

# BEING AIWARE: INCORPORATING CIVIL SOCIETY INTO NATIONAL STRATEGIES ON ARTIFICIAL INTELLIGENCE

## NETHERLANDS

Country paper by the European Center for Not-for-Profit Law and  
International Center for Not-for-Profit Law  
December 2020



European Center for  
Not-for-Profit Law

**ICNL**  
INTERNATIONAL CENTER  
FOR NOT-FOR-PROFIT LAW



# INTRODUCTION

On 9 October 2019, the Netherlands published its [Strategic Action Plan on Artificial Intelligence](#), referred to as SAPAI. The [Coordinated Plan on AI](#) communicated by the European Commission in 2018 advised Member States to write a national action plan. This recommendation by the European Commission provided the final incentive for the Dutch government to start writing a national strategy. The SAPAI is a key priority in the broader [Digitalization Strategy](#) of the Netherlands (p. 11) and outlines how the Netherlands will ‘capitalise on AI’s societal and economic opportunities, as well as [...] safeguard the public interests of AI, thus contributing to prosperity and well-being.’ (p. 6).

AI strategies that aim to mitigate possible risks for people and societies strengthen confidence in the use of algorithm-driven processes in society. Recent [research](#) named the Netherlands as a good example because the relationship between human rights and AI is made explicit in the section with the government’s vision on AI and because it sets out specific steps to ensure that AI is only developed and used in ways which are human rights-respecting. While the Dutch process has not been mentioned as best practice with regards to multi-stakeholder engagement, our research shows that key figures kept in mind the involvement of non-governmental actors and allowed time for consultation. This probably contributed to the firm embedding of human rights in the SAPAI.

The Ministry of Economic Affairs and Climate Policy (‘EACP’) is responsible for overall coordination of the national strategy, and other ministries bear responsibility for the use of AI-systems in their respective areas, such as Justice and Security, Social Affairs and Employment, Education, Culture and Science and the Interior and Kingdom Relations. Before the drafting process started, many different ministries and departments were working separately on AI. Therefore, EACP mapped these areas of work and AI-related initiatives through an internal research assignment and invited representatives from all ministries to participate in the creation of the broader AI strategy.

# THE PROCESS TOWARDS A STRATEGY: INTERMINISTERIAL AND MULTISTAKEHOLDER COOPERATION

## INTERMINISTERIAL COOPERATION

The SAPAI was established through an open and collaborative process within the national public administration of the Netherlands. The EACP acted as chair and established an *interministerial* working group that was open to and encouraged participation of representatives of all other ministries. Within the working group, *strategic sub-teams* were established for the primary areas of interest and members of the working group assumed responsibility for drafting and leading discussion on parts of the strategy such as on competitiveness and security.

Additionally, the working group decided that some areas required special attention and therefore separate processes. This resulted in working groups that were tasked with writing separate policy documents, which were published on the same day as the SAPAI – one on ‘AI, public values and human rights’ and another one on ‘legal safeguards to reduce risks from data analysis by the government’. Furthermore, participants of the working groups acted as coordinators in their ministries to align positions on the use and development of AI within their policy areas (e.g., employment and justice). This practice proved to be particularly helpful to achieve a ‘whole of government’ AI-strategy that provides clarity about the responsibilities of different branches of the government.

Many of these working groups continue to convene to date as part of the implementation process of the SAPAI: for example, the interministerial working group is still active under overall coordination of the EACP with engagement on the level of director. The thematic sub-teams also continue to convene but are chaired by respective ministries on different issues: for example, the Ministry of the Interior is leading the development of human rights principles and a non-discrimination impact assessment for AI. Finally, EACP is responsible for the annual update about the SAPAI, as part of the Digitalization Strategy, to the parliament.

## MULTISTAKEHOLDER INVOLVEMENT

Before the European Commission published its Coordinated Plan, several Dutch professors – pioneers in AI – insisted on a forward-looking policy process and a budget to strengthen the AI-ecosystem in the Netherlands. They wanted to keep pace with countries like France and Germany and promote a European-

led human-centric approach to counterbalance the accelerating development of state-driven AI in China and market-driven AI in the United States. Spearheaded by the Dutch employers' organisation VNO-NCW, five large Dutch companies and several AI professors supported by ECP,<sup>1</sup> a non-profit multi-stakeholder platform, created the AI Task Force. Civil society organisations were not involved in this process and mobilization of Dutch civil society groups on AI was not considered at that time.

When the ministries embarked on their journey to develop the SAPAI, the AI Task Force became their formal platform for consultation with non-governmental stakeholders, although limited to representatives of companies and academics. ECP supported the AI Task Force and organised participatory meetings prior to AI Task Force meetings about the SAPAI. Invitations were mostly sent to a predetermined group of participants on behalf of the EACP. ECP adopted a so-called *quadruple helix* approach for this process to include citizens' interests alongside those of private companies, academia, and the government. Citizens' concerns were represented in these meetings via interest groups representing groups such as patients, consumers and homeowners or issues areas such as privacy rights.<sup>2</sup>

In addition to the consultations with the AI Task Force, several ministries and thematic sub-groups of the inter-ministerial working group organised conferences about sectoral AI-related issues and invited a broad range of stakeholders to participate in order to harness a wide range of perspectives. These conferences provided opportunities for participants to learn about the SAPAI and offer their comments and perspectives: for example, the Ministry for the Interior, which drafted the policy paper on AI, public values and human rights, organised three conferences and enabled participatory [research on citizens' perceptions about AI](#). These conferences were focused on policy, oversight, and regulation in light of the development and deployment of AI. These discussions also reflected on how the government can and should safeguard human rights.

