Council of Europe Framework Convention on Artificial Intelligence and Human Rights, Democracy and the Rule of Law



The Council of Europe drafted and opened the world’s first global binding treaty on Artificial Intelligence (AI) on September 5, 2024.[[1]](#endnote-1) The treaty followed soon after the European Union’s AI Act of June 13, 2024, both based on the Council of Europe’s standards on human rights, democracy, and the rule of law.[[2]](#endnote-2) The treaty, Framework Convention on Artificial Intelligence and Human Rights, Democracy and the Rule of Law (“the AI Treaty”) details a risk-based approach to AI and provides a legal framework to redress human rights violations occurring as a consequence of AI technology.[[3]](#endnote-3)

The AI Treaty is a framework treaty, defined by the Economic Commission for Europe as “a legally binding agreement that establishes broad commitments by its parties but leaves details to national legislation or other instruments.”[[4]](#endnote-4) The AI Treaty may be signed by member states of the Council of Europe, non-member states that contributed to the treaty’s drafting, and the member states of the European Union.[[5]](#endnote-5) Eleven member states participated in drafting the AI treaty: Argentina, Australia, Canada, Costa Rica, the Holy See, Israel, Japan, Mexico, Peru, the United States, and Uruguay.[[6]](#endnote-6) Thus far, signatories include the United States, the UK, Israel, Norway, Andorra, Georgia, Iceland, the Republic of Moldova, and San Marino.[[7]](#endnote-7) Article 30 of the AI Treaty require that five signatories, at least three of which must be Council of Europe member states, ratify the AI Treaty for it to be able to enter into force and become binding on the Council of Europe.[[8]](#endnote-8) After the AI treaty is entered into force, the Committee of Ministers of the Council of Europe may invite any non-member states of the Council of Europe who were not involved in the AI Treaty to accede to it, granted the committee obtains unanimous consent from the parties to the convention.[[9]](#endnote-9)

The AI Treaty defines an “artificial intelligence system” as “a machine-based system that, for explicit or implicit objectives, infers, from the input it receives, how to generate outputs such as predictions, content, recommendations or decisions that may influence physical or virtual environments.”[[10]](#endnote-10) The treaty largely applies to public authorities, and to private actors acting on behalf of public authorities, mandating that parties implement measures for the identification, assessment, prevention, and mitigation of risks posed by AI systems.[[11]](#endnote-11) The AI Treaty applies to the entire lifecycle of an AI system.[[12]](#endnote-12) The treaty has the potential to result in greater humanitarian protection and redressability for human rights violations caused by activities within any period the AI system is “alive”. In terms of prevention, the treaty calls for the provision of procedural safeguards to AI systems, and the requirement to inform individuals that they are interacting with an AI system.[[13]](#endnote-13) Following a violation, parties to the treaty must provide “accessible and effective remedies … includ[ing] requiring sufficient documentation of relevant information regarding AI systems, access to this documentation, and the right to file a complaint with the national authorities.”[[14]](#endnote-14) Importantly with the growth of AI and the constant-changing nature of technology, the treaty establishes a follow-up mechanism and utilizes the international network by establishing a Conference of the Parties to determine proper application and functioning of AI systems under the treaty.[[15]](#endnote-15) Parties to the treaty must report periodically to the Conference of the Parties in order to ensure they are taking proper measures to implement the general principles, risk and impact management frameworks, and safeguard and remedy procedures.[[16]](#endnote-16) Parties to the treaty must cooperate with each other and provide one another with relevant information. Lastly, the AI Treaty requires the establishment or delegation of a separate body to oversee compliance with the treaty.[[17]](#endnote-17)

1. Global Legal Monitor, *Council of Europe International Treaty on artificial Intelligence Opens for Signature*, Library of Congress (Sept. 23, 2024), <https://www.loc.gov/item/global-legal-monitor/2024-09-23/council-of-europe-international-treaty-on-artificial-intelligence-opens-for-signature/#:~:text=On%20September%205%2C%202024%2C%20the,redlines%20for%20certain%20AI%20uses> [<https://perma.cc/JKJ6-MJAC>]. [↑](#endnote-ref-1)
2. *Id.* [↑](#endnote-ref-2)
3. Council of Europe Framework Convention on Artificial Intelligence and Human Rights, Democracy and the Rule of Law, Council of Europe Treaty Series No. 225 (May 17, 2024), chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/<https://rm.coe.int/1680afae3c> [hereinafter “the AI Treaty”]. [↑](#endnote-ref-3)
4. *Framework Convention Concept,* Economic Commission for Europe’s Committee on Housing and Land Management no. 27 (Oct. 3-4, 2011), <https://perma.cc/Q86Z-44D9>. [↑](#endnote-ref-4)
5. Global Legal Monitor, *Council of Europe International Treaty on artificial Intelligence Opens for Signature*, Library of Congress (Sept. 23, 2024). [↑](#endnote-ref-5)
6. *Id.* [↑](#endnote-ref-6)
7. Maya Prakash, *Council of Europe Opens First Global AI Treaty for Signatures*, ASIL (Sept. 18, 2024 9:02 AM), <https://www.asil.org/ILIB/council-europe-opens-first-global-ai-treaty-signatures> [<https://perma.cc/E424-ZNZC>]. [↑](#endnote-ref-7)
8. The AI Treaty, art. 30 [↑](#endnote-ref-8)
9. *Id.* at art. 31. [↑](#endnote-ref-9)
10. *Id.* at art. 2. [↑](#endnote-ref-10)
11. *Id.* at art. 3(1)A&B); *Id.* at art. 16. Because [↑](#endnote-ref-11)
12. *Id.* at art. 14 [↑](#endnote-ref-12)
13. *Id.* at arts. 14, 15. [↑](#endnote-ref-13)
14. Global Legal Monitor, *Council of Europe International Treaty on artificial Intelligence Opens for Signature*, Library of Congress (Sept. 23, 2024). [↑](#endnote-ref-14)
15. *Id.* [↑](#endnote-ref-15)
16. *Id.* [↑](#endnote-ref-16)
17. The AI Treaty, arts. 23-26. [↑](#endnote-ref-17)