

1st Meeting - 13 to 14 September 2012 (Strasbourg, Agora, Room G02)

**Meeting report
MSI-DUI (2012)04
5 October 2012**

Opening of the meeting and adoption of the agenda.

1. Gender distribution of the 22 attendants of the meeting: 7 women (32%) and 15 (68%) men (Appendix 1).
2. The MSI-DUI adopted the agenda without changes (Appendix 2).
3. Lee Hibbard, Head of the Internet Governance Unit, opened the meeting and underscored the multi-stakeholder dimension of Council of Europe work in the area of the Internet.
4. The members of the MSI-DUI introduced themselves in a short tour de table.
5. Jan Malinowski, Head of the Information Society Department, informed the MSI-DUI of the importance that the Committee of Ministers attaches to the work on the effective exercise of the human rights of Internet users using existing mechanisms at their disposal; he stressed that this work should clearly be distinguished from their rights as consumers. The importance attached by the Committee of Ministers to this work is evidenced by inclusion of the Compendium in the Council of Europe activities, the Terms of Reference of the Steering Committee on Media and Information Society (CDMSI) and the Council of Europe's Internet governance strategy 2012-2015 as well as early adoption of the Committee of Experts' the MSI-DUI Terms of Reference. The objective set by the Committee of Ministers is to complete this work by the end of 2013.
6. Ambassador Thomas Hajnoczi, Committee of Ministers' Thematic Co-ordinator on Information Society mentioned that the objective of Compendium of existing rights of Internet users (the Compendium) should be to reach the users. He added that the Compendium will bring the overall Council of Europe work on Internet governance to a higher level and underlined the Committee of Ministers' interest to have this document.

Elections

7. The members of the MSI-DUI elected Michael Kogler (Austria) as the Chairperson and Thomas Schneider (Switzerland) as the Vice-Chairperson (100% men).

Committee of Ministers decisions and other information by the Secretariat

8. The Secretariat informed the members of the MSI-DUI and participants of the adoption by the Committee of Ministers of the Internet Governance Strategy 2012-2015. The Terms of Reference of the MSI-DUI build on the Strategy's action lines on maximising rights and freedoms for Internet users. Deliverables by the MSI-DUI should be designed to meet the Strategy goals of enabling Internet user to seek and obtain effective remedies.

9. Nicolas Wevelsiep, from the Secretariat of the Consultative Committee of the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (T-PD) informed the MSI-DUI about the process of modernisation of this convention, its objectives, scope and main proposals under consideration. Proposals such as those relating to categories of sensitive data, data security and right to object to personal data processing could provide inspiration for the exploratory work of the MSI-DUI.

10. Matthias Kloth, from the Secretariat of the Steering Committee for Human Rights (CDDH) informed the MSI-DUI of the undergoing work on corporate social responsibility in the field of human rights in the CDDH. He gave an overview of initiatives undertaken by other organisations to develop human rights and business guidelines such as the United Nations Guiding Principles on Business and Human Rights developed by John Ruggie, the UN Secretary General's Special Representative on Business and Human Rights and the OECD Guidelines for Multinational Enterprises. Issues of corporate social responsibility intersect with various aspects of remedies for violations of rights of Internet users which will be a central topic to be considered in the development of the Compendium.

Discussion and examination of issues related to the preparation of a Compendium of existing human rights for Internet users

11. MSI-DUI members had an initial exchange of views on issues relating to the goals, scope and addressees of the Compendium as well as on working methods. They took note of a discussion paper prepared by Wolfgang Benedek a member of the MSI-DUI. There was a convergence of views that the discussion paper provides useful orientation lines for continued reflection and analysis of relevant issues.

12. The Albanian representative in the MSI-DUI expressed, on behalf of the Chairmanship of the Committee of Ministers, support for the work of the MSI-DUI.

13. The European Commission underlined the potential of the present initiative for developing a comprehensive document that can effectively be used by Internet users.

Content of Compendium

14. There was agreement that rights and freedoms provided in the European Convention on Human Rights should be the basis for developing the content of the Compendium. In addition, the jurisprudence of the European Court of Human Rights, other Council of Europe hard and soft law standards, international human rights standards such as the United Nations Convention on the Rights of the Child as well as OECD relevant guidelines, should be explored as possible sources of the Compendium.