EACP organised a dedicated session on AI during the National Digital Conference in 2019, a government-led multi-stakeholder platform for the purpose of building a broader strategy on digitalization. This conference and the session were accessible to everyone and provided an opportunity for to learn about and provide input to the SAPAI.

---

<sup>1</sup> ECP is a non-partisan, and independent platform for all stakeholders constituting the Dutch information society. ECP's staff and participants have developed deep expertise on AI and published the first AI impact assessment in the Netherlands.

<sup>2</sup> These include patients' organisations, Vereniging Eigen Huis, the Consumentenbond, the Autoriteit Persoonsgegevens and Bits of Freedom.

## WHAT IS THE PERCEPTION ON INCLUSION AND PARTICIPATORY PROCESS?

Our interviews with key players in the government and with non-governmental stakeholders show that the Dutch government was mindful of including non-governmental stakeholders in the process, as envisaged by the European Commission's Coordinated Plan. However, priority seems to have been given to internal coordination processes rather than guaranteeing the involvement of a broad group of non-governmental stakeholders.

For example, many people were invited to participate in the various conferences but without establishing a mechanism to verify whether these invitees actually participated as a result of the invitation. Furthermore, there was not a general, open call for contributions about the SAPAI, for example through the existing internet consultation mechanism, which could have been a way to reach out to groups not on the radar of the government. The government did not pro-actively reach out to CSOs that might not understand the technical aspects of AI but would have expertise on AI's impact on human rights. While marginalized or other vulnerable groups have proven to [suffer the negative effects of AI-systems](#), interviewees did not identify a proactive outreach to CSOs representing these groups, such as migrants who fear that they will be denied a job or a mortgage if a decision is made by an AI-based system.

Noteworthy in this regard is the perception that AI-specialized academics are the most relevant and reliable representatives to articulate the (potential) impact of AI on people. Similarly, the interviews show that the government found it challenging to identify and bring civil society stakeholders to the table and for the stakeholders who did participate to commit to the effort, particularly civil society groups that do not work on the technical aspects of AI. Academics, on the other hand, were considered easier to convene and more 'constructive' and therefore were asked to provide expertise on issues related to societal impact of the use of AI.

Civil society was involved through the AI Task Force consultations. ECP collected citizens' positions via civil society groups and presented them during meetings of the Task Force; however, stakeholders were never present at these meetings. It also appears that more outspoken organisations, such as privacy rights' and other human rights organisations and representatives of vulnerable groups were not approached proactively.

## POST-PUBLICATION: INCLUSIVITY IN THE AI COALITION?

The AI Task Force eventually morphed into the Dutch AI Coalition ('Coalition') with the launch of the SAPAI in October 2019. Ministries, private actors, research institutes and a few CSOs are members of the Coalition and collaborate in working groups. Its key activity is to identify and develop AI-based solutions – primarily by research institutes – to problems raised by members, mostly from governments and companies.

There is some awareness that the Coalition lacks representation of people who might be impacted by the use of AI-systems and has only few participants with human rights expertise. It appears that more outspoken CSOs have not joined the Coalition because they fear that membership of the Coalition may compromise their independence and autonomy. At the same time, we identified reluctance to invite people who could display either fear or distrust of AI in general, because it is expected that these people will not adopt a collaborative attitude in the Coalition.

There are promising efforts to increase the attention for human rights in the various work streams of the AI Coalition. However, we also identified the recent trend that a recent '[National Growth Fund](#)', with significant resources for AI-advancements, has strengthened the focus of Coalition's participants on economic growth. This risks declining willingness to incorporate human rights or societal considerations, out of fear of a dampening effect on economic growth.

## CONCLUSIONS

The government of the Netherlands has adopted a thorough and inclusive approach towards drafting the NAIS. However, time and attention were dedicated to establishing inclusive consultations within and between ministries, which led to a slightly inward-looking process. Therefore, we recommend that if it reviews the SAPAI, the government should assess the balance between internal procedures and inclusive external consultations.

The level of engagement between government representatives, academia and companies during the drafting and implementation phases was strong and well-established. The efforts to include civil society groups and citizens' voices were also commendable but lacked proactive outreach and verification of actual engagement. Therefore, we recommend that when reviewing the SAPAI, the government should proactively reach out to a broader spectrum of

civil society representatives, prioritising and ensuring adequate representation of the voices of vulnerable and marginalised groups.

The Dutch AI ecosystem appears to be composed of a strong group of dedicated experts whose collaboration is based on trust and shared perspectives. However, we recommend that governmental, academic, and private stakeholders should adopt a more welcoming approach to dissonant perspectives. This will increase learning about actual and feared consequences with regards to exclusion, privacy, non-discrimination, and other consequences of the use of AI-systems, which will strengthen policies and practices that contribute to prosperity and well-being.



*This country paper was developed as part of the 'Artificial Intelligence: Global and European standard setting' project. The project is made possible by the International Center for Not-for-Profit Law (ICNL) through the Civic Space Initiative, financed by the Government of Sweden. The Government of Sweden does not necessarily share the*

*opinions here within expressed. The author bears the sole responsibility for the content.*



European Center for  
Not-for-Profit Law

European Center for Not-for-Profit Law Stichting  
5 Riviervismarkt, 2513 AM The Hague, Netherlands  
[www.ecnl.org](http://www.ecnl.org)  
[twitter.com/enablingNGOlaw](https://twitter.com/enablingNGOlaw)

---

**ICNL**  
INTERNATIONAL CENTER  
FOR NOT-FOR-PROFIT LAW

1126 16th Street NW, Suite 400 Washington, DC 20036 USA  
[www.icnl.org](http://www.icnl.org) [facebook.com/ICNLIAlliance](https://facebook.com/ICNLIAlliance) [twitter.com/ICNLIAlliance](https://twitter.com/ICNLIAlliance)