



ICDPPC Working Group

Working Group on Ethics and Data protection in Artificial Intelligence

Report on 2019 Activities / 2019-2021 Forward Looking Plan

1) Background

The Declaration on Ethics and Data Protection in Artificial Intelligence (AI), adopted at the 40th Conference in October 2018, endorsed a set of “guiding principles”, as its core values to safeguard human rights in the development of AI. It calls for common governance principles on AI to be established, fostering concerted international efforts in this field and working with and supporting general and sectoral authorities in other fields such as competition, market and consumer regulation. This permanent WG has been established to promote understanding of, and respect for, the guiding principles by all relevant parties involved in the development of AI systems, including governments and public authorities, standardization bodies, AI system designers, providers and researchers, companies, citizens and end users of AI systems. The objective is to proactively support an active public debate on digital ethics aiming at the creation of a strong ethical culture and personal awareness.

2) Executive Summary

Following the Declaration on Ethics and Data Protection in Artificial Intelligence, adopted at the 40th ICDPPC in Brussels, a constitutive phone conference took place in January 2019. So far, 19 member delegations and observers have participated in the work of the Working Group or expressed an interest to join. Subsequent to the inaugural call, the Working Group established its structures, with three co-chairs (CNIL, FR; PCPD, Hong Kong; EDPS, EU) and the WG secretariat provided by the EDPS.

The WG held two all-member phone conferences (another one is scheduled for September) and discussed:

- its Draft Work Program,
- the outcome of the public consultation on the Declaration,
- the stakeholder meeting organised in the margins of the RightsCon conference, and

- support and dissemination activities.

The conference calls also served to decide on administrative issues relating to the WG's work.

a. Draft Work program

The secretariat presented a first version of the Draft Work Program (DWP) in June 2019. Based on feedback from the co-chairs and members of the WG, a second draft was discussed in July 2019. Currently, the WG members are in the process of determining their participation in the scheduled actions and possible refinement of the intended objectives. WG members will also welcome feedback from other delegation and observers.

The DWP covers the period from 2019 to 2021. It defines a number of support actions and deliverables and a rough schedule for their completion. The subsequent table provides an overview of the activities.

Action	Timing	Notes	Rapporteur
1. Publish report on the responses to the Public Consultation on the Declaration, including the principles which appear to require more specific guidance	Draft completed; presentation of report at 41st ICDPPC (Tirana, 2019)		PCPD Hong Kong
2. Create common repository of guidelines and principles on AI, data protection and ethics	Created; collection of documents ongoing		EDPS
3. Assemble and maintain international repository of real life cases of applications of AI technology which are relevant for ethics and data protection	Created; collection of cases ongoing; first overview circulated to ICDPPC members by June 2020	E.g. school admissions; predictive medicine; workplace recruitment, evaluation and dismissals; (political) ad targeting; video recommendations; chat bots for public services; facial recognition for borders, security, control in public spaces and in schools and retail;	EDPS

Action	Timing	Notes	Rapporteur
		'testing' of AI systems in low income countries etc.	
4. Prepare statement on relationship between ethics, human rights and data protection in the area of AI	Draft statement for consultation at 41st ICDPPC (Tirana, 2019)		EDPS
5. Prepare statement on the essential need for accountability and responsibility of human actors for AI systems	Draft statement circulated to ICDPPC members by June 2020; Potential adoption at ICDPPC 2020		OPC Canada, PCPD Hong Kong Potentially: ICO UK, BfDI Germany, FDPIC Switzerland
6. Prepare analysis of the risk to data protection and especially data minimisation of demands to maximise personal data collection on the grounds of 'eliminating' bias and discrimination	Draft analysis for consultation of ICDPPC 2020		GPDP Italy Potentially: BfDI Germany, AAIP Argentina
7. Prepare resolution on how data protection and privacy are essential to sustainable digital growth and AI innovation	Draft resolution for consultation and adoption at ICDPPC 2020		CNIL France Potentially: FDPIC Switzerland
8. Conduct survey among members on DPAs' capacity and expertise in addressing ethical and data protection issues in cases of application of AI systems, as a first	Draft analysis/ summary of survey outcomes for consultation of ICDPPC 2020		CNIL France, HDPG Greece

