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

On behalf of our members, a total of over 60 independent public bodies, established by constitution or law to protect and promote human rights and equality in over 40 European states, ENNHRI (the European Network of National Human Rights Institutions) and Equinet (the European Network of National Equality Bodies) urge the Council of Europe Committee on Artificial Intelligence (CAI) to ensure the effectiveness of the future Convention through robust and independent **oversight and enforcement mechanisms at national and Council of Europe (CoE) levels.** The independence and effectiveness of these mechanisms can only be guaranteed through their meaningful empowerment, adequate resourcing and alignment with relevant existing national and European oversight mechanisms. This is especially important considering that the main objective of the draft CoE Convention, in line with the CoE Statute, is the protection of human rights, democracy and rule of law.

National Human Rights Institutions (NHRIs) and National Equality Bodies already play a prominent role in national and international frameworks for human rights oversight, accountability and governance in relation to Artificial Intelligence (AI) systems, for example, through legal work on complaints, raising awareness, providing guidance to businesses developing AI systems, or engaging with governments to map and review the uses of AI systems by public authorities. Crucially, NHRIs and National Equality Bodies play a central role in the monitoring and implementation of international and regional human rights legal instruments. They are actively involved in contributing to ensuring oversight and accountability in the context of the Council of Europe legal framework, as reflected in Recommendation CM/Rec(2021)1 of the Committee of Ministers on NHRIs of the Committee of Ministers to member States on the development and strengthening of effective, pluralist and independent national human rights institutions and ECRI General Policy Recommendation N°2 revised on National Equality Bodies to combat racism and intolerance at national level.

ENNHRI and Equinet submit that the currently proposed draft articles of the AI Convention do not provide sufficient safeguards for the compliance of AI systems with human rights obligations and should be strengthened through alignment with existing rights, obligations and best practices as follows. In particular, the suggested amendments draw on the relevant provisions of the Council of Europe 108+ Convention, the proposed EU Artificial Intelligence Act and CAHAI's possible elements document.

National level mechanism for independent oversight

ENNHRI and Equinet recall that National Equality Bodies and NHRIs have been created by states as part of the public institutional infrastructure for **independent human rights oversight.** The national supervisory mechanism under the future Convention will share the same institutional space. Thus, ENNHRI and Equinet welcome the Convention to allow for the designation of one or more supervisory authorities, which could include relevant existing bodies, such as National Equality Bodies and NHRIs.

ENNHRI and Equinet welcome that the powers of the supervisory authorities under the AI Convention will be without prejudice to the powers of other authorities responsible for ensuring compliance with other legal instruments aimed at protecting human rights, democracy and rule of law. This is important also in respect of the independence of national authorities such as National Equality Bodies and NHRIs.

At the same, ENNHRI and Equinet emphasize that the specific focus of the future Convention on human rights, rule of law and democracy requires a greater level of ambition in relation to the cooperation between the national supervisory authorities under the AI Convention and other already existing national human rights supervisory authorities. The **roles and powers of the future supervisory authorities** should be aligned with public human rights oversight bodies, such as NHRIs and National Equality Bodies, to avoid duplication, fragmentation and inconsistencies as well as to leverage their complementary powers as an impact multiplier. This alignment should be ensured through a meaningful **framework of cooperation**, including **specific safeguards** requiring **access to information** and **duty to inform and consult** when risks to the protection of human rights, the upholding of rule of law and the protection of democracy are identified.

ENNHRI and Equinet urge all Parties to ensure an enabling framework for national supervisory authorities under the future AI Convention, including formal and functional independence, adequate resources and **all powers necessary** for the effective fulfillment of their tasks under the

Convention, in line with existing standards on independent national human rights structures such as those laid down in [Recommendation CM/Rec(2021)1 of the Committee of Ministers on NHRIs](#) and [ECRI General Policy Recommendation N°2 revised on Equality Bodies to combat racism and intolerance at national level](#).

