



EUROPEAN
DISABILITY
FORUM



EDF feedback on Draft Ethics Guidelines for Trustworthy AI

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About EDF

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The European Disability Forum (EDF) is an independent civil society organisation that represents the interests of 80 million Europeans with disabilities. EDF is a unique platform which brings together representative organisations of persons with disabilities from across Europe. EDF is run by persons with disabilities and their families. We are a strong, united voice of persons with disabilities in Europe.

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EDF feedback on the Artificial Intelligence High Level Group - Draft Ethics Guidelines for Trustworthy AI¹

General Comments (recommendations)

Artificial Intelligence will have huge implications on the lives of all citizens, including persons with disabilities who can already benefit of a number of AI-based applications². We nevertheless need strong legal safeguards to protect the rights of all citizens, including citizens with disabilities, from AI-powered technology that could cause them harm. In this context, an assessment of the potential gaps in human rights law that currently protect European citizens is required. Industry-driven guidelines on AI ethics are not sufficient to future-proof the rights of persons with disabilities. Self-regulation and voluntary compliance with ethics guidelines are not enough to offer reassurance to consumers with disabilities. We need a clear legal framework in place, clear accountability and a right to redress.

The distinction between ethics and law must be clarified in the draft guidelines. We feel there is a risk of downgrading fundamental rights to ethics without any legal accountability. For example, who is responsible when AI is used in public decision-making?

Linked to that, the document misses a crucial aspect: public procurement. The guidelines fail to address those who procure services and applications using AI, as often they are those who have more control and manoeuvre, compared to others (e.g. the end-users) in the process. These guidelines should also address the ethics of those procuring AI solutions

Designers or those providing specifications are also hardly mentioned, including in the main diagram. These should also be addressed by the document, as they have the responsibility of key aspects such as usability, accessibility and the obligation to prevent discrimination.

We also regret that the AI High Level Expert Group is only offering engagement opportunities on the European Commission Futurium “AI alliance” online platform. As highlighted by a member of our EDF ICT expert group, this online platform is not accessible for people who use assistive technologies. This means that the views of those citizens are not reflected in the online debates. This is discrimination by design.

¹ This draft document is available at

https://ec.europa.eu/futurium/en/system/files/ged/ai_hleg_draft_ethics_guidelines_18_december.pdf

² EDF will soon publish a comprehensive report on different emerging technologies and how they can affect persons with disabilities. See report of the seminar: “Using AI to enhance accessibility”:: <http://www.edf-feph.org/newsroom/news/artificial-intelligence-must-serve-everyone-event-report>



We are therefore urging the European Commission to ensure compliance with current web accessibility standards as a matter of urgency, as recommended by the European Ombudsman³.

Last, but not least, we would like to request the High Level Group on AI to follow its own requirement on Design for All and to ensure that the document is designed for all. The diagrams are not accessible to those using screen readers.

Introduction: Rationale and Foresight of the Guidelines

Page 4.

In the Executive summary, Artificial Intelligence (AI) based solutions improving accessibility for persons with disabilities can also be highlighted, since access to Information and Communication Technologies is definitely a “grand challenge” for 15% of the population (80 million Europeans with disabilities).

However, the assertion that “Given that, on the whole, AI’s benefits outweigh its risks” is something we cannot state at this stage. Users can find applications based on AI which improve their lives, but others may also discriminate against them (e.g. AI-based recruitment procedures, insurance price setting).

Glossary.

The definition of Human-centric AI approach must recognise human diversity:

“The human-centric approach to AI strives to ensure that human values **and diversity** are always the primary consideration, and forces us to keep in mind that the development and use of AI should not be seen as a means in itself, but with the goal of increasing **all** citizen's well-being.“.

Chapter I: Respecting Fundamental Rights, Principles and Values - Ethical Purpose

Page 14.

Under paragraph “3. Fundamental Rights of Human Beings”, on 3.4 Equality and non-discrimination, a clear reference to the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD) is required. The UNCRPD was ratified by the

³ Decision of the European Ombudsman closing her strategic inquiry OI/6/2017/EA on how the European Commission ensures that persons with disabilities can access its websites: <https://www.ombudsman.europa.eu/en/decision/en/107967>



EU and all its Member States and is binding on all state parties.⁴ Accessibility is considered a precondition⁵ necessary to enjoy the other rights enshrined in the Convention.

As for the text of this paragraph, it would be best to address Equality as inclusion of “all people”, and not just what societies may consider “minorities”. This term may also be inappropriate when referring to consumers or workers.

“Equality also requires adequate respect of inclusion of **all people, including those** traditionally excluded, especially workers and consumers.”

Page 16.

Principle of Non maleficence: “Do no Harm”, the following paragraph must be rephrased using respectful language:

“**People at risk of exclusion** (e.g. children, [deleted:minorities], **persons with disabilities, older people, or migrants**) should receive greater attention to the prevention of harm **and discrimination**, given their **characteristics and abilities**. Inclusion and diversity are **core aspects** for the prevention of harm to ensure suitability of these systems across cultures, genders, ages, life choices, etc. Therefore, not only should AI be designed **bearing in mind the potential impact on a wide range of people**, but the above-mentioned **groups** should **be taken into consideration** in the design process (rather than just through testing, validating, or other).”

Page 17.

Finally, as for the Principle of Explicability, it must be added that “easy to understand information” is key for users to give informed consent. Over-complicated, liability-oriented texts do not help end-users, including end-users with intellectual disabilities.

