



8 December 2023

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**Re: Request for Observations: Council of Europe Legal Convention on AI**

Dear Niamh

Thank you for the email correspondence to my office in the Irish Human Rights and Equality Commission ('the Commission') dated 21 November 2023. We appreciate the opportunity to make some preliminary observations to the Department regarding Article 25 of the draft Council of Europe Legal Convention on Artificial Intelligence.

AI is a significant issue for the Commission, in terms of our statutory mandate to promote and protect equality and human rights as provided for in the Irish Human Rights and Equality Commission Act 2014. While the transformative potential of AI brings many opportunities, it also poses serious potential risks for equality, human rights, the rule of law and democracy.<sup>1</sup> It is therefore essential that the State implements robust oversight mechanisms to ensure that AI technologies are developed and used in a way that is human rights compliant, protects democracy, and avoids discrimination, bias, and harmful consequences for structurally vulnerable groups and wider society.

The Department may be aware that the Commission, as Ireland's National Equality Body and National Human Rights Institution, is a member of both the European Network of Equality Bodies (Equinet) and the European Network of National Human rights institutions (ENNHRI). Both networks are actively engaged with the developing European regulatory AI frameworks and have addressed in detail the equality and human rights considerations that arise in respect of prospective national AI oversight mechanisms.<sup>2</sup> The Commission echoes Equinet and ENNHRI in urging that there be an

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<sup>1</sup> See for example, European Union Agency for Fundamental Rights, [Bias in Algorithms: Artificial Intelligence and Discrimination](#) (2022).

<sup>2</sup> See for example [Joint ENNHRI-Equinet Statement to the Council of Europe Committee on Artificial Intelligence Plenary Meeting on draft Chapter VII of the \[Framework\] Convention on Artificial Intelligence, Human Rights, Democracy and Rule of Law](#), April 2023; ENNHRI, [Written comments for the second informal AI](#)



enabling framework for national supervisory authorities, including formal and functional independence, adequate resources and all powers necessary for the effective fulfilment of their tasks.

As provided for at paragraph 4 of Article 25 of the draft Convention, the State will be required to take measures to promote effective cooperation between the AI oversight mechanism and the Commission as the existing National Human Rights Institution and National Equality Body. Cooperation between the Commission and the new mechanism would of course help to ensure that the latter benefits from the Commission's specialised expertise and extensive experience in monitoring, upholding and enforcing equality and rights protections in Ireland.

The cooperation should therefore be ensured by way of a meaningful framework that is set out in legislation, with this including specific safeguards requiring access to information for the Commission, and a duty for the oversight mechanism to inform and consult the Commission, when risks to the protection of equality and human rights are identified. The Commission will require adequate resourcing to engage in this cooperation. Furthermore, the Commission would expect to be consulted in the development of these domestic legal provisions, with a view to ensuring that an effective enabling framework for cooperation is established.

Given the cross-sectoral impact of AI systems, the Commission understands that the national oversight mechanism is likely to straddle agencies and/or regulators. However, the Commission would welcome further information on the intention of the Department of Enterprise, Trade and Employment in this respect.

We welcome the Department's engagement on the role of the Commission in the development of the mechanism and request to be kept informed and consulted as negotiations develop.

Yours sincerely

Deirdre Malone  
Director

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[meeting of 6 September 2023; Joint Equinet and ENNHRI Statement on EU Artificial Intelligence Act Trilogue](#),  
17 November 2023.