Action	Timing	Notes	Rapporteur
step towards a draft 'gap analysis'			
9.* Prepare ethical analysis of human and environmental resources used in AI systems with a view to a resolution in 2021 on impact of data intensive technologies on the environment	First analysis circulated to ICDPPC members by June 2021; potential resolution for consultation and adoption at ICDPPC 2021	E.g. mineral extraction; cloud server energy consumption and emissions; human content moderators and data quality management etc.	tbd
10.* Prepare analysis of impact of application of AI technologies on inequality at global and local level with a view to a statement in 2021	Draft analysis circulated to ICDPPC members by June 2021; potential statement for consultation and adoption at ICDPPC 2021		tbd

*The WG discussed that caution must be applied when addressing actions 9 and 10, referring to environmental and socio-economic harms that AI may pose. Concerns of some members referred to questions of how to speak on these matters from the perspective of data protection as the WG's area of expertise. With the aim to support responsible use of AI that protects the data privacy of individuals, embedded in broader discussions on AI ethics, it was suggested to opt for a surgical focus on key points relevant to the WG's field of expertise and/or collaboration with other regulators operating in the respective subject fields.

b. Summary of the public consultation on the Declaration

Following the adoption of the Declaration, the ExCo invited the public to submit comments on the document. This public consultation ended on 15 February 2019. The secretariat received 17 submissions. One submission represented eight organisations.

PCPD prepared a draft summary report of the submissions. The WG discussed the draft report in July and agreed to share it with the delegations at ICDPPC 2019 for further feedback before preparing the final report after the conference.

The draft summary is provided as an annex to the present report.

c. Support and dissemination activities

Following the discussions of the WG and in line with the DWP, the EDPS acting as the secretariat of the WG established a repository for relevant publications on the subjects of the WG. While primary attention is on documents from ICDPPC members and observers, also

other relevant documents, in particular from international organisations can be made available through the repository.

Furthermore, a repository of information on real-life cases of AI technology applications, which are relevant for the work of the WG, is operational. All members and observers are invited to provide relevant documentation to the WG secretariat.

d. Stakeholder roundtable

Members of the WG, from CNIL, OPC (Canada) and the EDPS, participated in a private stakeholders roundtable on the Declaration in the context of the RightsCon conference, organised by the civil society organisation AccessNow, on 12 June in Tunis. Eight organisations participated in the meeting. Main elements of the discussion concerned clarifications of the **scope and objectives** of the ICDPPC's initiative. Participants emphasized the need for ICDPPC members to ensure that a **data protection perspective** is maintained in the AI debate. **Clear definitions** should be used in the debate, and authorities should carefully observe the efforts to assess the **feasibility of dedicated legal instruments** on AI and whether they could be more effective than non-binding governance principles. Authorities should ensure proper **enforcement of existing legal frameworks** and raise awareness about the **limited effect of anonymization** as a remedy. The **transparency of AI systems**, the risks of **bias and discrimination** in AI supported decisions are among the issues that deserve particular attention. Participants encouraged the creation of a knowledge base and the sharing of expertise between authorities.

A more detailed report on the RightsCon session is provided as an annex to the present report

Working Group Activity 2019:

The Working Group has set up its structure and working infrastructure. Members are highly committed to the objectives of the WG. The members of the Working Group convened via Teleconference in January, June and July. A third call with the members of the Working Group will take place in September.

Work on the actions of the DWP has started. Action 1 (public consultation report) is nearly complete. Actions 2, 3 and 4 are currently ongoing. For the other actions scheduled for 2020, members are currently in the process of assessing their possible contributions.

The WG is at the current stage not asking for a formal endorsement of the DWP by the conference, but it invites delegations and observers to provide feedback on this report and its elements. The outcome of the public consultation should also serve to inform and feed into the priorities and actions of the DWP.

