomy
  - Non-Discrimination, Gender Equality, Fairness and Diversity (vulnerable groups/situations)
  - **Transparency** and **Explainability** of AI systems
  - **Accountability** and responsibility (liability)
    - Compliance mechanisms (assurers, developers, operators and users of systems)
    - Impact Assessments
- Operationalization
  - Modernising existing binding legal instruments
  - Adoption of a new binding legal instrument (potentially signed by non CoE members → global standard)

## Assessment

- Text establishes a **(potentially global) “common legal framework”** that contains **“universal” “minimum standards”** regarding AI design, development, and application **“in relation to human rights, democracy, and the rule of law”**
- **Risk-based approach** (like EU AI Act)
- It **does not** establish redlines for certain AI uses (unlike EU AI Act)
  - *e.g.*, biometric recognition systems (face, voice, gait)

## Relevance to CAIDP's Work

- Recommends that **CoE's standards on human rights, democracy, and the rule of law** are **"effectively anchored"** in a **global, human-centered, trustworthy legal framework**
- **Regional** framework with the potential to be **global**
- **Adopting countries** might be required to **comply** with the framework
- Advocates for **"broad multi-stakeholder consultations"** as CoE plans to develop an AI legal framework, aimed at filling legal gaps
- Impact on AIDV report

## CAIDP References

- [COE Parliamentarians Call for Democratic Governance of Artificial Intelligence CAIDP Update 1.17 \(Nov. 2, 2020\)](#)
- [CAHAI Approves Feasibility Study for AI Legal Standards CAIDP Update 1.25 \(Dec. 21, 2020\)](#)
- [CAIDP Response to the CAHAI Survey \(May 6, 2021\)](#)
- [CAIDP Statement to CAHAI on Legal Standards for AI \(Nov. 23, 2021\)](#)
- [Council of Europe Experts Finalize AI Recommendation CAIDP Update 2.42 \(Dec. 2, 2021\)](#)
- [AIDV 2021](#)