ENNHRI and Equinet commend the inclusion of a requirement for supervisory authorities to **be independent and carry out their tasks independently and impartially.** We recommend that more **specific safeguards** for this independence be elaborated in the Explanatory Memorandum, in line with similar provisions in the Council of Europe Convention 108+ as well as taking into account existing CoE independence standards for human rights supervisory authorities such as those from CM Recommendation 2021/1 and ECRI General Policy Recommendation N°2.

At a minimum and given the direct link of the powers of national supervisory authorities with **enabling enforcement,** the supervisory authorities should be accorded with powers of **investigation and intervention, and the power to handle individual complaints, issue decisions,** and, as appropriate, to impose administrative sanctions, with respect to violations of the provisions of this Convention.

These powers are a prerequisite for the ability of supervisory authorities to ensure compliance with the rights and obligations under the future Convention and specifically, to address the Convention's **accountability and redress** provisions. This is also necessary to ensure alignment with the Council of Europe [108+ Convention](#), as well as with the Council of the European Union common position on the future EU AI Act which includes the establishment of a complaints mechanism linked to the national supervisory authorities.

Further, in relation to the powers of the supervisory authorities, ENNHRI and Equinet recommend the Committee to include in Explanatory Memorandum to the future Convention clarifications of **definitions and implementation** which are based on corresponding provisions in the Council of Europe 108+ and which specifically emphasize the necessity of **access to all necessary information**, including source code, under sufficiently strict confidentiality obligations.

ENNHRI and Equinet recall that **multi-stakeholder participation** in the national oversight of the future AI Convention is indispensable for ensuring transparency and accountability. The Convention should include safeguards that in fulfilling their tasks supervisory authorities involve a **diverse range of relevant stakeholders**, such as civil society, national human rights structures, independent experts, those affected by AI systems, and the organizations representing them. Multi-stakeholder consultation should also be required as the initial stage of the establishment or designation of national supervisory authorities.

Council of Europe level mechanism for independent oversight

ENNHRI and Equinet recommend the setting in place of a "**Committee of Parties" rather than a "Conference of the Parties"** in line with CAHAI's recommendation in the possible elements document (XI, 44) and coherent with the standard provisions used in other Council of Europe legally binding instruments. Considering the dynamic nature of AI and the high level of technical complexity, a Committee with a sufficiently broad mandate and adequate composition is needed for the purposes of the Convention.

ENNHRI and Equinet stress the importance of including procedural safeguards for the **effective involvement of national supervisory authorities** in the work of the Committee. In line with Convention 108+ and §155 of its accompanying explanatory report, the Committee of the Parties should be composed of representatives of all Parties, from the national supervisory authorities or from the government. To reflect the global and cross-border reach and impact of AI systems, the Committee should also allow the participation as observers of any member State of the Council of Europe which is not a Party to the Convention.

Multistakeholder participation should also be reflected in the composition and powers of the Committee. This is crucial in light of the future developments of AI technology and its impact on stakeholders to ensure a flexible and future-proof implementation of the Convention and revision of related documents. This could be ensured by establishing a standing subgroup serving as a **platform of stakeholders to advise** the Committee. This subgroup should be comprised of experts from independent national human rights authorities such as NHRIs and NEBs, AI researchers and developers, organizations representing artificial intelligence subjects, and other civil society stakeholders.

ENNHRI and Equinet urge the Committee to ensure that the future supervision mechanism at the Council of Europe level has the power to monitor and report on compliance of Parties with their obligations under the Convention.

More about ENNHRI and Equinet

ENNHRI is the umbrella organization for all National Human Rights Institutions (NHRIs) in Europe with over 40 members. NHRIs are established by constitution or law to protect and promote human rights in accordance with the United Nations Paris Principles and the Council of Europe Committee of Ministers Recommendation 2021/1. NHRIs act as a bridge between government and civil society, and between national realities and international human rights actors and frameworks.

Equinet is the network of National Equality Bodies, which coordinates 47 national public statutory authorities competent for monitoring and promoting the implementation of the European Union's non-discrimination law, as well as contributing to the supervision of the Council of Europe's anti-discrimination legal framework, as affirmed in the Council of Europe ECRI General Policy Recommendation N°2 on Equality Bodies to combat racism and intolerance at national level. Their primary objectives are to promote equality and to provide independent assistance to victims of discrimination.