3) Forward Plan for the Working Group 2019-2021

Taking account of any feedback from delegations and observers in Tirana, as well as from the actions of member authorities in the domain of AI, the WG plans to further elaborate on the substance and schedule of the programmed actions, and to ensure transparent and timely exchange with the members and observers of the ICDPPC.

4) Annex

- **Summary of Responses to ICDPPC Public Consultation on Declaration on Ethics and Data Protection in Artificial Intelligence**
- **Summary of stakeholders roundtable on the ICDPPC Declaration on Ethics and Data Protections in Artificial Intelligence (RightsCon 2019)**

Summary of Responses
to ICDPPC Public Consultation on
Declaration on Ethics and Data Protection in Artificial Intelligence

Background

1. On 23 October 2018, International Conference of Data Protection and Privacy Commissioners (ICDPP) adopted its Declaration on Ethics and Data Protection in Artificial Intelligence. Essentially, the Declaration endorses 6 Principles as core values to preserve human rights in the development of AI.
2. The text of the Declaration was open for public consultation and all interested stakeholders were invited to contribute. The contributions would serve to feed into the work of the newly established ICDPPC Working Group on Ethics and Data Protection in Artificial Intelligence¹.
3. The public consultation period finished on 15 February 2019.
4. PCPD Hong Kong, as a Co-Chair of the Working Group, studied and analysed the responses. A summary of the responses is provided as follows.

Overview of the Respondents

5. A total of 17 submissions were received by the ICDPPC Secretariat. Of the 17 submissions, 1 represented 8 Latin-American Non-Governmental Organisations (NGOs).
6. The 17 respondents can be categorised by stakeholder groups as follows:

Stakeholder Group	Number of Respondents
Business/Industry	8
Other (including individuals)	5
NGO ²	1

¹ The Working Group is co-chaired by CNIL France, EDPS and PCPD Hong Kong.

² The submission represents 8 Latin-American NGOs: Digital Rights Latin America, Association for Civil Rights Argentina, Hyperright Peru, IPANDETEC Panama, Network in Defense of Digital Rights Mexico, TEDIC Paraguay, Karisma Foundation Colombia, and Coding Rights Brazil.

Academic Think Tank ³	1
Public Authority ⁴	1
Government ⁵	1
Total:	17

7. Not surprisingly, the responses were pre-dominated by commercial organisations or their trade associations. They are namely Aviva, Google, AIG, Digital Europe, The Software Alliance, European Banking Federation, AmCham EU, and Bitkom. It is advisable to bear this point in mind when reading up the responses.

8. It is noteworthy that the responses do not represent any stakeholders from the Asia Pacific Region.

General Comments

9. All respondents generally supported the six principles and the broad values presented in the Declaration. Specifically, some respondents applauded the establishment of the Working Group.

Traditional Data Protections Cannot Address Diversity of AI Technologies

10. The Software Alliance suggested that policies directed at AI should take into account the diverse sets of underlying technologies and use cases that comprise the AI ecosystem. A single set of ethical “requirements” for all forms of AI runs the risk of being both over- and under-inclusive. Ethical considerations, therefore, should be flexible enough to account for context-specific nuisances, including considering the differences between uses that are consumer-facing and those that are developed as enterprise solutions or solely for machine-to-machine communication.

11. On this vein, a blanket application of personal data protection principles to all AI systems tends to overstate the relevant challenges because some AI use cases may not even involve personal data in the first place, as Digital Europe suggested. Bitkom suggested that the **Preamble** should mention the application of AI technologies because development and application may need different approaches.

³ CIPL

⁴ Bavarian Data Protection Commissioner, Germany

⁵ Danish Business Authority

Data Protection Authorities' Collaboration with Other Authorities

12. There was a quite recurrent theme among the responses there is a need for data protection and privacy authorities to work with other authorities addressing human rights , national authorities, international organisations, and cross-disciplinary regulators (e.g. consumer protection and competition) to address more broadly and comprehensively ethical data processing. (Digital Europe, AmCham EU, 8 Latin American NGOs, and Bitkom) Digital Europe encouraged the Working Group to take into account similar exercises driven by other stakeholders in the international community for cross-regional policy approaches.

