

29 January 2019

President Jean-Claude Juncker
European Commission
Rue de la Loi Wetstraat 200
1049 Brussels, Belgium

Dear President Juncker,

We Europeans face an unprecedented opportunity to make Europe a global leader on the governance of AI. This is thanks to your leadership and vision in placing the development of a sound ethical and legal framework at the heart of the European Strategy on AI. And indeed I commend your foresight and that of the College in placing the European Group on Ethics in Science and New Technologies, the EGE, at the heart of this process. But with the world now waiting for the EU to translate this vision into an expanded, considered set of concrete next steps, especially after the strong step forward brought by the GDPR, it is important to share with you the EGE's comments regarding the turn that this process has taken – and constructive avenues to take it further.

As you know, the EGE has a longstanding track record of providing independent advice to the Commission where ethical, societal and fundamental rights issues intersect with the development of science and new technologies. It has unwaveringly striven to embed the EU Charter of Fundamental Rights in EU policymaking and to promote a European approach to technological innovation that is rooted in European values.

This was also the driving force for the EGE Statement on Artificial Intelligence, Robotics and Autonomous Systems, issued in March 2018, which was particularly well received and taken up.¹ The EGE is pleased that its input has been recognised by the Commission and accorded a structural role in the development of an ethical framework on AI. Indeed, the European Commission in its Strategy on AI (COM(2018)237) explicitly foresees the development of Guidelines on the Ethics of Artificial Intelligence on the basis of the EGE Statement and in collaboration with the EGE. We are thankful to Vice-President Ansip and Commissioners Moedas

¹ The EGE Statement on AI Ethics was handed over to Vice-President Ansip and Commissioner Gabriel on 10 April 2018. The EGE Opinion on Future of Work, Future of Society, handed over to Commissioner Thyssen and Commissioner Moedas on 19 December 2018, also provides an important insight into the ethical and governance implications of the transformative impacts of AI.

and Gabriel, and to their teams and Commission services, for establishing a good foundation for cooperation, which we realise must be taken further.

It is in the same constructive spirit that I as Chair of the EGE, following in-depth discussions in our Group, draw your attention to the shortcomings of the current process with its preliminary outcomes – as well as to effective and inclusive ways forward. As the situation stands, the EGE has serious concerns with regard to the approach, societal vision and ethical reasoning underpinning early work being produced for the Commission on AI ethics.

Our first concern is with an approach that appears to assume technological mastery to be an end in itself, a linear model starting with ‘ethical purpose’ as a given, with ethical and social values considered as long as they do not hinder some extraneous technological progress. In its Statement on AI the EGE gives primacy to an approach that enables innovation and shapes technological development thanks to societal, ethical values. The ultimate good to be questioned and attained in a ‘human-centric AI’ is not merely wellbeing but also human dignity.

The EU has a robust overarching framework, specified in formulating fundamental rights and values in the EU Charter. It should not be reduced to the abstraction to ‘do good’ devoid of an inquiry into what the good is, whom it benefits, and how to identify it. There are many ethics guidelines on AI, developed by many bodies, but any guidelines conveyed to or by the European Commission as an institution ought to at least pay sufficient regard to the substance of European values, and particularise their added-value with respect to approaches which do not.

Furthermore, the EGE sees a significant risk in the current approach of conflating legal obligation and voluntary commitment, compounded by the absence of considerations of monitoring (or compliance/enforcement). This completes a picture that risks being seen as partial, rushed, or thorough ethics-washing. Appealing to ‘do good’, or appealing to ‘ethical purpose’, or appealing to a grouping of industry representatives, is not enough to offer robust and effective guidance.

On process, the EGE appreciates the intention from the Commission to draw on a diverse set of stakeholders. However, due care must be given to the constitution of any fora charged with such a vital task, and to the appropriate balance of the different voices and interests and expertise active within it. At stake here is a fundamental question regarding *who* decides what is ‘good’ for our societies.

Finally, too tight timelines will undermine any attempt to develop a considered, coherent ethical foundation for AI, let alone to organise, and take into account, a wide societal deliberation, running the risk that such claims appear as mere window dressing.

As such, the EGE fears that the high expectations regarding European leadership in the ethics and governance of AI may not be met. The current development of this ethical guidance risks being seen as weak not only in its ethical analysis and in its treatment of key AI considerations such as transparency and auditability, but also in its lack of attention to operationalisation. Moreover, crucially, the setup and process may be detrimental to its credibility and legitimacy.

Undoubtedly, the European Commission is caught by competing demands, both to respond rapidly to the pressing need for guidance, and to devote the necessary time and

engagement to this crucial and complex deliberation. The way forward in this context must be a stepwise approach.

The existing preliminary inputs produced for the Commission can serve as a first set of elements to develop and rework, in order to meet the commitment to elaborate some ethics guidelines by March. We would respectfully suggest that the Commission takes stock, and takes this learning into the next phase. Any guidelines will then need to be carefully assessed, including as to whether they have given due consideration to the fundamental values of the EU as set out in the Charter of Fundamental Rights, then tested and refined in a sector- and practice-specific manner. The EGE in line with the above mentioned Commission Strategy is ready to cooperate in this process. At the same time, the wide societal deliberation called for by the EGE, and which the Commission has started to foster, ought to be intensified. This is key to ensuring greater engagement within Europe and further afield. In this context, the EGE can play a useful role in facilitating dialogue with global stakeholders, as foreseen in the AI for Europe Strategy.

We call on the Commission to engage the necessary time and resources to purposely shape the way forward. Now the time has come, and must be taken, to carve out a distinctive European leadership in the field of Artificial Intelligence. The EGE, with its overarching position within the EU and international system of ethics governance, is there to support both this Commission and the next in this crucial endeavour.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'C. Woopen'.

Christiane Woopen

Chair, European Group on Ethics in Science and New Technologies

cc: First Vice-President F. Timmermans
Vice-President A. Ansip
Commissioner M. Gabriel
Commissioner C. Moedas
Commissioner M. Thyssen