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AD HOC ADVISORY GROUP ON CROSS-BORDER INTERNET

(MC-S-CI)

**4th meeting
13 and 14 October 2011**

**Room 5
55, avenue Kléber,
Paris**

Report of the Meeting

Executive Summary

The MC-S-CI decided to propose to the Steering Committee on the Media and New Communication Services (CDMC) a number of suggestions concerning the promotion of the Council of Europe principles on Internet governance, the reinforcement of the Council of Europe's working methodology of multi-stakeholder participation and the deepening of analysis on challenges to cross-border Internet traffic. While the official membership of the Group (5 persons) is 100% male, the gender distribution of the 14 participants in the meeting was 2 women (14.2 %) and 12 men (85.7%).

I. Opening of the meeting and adoption of the agenda

1. The agenda which is set out in Appendix 1 was adopted without changes. The Group had invited external experts from Council of Europe member states and different institutions and Internet communities to participate in the meeting. The list of participants appears in Appendix 2.

II. Decisions of the Committee of Ministers and other information of interest to the work of the MC-S-CI

2. The Secretariat informed the Group of the adoption by the Committee of Ministers of [Recommendation CM/Rec\(2011\)8](#) to member states on the protection and promotion of the universality, integrity and openness of the Internet, [Recommendation CM/Rec\(2011\)7](#) of the Committee of Ministers to member states on a new notion of media and the [Declaration](#) of the Committee of Ministers on Internet governance principles, as well as the [Declaration](#) on the protection of freedom of expression and information and freedom of assembly and association with regard to Internet domain names and name strings. The Group was also informed about ongoing work on search engines and social networks and the reorganisation of the Council of Europe's intergovernmental structures and Secretariat.

III. Implementation of the MC-S-CI Terms of Reference

3. The Group, noting that its Terms of Reference expire on 31 December 201, took stock of the work carried out during its mandate and agreed that over a time period of eighteen months there have been several positive outcomes. Firstly, it has made standard-setting proposals on important topics for freedom of expression in online environments and Internet governance which were endorsed by the CDMC and further adopted by the Committee of Ministers, including the [Declaration](#) of the Committee of Ministers on enhanced participation of member states in Internet governance matters – Governmental Advisory Committee (GAC) of the Internet Corporation for Assigned Names and Numbers (ICANN), the [Declaration](#) of the Committee of Ministers on the Digital Agenda for Europe, the [Declaration](#) of the Committee of Ministers on the management of the Internet protocol address resources in the public interest, [Recommendation CM/Rec\(2011\)8](#) and the [Declaration](#) of the Committee of Ministers on Internet governance principles. Secondly, the work of the Group is a validation of the benefits of a working methodology based on an open and inclusive multi-stakeholder dialogue and drafting process.

4. The Council of Europe has played a pioneering role in Internet governance through delivering on values of openness and stakeholder participation and offering policy input in Internet governance dialogue. Therefore, steps should be taken to maintain this momentum by moving towards a new and different phase of activities. The Group, therefore, decided to transmit to the CDMC for consideration and endorsement some operational suggestions that could help guide the work of the Secretariat during the coming months until the creation of the new Steering Committee to deal with media and information society issues. These suggestions build upon the main outcomes of the work and process of the Group and aim at promoting them and putting them into operation.

A- Promoting the Internet governance principles and fostering respect by a diversity of actors

5. While noting that diverse sets of Internet governance related principles have emerged in the recent months it was emphasised that the Council of Europe principles have a very distinctive human rights angle. Therefore, the Group suggested that the principles included in the [Declaration](#) of the Committee of Ministers on Internet governance principles be actively promoted, through

raising awareness via presentations at conferences and different events as well as a broad communication campaign, including translation into different Council of Europe languages.

6. In addition, a questionnaire targeting relevant actors should be developed and distributed with a view to creating a better understanding of the performance of different actors in relation to these principles and of the challenges regarding their implementation, as well as exploring ways of fostering respect for these principles. On the basis of this a policy paper could be elaborated and a meeting convened to discuss the feasibility of drafting a document (provisionally referred to as a Framework of Understanding) which would reflect the common goals, concerns and interests of the various stakeholders in relation to Internet governance principles and possibly also be endorsed by them.

7. This could pave the way for future collaborative mechanisms, for example, an observatory, an index or a clearinghouse of best practices relating to Internet governance principles which could encourage further their implementation by both government and non-governmental actors.

B – Deepening the analysis of cross-border Internet traffic challenges and ways to address them

8. The Group agreed that the impact that action taken in one jurisdiction may have on access and use of the Internet in others has been the central theme of its mandate and work. Whereas [Recommendation CM/Rec\(2011\)8](#) of the Committee of Ministers addresses issues regarding the ongoing functioning of the Internet infrastructure there is still scope for further action to put its principles of co-operation into operation. With a view to getting a broader picture of existing good practices a multi-stakeholder consultation meeting should be organised during the first semester of 2012.

9. In respect of issues relating to cross-border flow of Internet traffic, which fall under item (ii) of its Terms of Reference, the Group agreed that they merit further examination. These are compounded by questions related to cross-jurisdictional diversity of legal regimes which are becoming more and more important in the light of developments of large cross-border platforms, such as social media, and with the emergence of cloud computing. As a next step there should be an examination of the issue of how to foster multi-stakeholder interaction on the policy challenges related to cross-border flow of Internet traffic.