Conditions for an Effective Data Protection Authority

13. The 8 Latin American NGOs suggested that data protection authorities supervising AI developments should be equipped with:

- Statutory power, consistent budget, trained human resources
- Independence
- Transparent cooperation with other authorities, academia, private sector and civil society.

Other

14. Other notable general comments include:

- Regulators should maintain continuous dialogue with stakeholders and with industry advising on technical feasibility. (AmCham EU)
- Privacy rights are not absolute and must be balanced against other human rights, such as rights to life and health and the benefits of AI to individual and society as a whole. (CIPL)
- The private sector has a vital role to play in crafting use case-specific principles, best practices, etc. Therefore a separate sub-section should be created to focus on principles and questions guiding a self-assessment for risk analysis. (The Software Alliance)
- It is recommended that liability issues should be addressed separately because it is necessary to clearly distinguish between binding, legal obligations and ethical

guidelines. Questions about liability touch upon civil law and therefore should not be discussed within groups of data protection professionals. (Bitkom)

- We should vigilantly distribute knowledge and strictly separate powers and concerns to and between AI systems in order to responsibly prevent too much power accumulating in the hands of one party or one market player. (Bavarian Data Protection Commissioner)
- To prevent the spread of disinformation, it is important to highlight truth and authenticity as a principle in the use of AI. (Dal Singh)
- Attention must be paid to questions of group privacy and discrimination against vulnerable and marginalized groups in the context of AI. Sections of society in poor living conditions and with low education threshold are among those at risk. Use of technology by public institutions must serve all sections of society and in particular benefit marginalized groups. (8 Latin-American NGOs) Vulnerable groups such as children and persons with disabilities may be at risk of being exploited by AI developments. (Dal Singh)
- International frameworks governing the development and use of AI must take account of the diversity of lived realities around the globe. There is a potential danger that frameworks building predominantly on experiences of the Global North do not respond to the diverse local use cases of AI in other regions. (8 Latin-American NGOs)

Comments Specific to the 6 Principles

Principle 1: Fairness

15. An individual (Sylvie Dufournaud) considered that **Principle 1** can be supplemented with Principles 5 and 14 of the Holberton-Turing Oath, which encourages the achievement of a balance between technological development and respect for the human being.

16. Regarding **Principle 1(a)**, given that data used in AI may be repurposed in unforeseen and beneficial ways, repurposing should be welcome. On the same vein, the concept of “reasonable expectations” in the Principle should be interpreted more broadly – specifically the Principle should mention the consideration of the risk and benefits of AI. Additionally, since the development of AI requires large amounts of data from different sources, the Principle should refer to a use that can occur without undermining or negating the original purpose and/or is not in conflict with the original purpose. (Note: rewording of the Principle is suggested on page 2 of CIPIL’s submission)

17. **Principle 1(b)** mentions AI’s collective impact on groups. However, Bitkom was of the opinion that impact on groups and society will be ambiguous and difficult to assess. Data protections authorities should not ascribe such a task to themselves. However, the 8 Latin

American NGOs submitted that in Latin America and the Caribbean, the impact of AI on groups of people is of much concern. For example, AI with biased databases is used to identify sections of the city where crimes are most likely to be committed.

18. **Principle 1(c)** should mention the concerns about the consequences of the development of AI systems on employment, in an individual's view. (Sylvie Dufournaud)

Principle 2: Continued Attention and Vigilance

19. Digital Europe contended that one-size-fits-all approaches that carry excessive requirements may have unintended consequences. Therefore, when the Principles are implemented, there needs to be appropriate and effective differentiation of AI systems, i.e. a risk-based approach.

20. Likewise, AmCham EU suggested that not all AI systems pose the same level of risk or potential harm and therefore not all AI systems would require the same level of vigilance and oversight. Therefore, appropriate and effective differentiation of AI systems is needed.

21. AIG submitted that abdication of the decision-making process by a human element is not specifically addressed by the guidelines.

