



Council of the European Union
General Secretariat

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TELECOM
CYBER
PROCED

COMMUNICATION

WRITTEN PROCEDURE

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Subject: **END OF WRITTEN PROCEDURE**

COUNCIL DECISION on the signing, on behalf of the European Union, of the Council of Europe Framework Convention on Artificial Intelligence and Human Rights, Democracy and the Rule of Law
– Adoption

Delegations are informed that the written procedure opened by **CM 3870/24 REV 2** of 26 August 2024 was completed on 28 August 2024 at 20:02 (Brussels time) and that :

24 delegations voted in favour of the adoption of the :

COUNCIL DECISION on the signing, on behalf of the European Union, of the Council of Europe Framework Convention on Artificial Intelligence and Human Rights, Democracy and the Rule of Law

3 delegations abstained.

The Council Secretariat takes the opportunity to thank delegations for their kind cooperation.

Statements by the Commission, Portugal and France are reproduced in the Annex to this CM.

The above statements will be included in the summary of acts adopted by the written procedure as statements to be entered in the Council minutes, in accordance with the third subparagraph of Article 12(1) of the Council's Rules of Procedure.

STATEMENT BY THE COMMISSION

Regarding recital 6:

‘In the elaboration of the Rules of Procedure of the Conference of the Parties, which are to be adopted by consensus within twelve months of the entry into force of the Convention, the Commission will strive to ensure a result whereby the Union is afforded 27 votes, reflecting the number of its Member States. If this result is not achieved, the Commission will consider other appropriate courses of action in the best interest of the Union in line with the Treaties. Nothing in the text of the Council decision on the signing, on behalf of the European Union, of the Council of Europe Framework Convention on Artificial Intelligence and Human Rights, Democracy and the Rule of Law should interfere with the Commission’s right of initiative to come with proposals to this end.’

Concerning Article 2:

‘The Commission considers that the Court of Justice has clarified in its judgment of 9 April 2024 in case C-551/21 that ensuring the signing of international agreements outside the area of the CFSP is a prerogative of the Commission in accordance with the Treaties. It is therefore not for the Council to lay down provisions as to the signing by the Commission of international agreements outside the area of the CFSP.’

DECLARAÇÃO DA REPÚBLICA PORTUGUESA

DE 27 DE AGOSTO DE 2024

Proposta de Decisão do Conselho relativa à assinatura, em nome da UE, da Convenção-Quadro do Conselho da Europa sobre a Inteligência Artificial, os Direitos do Homem, a Democracia e o Estado de Direito

Portugal saúda a adoção, a 17 de maio, pelo Conselho da Europa, da Convenção-Quadro sobre a Inteligência Artificial, os Direitos do Homem, a Democracia e o Estado de Direito. Estamos perante o primeiro tratado internacional que estabelece um enquadramento jurídico que cobre todo o ciclo de vida dos sistemas de inteligência artificial e aborda os riscos que estes podem representar, nomeadamente ao nível dos direitos do homem e do Estado de direito, promovendo, ao mesmo tempo, a inovação responsável.

Portugal assinala, igualmente, a importância da entrada em vigor, a 1 de agosto, do Regulamento UE de Inteligência Artificial (IA), que constitui a primeira regulamentação jurídica nesta matéria, ao nível mundial.

Considerando, no entanto, que as matérias relacionadas com a segurança nacional não foram objeto de atribuição à União e mantêm-se na exclusiva responsabilidade de cada Estado-Membro, de acordo com o disposto no artigo 4.º, nº 2, do Tratado da União Europeia, Portugal recorda que a exclusão constante do texto final da Convenção não é total, uma vez que as atividades prosseguidas nesta matéria devem, ainda assim, ser conduzidas de forma coerente com o direito internacional aplicável, incluindo as obrigações decorrentes do direito internacional dos direitos humanos, e no respeito das suas instituições e processos democráticos.

Portugal reitera que estão em causa matérias de competências partilhadas que não se enquadram na previsão do artigo 3.º, n.º 2, do Tratado sobre o Funcionamento da União Europeia, designadamente quanto a matérias que foram excluídas do Regulamento IA.

Neste contexto, Portugal considera ser da maior importância que a União disponha de 27 votos.

Por fim, sublinha o compromisso de respeitar a Convenção-Quadro do Conselho da Europa sobre a Inteligência Artificial, os Direitos do Homem, a Democracia e o Estado de Direito e de a aplicar e interpretar à luz do direito da União.

STATEMENT FROM FRANCE

The French authorities will be particularly vigilant to ensure that the Council's decision to sign the Council of Europe Framework Convention on Artificial Intelligence and Human Rights, Democracy and the Rule of Law is rigorously respected.

They will therefore pay close attention that the European Commission follows the process foreseen (two- steps approach) in recital 6. As this recital makes clear, "*the Conference of the Parties will play a major role in the effective implementation of the Convention, including through making specific recommendations with regard to its interpretation and application. The Conference of the Parties will also consider possible amendments to the Convention*". In this regard, it is uttermost important that, in the event of failure to guarantee the 27 votes at the COP, the Commission proposes that the Member States be empowered to accede to the Convention alongside the Union in order to ensure that the Union has a number of votes reflecting its weight in the Council of Europe and allowing it to appropriately defend its interests. Should the 27 votes not be obtained, and the Member States not empowered to accede the Convention, the French authorities would assess the situation considering that the general interest of the Union would not, in this case, be appropriately defended; and all appropriate steps forward would thus be dully examined.

Furthermore, the enhanced coordination with the Member States mentioned in order to express uniform positions will be crucial in the event that the European Commission secures the 27 votes during the negotiations on the Rules of Procedure. In this case, the Commission will be in charge to keep the Member States regularly, fully and transparently informed of the discussions at the Conference of the Parties. Delegations must be given adequate time to negotiate the positions to be taken, and the European Commission shall take into account all positions expressed by the Member States and in any case faithfully reflect the position adopted by the Council.