



Coimisiún na hÉireann um Chearta  
an Duine agus Comhionannas  
Irish Human Rights and Equality Commission

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22 February 2024

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**Re: Further Observations: Council of Europe Legal Convention on AI**

Dear Niamh,

Further to our previous correspondence dated 8 December 2023, I write to provide additional observations to the Department regarding the Council of Europe Legal Convention on Artificial Intelligence.

As the Department is aware, the Irish Human Rights and Equality 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.

Through these networks, we understand that the Convention negotiations are currently at a crucial phase with just one plenary meeting left before the framework should be finalised and becomes legally binding. In particular, we understand there is a risk that private bodies could potentially be excluded from the scope of the Convention, according to information that has emerged from outcomes of the last Committee on Artificial Intelligence plenary which took place on 23 January.

In line with ENNHRI's [updated common position](#) on the draft framework convention, it seems clear that exclusion of the private sector would result in a significant gap in human rights protection, considering that many AI systems are developed and deployed by the private sector. We therefore



bring to your attention ENNHRI's recommendation that the Convention should include private bodies in its scope.

This, as ENNHRI note, is in line with the Committee of Ministers Terms of Reference to elaborate a 'binding legal instrument of a transversal character' and the adopted final recommendations by the Ad-hoc Committee on Artificial Intelligence, which clearly established the scope of the future Convention: a transversal, binding legal instrument applicable to AI systems applied *by all types of organisations, including public and private actors alike*.

Moreover, the convention could explicitly recognise the responsibility of business to respect human rights as laid out in the UN Guiding Principles on Business and Human Rights and [in line with ongoing European regulatory and policy initiatives](#), through a process of human rights due diligence.

We understand the 10<sup>th</sup> and final meeting of the CAI takes place from the 11-14 March and will be dedicated to the finalisation of the draft (framework) Convention in its entirety with the deadline for adoption of the Document set for the 1<sup>st</sup> week of May 2024.

We welcome the Department's continued engagement with these key equality and human rights issues in the development of the Convention and kindly request to be kept informed and consulted as negotiations develop.

Yours sincerely,

Deirdre Malone


Director



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