22. On **governance** and **accountability**, Digital Europe suggested that the importance of the role of good data quality should be mentioned as a cornerstone of good governance. CIPL proposed that accountability should be incentivised by data protection authorities. Certifications, codes of conduct and other similar accountability schemes are important. End-user recourse mechanisms that allow individuals to correct information or submit concerns to relevant organisations should be highlighted. (Note: rewording of the Principle is suggested on page 3 of CIPL's submission)

22. **Principle 2(d)** mentions the setting up of independent ethics committees. Bitkom questioned who would nominate such groups and which countries would be part of these groups. The 8 Latin-American NGOs added that the use of AI systems by public institutions needs to be subject to audit and accountability by independent authorities/committees.

23. An individual (Sylvie Dufournaud) suggested that **Principle 2** can be supplemented by Principle 4 of the Holberton-Turing Oath, which requires AI professionals to respect the hard-won scientific advances and progress of their predecessors and to pass on theirs in turn. Principles 8 to 12 of the Holberton-Turing Oath can be introduced here relating to deontology of AI professionals.

Principle 3: Improving Transparency and Intelligibility

24. There was not a lack of views on the practicability of transparency and intelligibility of AI systems.

25. CIPL suggested that given the “black box” problem, it is practically impossible to explain why certain complex algorithms arrive at a specific result. It is important to promote meaningful, appropriate and relevant forms of transparency and intelligibility. Additionally the user of AI technology may not have the means to provide complete information to the individual. The Principle should therefore include other options that deliver meaningful information, including human review of AI decisions, redress mechanisms, feedback tools, etc. (Note: rewording of the Principle is suggested on page 4 of CIPL’s submission)

26. The following commercial organisations or their associations happened to somewhat echo CIPL’s view above:

- Algorithmic transparency is not a useful way to deliver understanding and accountability. The goal should be to be able to provide meaningful explanations about models’ interaction with the input and training data. (DIGITALEUROPE)
- To ensure clarity for all stakeholders, ICDPPC should develop and refine the concept of “transparency” in the context of AI with the support of a broad coalition of stakeholders. A balanced approach should be adopted to take into account the complexity of automatic processing and the need to provide relevant information in understandable manner. (European Banking Federation)
- The ability to provide clear and meaningful information on AI systems entails different levels of detail depending on technical feasibility, applications (industry quality control vs job selection), use context (B2B vs B2C), IP and trade secrets. (AmCham EU)
- Algorithmic transparency is not the right way because publishing the source code does not necessarily clarify something happens – and would at best be only discernible by an expert eye. It also opens the door to malicious use and intellectual property concerns and even privacy and security. “Intelligibility” should be understood as “interpretability” and “explainability”. (Google)
- ICDPPC should include industry consultations when implementing the principle of explainability, given the context-specificity of AI services. (The Software Alliance)
- A full disclosure of the software code cannot help transparency. A risk-based approach is recommended. (Bitkom)
- While it is in line of the GDPR to ensure data subjects be aware of the automated processing of their personal data, there is a need to spell out the need to maintain confidentiality of commercially sensitive information and processes. (Aviva)

27. The 8 Latin-American NGOs, on the contrary, advocated enhancement of transparency in AI systems: Given the highly complex operation of AI systems, it is unfair that individuals bear the responsibility of informing themselves and understanding matters. The traditional forms of data protection such as informed consent on the part of the individuals are considered to no longer have the same intended efficacy. Therefore, obligations to respect rights must be fulfilled regardless of whether or not consent is obtained.

28. The 8 Latin-American NGOs emphasised that it is especially difficult for countries in the Global South that often lack a strong institutional framework in terms of competition and consumer protection to face up to the dominant positions held by a handful of big techs that rely on massive databases of their users. ICDPPC should there recognise this market reality in devising the accountability mechanisms for this type of oligopolies.