C – Reinforcing the methodology of multi-stakeholder participation

10. The working processes of the Group and their outcomes, which were validated by the Committee of Ministers and positively received by private sector and civil society actors, illustrate the benefits of an open, inclusive and interactive multi-stakeholder process. The Group's preparatory work and drafts were discussed in fora such as EuroDIG and IGF, as well as at the Council of Europe conference: Internet Freedom- From Principles to Global Treaty Law (18 and 19 April 2011), and were subject to open consultation with a range of stakeholders. The Group emphasised that the Council of Europe should continue to use this multi-stakeholder participation methodology and take the lead in advancing it in other fora.

11. The Group, therefore, suggested that a document be prepared to explain the methodology followed and lessons learnt in the course of its mandate which could be developed into a toolkit for future working groups. This methodology should be part of a Council of Europe architecture for multi-stakeholder processes and dialogue in respect of Internet governance work. This could take the form of a fluid, open, multi-stakeholder platform permitting connection of and interaction among different stakeholder groups as and when necessary, associating them to relevant parts of the

process (inception, discussion and deliberation, formulation, validation, implementation and follow-up/monitoring) without prejudice to the specific roles and responsibilities that lie with each stakeholder group, in particular with state authorities.

12. As part of a reinforced multi-stakeholder methodology, the possibility of organising a meeting between the future Steering Committee and stakeholders back-to-back with the next European Dialogue on Internet Governance (EuroDIG) meeting in Stockholm should be evaluated. In addition, the Group considered that the Council of Europe could play the role of a catalyst for dialogue between intergovernmental organisations, as a first step by convening a meeting of those organisations that have elaborated Internet policy principles as well as other organisations that could find inspiration in the Council of Europe Internet governance principles. A workshop on this could be held at the 2012 IGF meeting.

IV. Participation in the Internet Governance Forum (Nairobi, 27-30 September 2011)

13. The members of the Group who participated in the IGF shared their views on and impressions from the IGF. In particular, they referred to the [workshop](#) organised by the Council of Europe on Internet governance principles where different actors such as the OECD, the European Commission and civil society actors presented and discussed their thinking on and documents on Internet governance principles. They recalled that the Council of Europe principles were supported by civil society and private sector actors. While noting with appreciation the fact that Azerbaijan, a Council of Europe member state, is willing to host the next meeting of the IGF the Group expressed support for having human rights as a central theme of this meeting.

V. Other business

14. No other business was discussed.

Appendix 1

Agenda

- I. Opening of the meeting and adoption of the agenda.
- II. Decisions of the Committee of Ministers and other information of interest to the work of the MC-S-CI.
- III. Implementation of the MC-S-CI Terms of Reference.
- IV. Participation in the Internet Governance Forum (Nairobi, 27-30 September 2011).
- V. Other business.

Appendix 2

List of Participants

I- MEMBERS

1. **Bertrand De La Chapelle**
Program Director
International Diplomatic Academy
2. **Wolfgang Kleinwächter**
Professor, University of Aarhus
International Association for Media and Communication Research (IAMCR)
3. **Christian Singer**
Director Department III/PT2 Telecommunications Law, Federal Ministry of Transport,
Innovation and Technology of Austria
4. **Rolf H. Weber**
Professor, Faculty of Law, University of Zurich
5. **Michael V. Yakushev**
Chairman of Board, Coordination Center for the ccTLD ‘.ru’

II – PARTICIPANTS

6. **Albina Ovcearenco** (*apologised*)
On behalf of the Secretariat of CODEXTER
7. **Michael Kowalski**
Strategic Analyst in Expertise and Analysis Department of the Office of a National
Coordinator
For Counterterrorism
On behalf of the Secretariat of CODEXTER

III – OTHER PARTICIPANTS

8. **Antoaneta Angelova-Krasteva** (*apologised*)
Head of Unit 3,
Internet: Network and Information Security
European Commission – DG Information Society

IV – OBSERVERS

9. **Meryem Marzouki**
European Digital Rights Initiative (EDRI)

V – REPRESENTATIVES OF MEMBER STATES

10. **Alexandre Palke**

Ministère des Affaires étrangères et européennes
Direction générale de la Mondialisation, du Développement et des Partenariats
Direction de la politique culturelle et du français
Sous-direction de l'audiovisuel extérieur et des technologies de communications
(France)
11. **Ralf Lesser**
Division IT 1 / Task Force Internet Policy
(Strategic IT and E-Government Affairs)
Federal Ministry of the Interior (Germany)

VI - EXTERNAL EXPERTS

12. **Chris Buckridge**
External Relations Officer
RIPE NCC (The Netherlands)

VII - SECRETARIAT

13. **Jan Malinowski**
Head of Information Society, Media and Data Protection Division, Directorate General of
Human Rights and Legal Affairs of the Council of Europe
14. **Elvana Thaçi**
Administrator, Information Society, Media and Data Protection Division, Directorate
General of Human Rights and Legal Affairs of the Council of Europe