Page 18.

Equally, the sentence “As current mechanisms for giving informed consent in the internet show, consumers give consent without consideration” is misleading, as it seems to put the blame on the user, when most of the current mechanisms to give consent are presented in a way that: first, is too complicated, and second, does not give choices to the user.

Chapter II: Realising Trustworthy AI

Page 21.

The requirement Design for All must be followed by “**and accessibility**”.

⁴ [Council Decision of 26 November 2009 concerning the conclusion, by the European Community, of the United Nations Convention on the Rights of Persons with Disabilities](#)

⁵ see UNCRPD - article 3. General principles



Design for All is the European term for Universal Design. This must be clarified in a footnote.

According to the UN Convention on the Rights of Persons with Disabilities, Universal Design means “the design of products, environments, programmes and services to be usable by all people, to the greatest extent possible, without the need for adaptation or specialized design. “Universal design” shall not exclude assistive devices for particular groups of persons with disabilities where this is needed”.

According to the General Comment number 2 of the CRPD Committee on the Convention article 9 on accessibility⁶: “all new objects, infrastructure, facilities, goods, products and services have to be designed in a way that makes them fully accessible for persons with disabilities, in accordance with the principles of universal design”⁷. It is important to understand that the right to access as described in the UN CRPD covers the full range of human diversity to any place or service intended for use by the general public. Denial of access is therefore an act of discrimination.

Giving the aspirational nature of Universal Design applicable to everything new, it is essential that the document complements the requirement of Design for All with “accessibility”. There are EU and national legislation setting out specific accessibility requirements that should be respected when developing a user interface or specific content (e.g. 2016 Web Accessibility Directive, and recently agreed European Accessibility Act). These legislations are underpinned by specific accessibility standards (e.g. EN 301 549) that must be followed when developing websites, applications or any kind of software.

Even though Design for All principles should always be kept in mind, and there will be a European Standard on achieving accessibility following a Design for All approach (EN 17161), a specific mention of accessibility will give more certainty to the users of these Guidelines.

Page 22:

“3. Design for all **and accessibility**”

Systems should be designed in a way that allows all citizens to use the products or services, regardless of their age, **gender, disabilities or characteristics**. It is particularly important to consider accessibility of AI products and services for **persons** with disabilities as they are present in all societal groups. AI applications should hence not have a ‘one-size-fits-all’ approach **and should consider Universal Design⁸ principles addressing the widest possible range of users, and should follow relevant accessibility standards (e.g. EN 301 549⁹)**.

⁶ This General Comment is available at:

https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRPD/C/GC/2&Lang=en

⁷ The 7 principles of Universal Design are available at: <http://universaldesign.ie/What-is-Universal-Design/The-7-Principles/>

⁸ Article 42 of the Public Procurement Directive requires technical specifications to take into consideration accessibility and design for all.

⁹ EN 301 549 is available at

https://www.etsi.org/deliver/etsi_en/301500_301599/301549/02.01.02_60/en_301549v020102p.pdf



Design for all **and accessibility will be beneficial to all users, improving the** usability of technologies for everyone anywhere and anytime, ensuring **the inclusion of persons with disabilities** in any living context, thus enabling equitable access and active participation of potentially all people in existing and emerging computer-mediated human activities. This requirement links to the United Nations Convention on the Rights of Persons with Disabilities”

Page 24.

On the Principle of Respect for Privacy, add “disability” as one of the sensitive data that users may want to keep private¹⁰.

Page 26.

On the Technical methods - Ethics & Rule of law by design, add “Accessible by design”, due to the fact that is required by the legal framework of the EU (UN CRPD), and because the European Accessibility Act¹¹ will soon enter into force, and ICT companies will need to respect this legislation.

Page 29.

As for the non-technical, Stakeholders and social dialogue, civil society organisations should be added as one of the key stakeholders to set up the dialogue.

Besides, on Diversity and inclusive design teams, “disability” must be included as one of the factors that should be incorporated in a diverse team.

Finally, another non-technical method that must be added is Involvement of end-users throughout the whole design process; this would ensure that AI solutions do actually take into consideration the needs, requirements and expectations of all potential users.

Chapter III: Assessing Trustworthy AI (Suggested questions)

Page 32.

“3. Design for all **and accessibility**:

Is the system equitable in use?

Is the system flexible in use?

¹⁰ UN CRPD article 22 Respect for privacy:

<https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities/article-22-respect-for-privacy.html>

¹¹ The European Accessibility Act preliminary text is available at: <http://www.edf-efph.org/sites/default/files/st15174-ad01.en18.pdf>

Is it simple and intuitive to use the system?

Is the information on the system perceivable, including for users of assistive technologies?

Does the system arrange elements to minimize hazards and errors?

Does the system allow for perceived errors to be corrected with ease?

Does the system accommodate a wide range of individual preferences and abilities, **including persons with disabilities?**

Does the system user interface follow the relevant accessibility requirements and standards and how is it verified?

What definition(s) of fairness is (are) applicable in the context of the system being developed and/or deployed?

For each measure of fairness applicable, how is it measured and assured?

Were persons with disabilities involved in the conceptualisation, development, testing, implementation and monitoring as regards to the AI system?"

Page 32.

On questions about Non-discrimination, add: "Are measures in place to address cases of discrimination by the AI system?"

Page 34.

On questions about Transparency, add a question on understandability: "is the information provided to the user easy to understand?".

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