29. Specifically, an individual (Sylvie Dufournaud) suggested that **Paragraph 3(e)** should explicitly incorporate European Parliament's recommendations on the risk of dehumanisation induced by AI via robots in personal care and medical practice

Principle 4: Responsible Design and Development

30. CIPL suggested that specific reference should be made to the notion of risk and the risk-based approach to data protection, taking into account the proportionality between the benefits of AI use and the risk of harm to individual. (Note: rewording of the Principle is suggested on page 5 of CIPL's submission)

31. The Bavarian Data Protection Commissioner made it clear that the danger of data accumulation up to a critical level in the course of AI development needs to be foreseen and reduced as far as possible. A data protection impact assessment should therefore be used to analyse potential risks regarding the combinations of different sets of data.

Principle 5: Empowerment of Individual

32. Two individuals ("Observer" from Denmark and Rikke Graff) showed their support for the Principle. The former respondent pointed out that once the AI-assisted system is implemented, the decisions are never challenged, i.e. "technological fatalism". It is proposed that the **Principle** should be supplemented with the lines of "the decisions from automated systems, if challenged by the persons affected, should be subject to manual processing and eventually overruling, without the use of algorithms". The latter respondent succinctly said that a choice must be left to the individual. Data sources and calculational steps must be known to the individual to enable transparency.

33. The Danish Business Authority, which is a government authority, submitted that empowerment of every individual is particularly supported because empowered individual consumers and tech-workers can in turn demand the ethical use of AI.

33. The business/industry sector, however, cast their doubts especially about “right not to be subject to a decision”. European Banking Federation said that **Paragraph 5C** echoes Article 22 of GDPR, which is difficult to interpret, and there was already debate among EU stakeholders as to whether the phrase “right not to be subject to a decision” means a prohibition of automated decision-making or just a right to request a non-automated decision. It therefore suggested that the phrase “right not to be subject to decision” be replaced with something along the lines of “automated decision-making systems should be permitted, subject to a right to request a human review of significant decisions”. The Federation went on to say that more research should be carried out to verify to what extent the “right not to be subject to a decision” affects the development and applicability of AI.

34. AmCham EU expressed its worry about restrictive interpretation of provisions prohibiting automated decision-making that might negatively affect basic functions of autonomous technologies. It suggested that ICDPPC should look at the “legitimate interests” of data controllers/processors as a valuable legal basis for data processing.

35. On a similar note, CIPL pointed out that “empowerment” should be proportional to the benefits and risk to individual. It should be made clear that the exercise of some individual rights should be understood in new ways in specific AI contexts so as to avoid diminishing the benefits of certain AI applications, e.g. the balance between deletion and retention of data, with the latter necessary for the accuracy of the AI algorithm. (Note: rewording of the Principle is suggested on page 5 of CIPL’s submission)

Principle 6: Reducing and Mitigating Biases and Discriminations

36. CIPL and some commercial entities shared the view that large datasets and cross-purpose flows of data are in fact necessary for the operations of AI systems and even for reduction of biased and discriminatory decisions.

37. CIPL proposed that access to sensitive data such as gender, race and health is necessary to avoid biased and discriminatory impacts of AI. Therefore, the Principle should spell out the need to facilitate access to and sharing of good quality data sets, including sensitive or protected data. (Note: rewording of the Principle is suggested on page 6 of the submission)

38. Sharing similar views were AmCham EU and AIG. AmCham EU considered that the ability to access large datasets and move them across borders actually serves the purpose of reducing harm and discrimination to individuals. AIG suggested that **Principle 6(c)** should also

mention that personal data and information used in automated decision making should be “diverse”. Also on **Principle 6(c)**, European Banking Federation considered that the quality or accuracy of the data should be the basis of any AI-related activity. The wording of this Principle, however, does not seem sufficiently strong.

39. An individual (Sylvie Dufournaud) considered that **Principle 6** can be supplemented by Principle 13 of the Holberton-Turing Oath, which invites scientists to consider the implications of their work on equity both in the perpetuation of historical biases, which may be caused by the blind extrapolation of data passed to future predictions, and in the creation of new conditions that increase economic inequality.

Way Forward

40. The Co-Chairs and Members of the Working Group on Ethics and Data Protection in Artificial Intelligence are advised to note the content of this summary in their deliberation on how to take forward the 6 Principles of the Declaration, including but not limited to developing practical guidance.

Stakeholder roundtable on the ICDPPC Declaration on Ethics and Data Protections in Artificial Intelligence

RightsCon 2019, Tunis, Wednesday 12th June 2019

As a follow up to the public consultation on the ICDPPC Declaration on Ethics and Data Protections in Artificial Intelligence, adopted in October 2019, this private roundtable organised in the margins of the RightsCon conference offered an opportunity to collect further input and feedback from interested stakeholders.

Participants

- Derechos Digitales
- Access Now
- Wikimedia
- European Union Agency for Fundamental Rights
- Global Partners Digital
- Amnesty International
- International School of Law and Technology (Brazil)
- Algorithm Watch

ICDPPC Members

- Office of the Privacy Commissioner of Canada (OPC)
- European Data Protection Supervisor (EDPS)
- Commission Nationale de l'Informatique et des Libertés (CNIL)

Summary of discussions

Scope of action and objectives

One participant asked for the ICDPPC to further clarify the objective of the Declaration adopted in October as well as of the follow up action envisioned stressing that, while ethics is an important aspect to be addressed, it is important that data protection authorities first reaffirm and enforce the application data protection principles already defined by law.

The discussion on the objective and process of consultation with external stakeholders, stressing on the need to identify areas where further guidance would be relevant. A

participant stressed on the importance for the ICDPPC to maintain a data protection angle in its recommendations, while interacting with the many other ongoing initiative in the field of digital ethics.

A participant also insisted on the need to also look at non-AI systems when it comes to ethics and data protection. AI being a cross-cutting issue since it is a technology, it should however not lead to a complete shift away from issues related to non-AI systems

Definitions and transparency

A participant flagged the importance of relying on clear definitions when it comes to both general principles and concrete recommendation. The ICDPPC should further clarify the notions it is aiming at addressing, including when it comes to the definition of “artificial intelligence” and the applicable legal concepts. Taking the example of the transparency principle, the discussion followed on the importance to clearly state to which system or application such principle is to apply. As there are many connected, but distinct, technological developments, it is important that the issue of artificial intelligence is correctly framed and that recommendation do not fall outside of the applicable systems. The need to focus on concrete and real life examples has been mentioned as a way to make future guidance more concrete and practicable.

Regarding the transparency of AI systems, a participant pointed out that it should not only be about the transparency of algorithms but about the transparency on the use of AI systems and applications, including when they are used by both private and public sectors. A transparency requirement would actually become void and not really applicable if it is not properly framed and defined in terms implementation.

Governance and future framework

A participant argued against a reference to the term “governance” in future actions, as it could become a confusing term. Further governance principles might not be needed, but instead the enforcement of existing legal framework and principles should be prioritised.

Another participant mentioned the ongoing work at the Council of Europe level aiming at assessing the feasibility and relevance of a dedicated legal instrument applicable to AI, this should be further monitored and taken into account by the ICDPPC in its future work.

Priority actions

Several participant reiterated the need for privacy and data protection authorities to focus on the proper enforcement of existing legal frameworks, and that the existence and development of comprehensive and adequate data protection laws are actually a prerequisite for the development of AI systems. In this context, the ICDPPC should also focus on the

possible limits to the enforcement of data protection rights, such as the right to explanation or the right of access.

Anonymisation is often presented as a key solution to address the challenges posed by the use of personal data in the development of AI, while it is not sufficient. That's probably where the ICDPPC would have a great value in identifying the limit of such a solution and the related data protection challenges.

Bias and discrimination

A discussion on the principle related to bias and discrimination questions the competence of data protection authorities in this field, since discrimination actually touches upon phenomena and legal frameworks that go beyond the remit of privacy and data protection authorities. A participant expressed its doubt about whether data protection authorities shall be involved in issues related to discrimination and insisted on the need for a more aggressive approach towards the application of ethical and data protection principles by private companies.

Expertise and knowledge sharing

A participant mentioned the value of gathering all AI-related decisions from privacy and data protection authorities, providing a valuable knowledge base in order to monitor the evolution of challenges. The need to increase knowledge and expertise sharing has been recognised by participants as a key element to pursue future initiatives in the field of AI.