15. The objective of the MSI-DUI work should not be to create new human rights but to examine the application of existing rights to the Internet environments. This approach does not exclude an analysis of negative and positive obligations of states to make human rights effective as recognised by the European Court of Human Rights. It is important to examine the question how Internet's technical parameters, conditions and issues might influence the interpretation of human rights as laid down in regional and global standards in Internet environments.

16. Special consideration should be given to the exploration and identification of the means necessary for an effective exercise of users' rights. The terms and conditions of service typically employed to respond to consumer protection requirements do not necessarily provide the means to address the problems that Internet users face. MSI-DUI members referred particularly to examples such as cyber-bullying, censorship, mechanisms of blocking access to Internet content that do not comply with rule of law requirements, usage of personal data for purposes other than those for which data were collected as well as various issues linked to protection of children.

17. The MSI-DUI should aim at developing an easy to understand, easy to use and act upon document. Without prejudice to further discussions on the matter, the expected result envisaged at this stage could include different components, such as a short version and a more expanded version of the Compendium, a recommendation to Council of Europe member states and recommendations to private sector actors. In this respect the Chair reminded the members of the clear formulation of the groups' mandate. Widening the scope (of the mandate) would have to be coordinated with the Committee of Ministers.

Process and multi-stakeholder participation

18. The MSI-DUI discussed also the process how work will be carried out and expected results delivered. As a first step it considered that it is necessary to identify gaps in the protection of Internet users' rights in particular by looking at interferences with the exercise of their rights. Therefore, information on practical problems experienced by users and possible violations of human rights should be collected with a view to mapping out issues to be addressed by the Compendium. This step should also look at available remedies and best practices. In relation to these issues the, MSI-DUI members agreed to reach out to their networks and communities by means of a short questionnaire.¹

19. MSI-DUI members should also look at existing reports from various consumer associations or other organisations concerning rights of Internet users as well as relevant national case-law. The information collected in the steps described above should be reviewed initially by a sub-group of the MSI-DUI. Some members of the MSI-DUI

¹ Questionnaire: What Internet-user problems adversely affecting human rights/user rights have you/your networks encountered? Which specific human rights/user rights were challenged? What practical and/or legal action was taken to address the problem? Was the problem resolved? What remedies, if any, were granted? In your opinion, were they effective in responding to the human rights/user rights challenged? If not, what remedies/measures would be desirable?

volunteered to be focal points regarding questions related to the jurisprudence of the European Court of Human Rights and the national case-law.

20. MSI-DUI members also discussed possible analytical frameworks for elaborating Compendium elements and agreed unanimously on a matrix which should be the basis for preparing members' contributions for the next meeting. The objectives are to identify the sources of the Compendium, to develop the basis for the content of the rights that should be included in it, to map-out possible interferences with the exercise of human rights online, to evaluate applicable remedies and review best practices.

21. The Secretariat was asked to prepare on the basis of contributions from MSI-DUI members an explanatory report for the next meeting, with a deadline for submission to the MSI-DUI the first week of December 2012. Also, the Secretariat should explore the possibility of setting up a shared workspace for the MSI-DUI members.

22. As regards the type of instrument which could contain the Compendium it was agreed to continue reflections on the matter.

23. The MSI-DUI was informed about a workshop on rights of Internet users which was organised by the Council of Europe at the last European Dialogue on Internet Governance (EuroDIG) meeting (14-15 June 2012, Stockholm). Some members of the MSI-DUI participated in the event. Discussions highlighted various initiatives of different communities on protection of Internet users' rights which can provide useful input for the Council of Europe work.

24. The MSI-DUI took note of the workshop that the Council of Europe and the Internet Rights and Principles Dynamic Coalition will organise at the Internet Governance Forum (IGF, 6-9 November 2012, Baku). The goal of the workshop is to discuss with IGF participants the content and the nature of tools which would best serve the goals of enabling and empowering users to fully exercise and enjoy their rights on the Internet.

25. Discussion on multi-stakeholder interactions focused on the need to involve private sector actors, consumer protection associations, hotlines, as well as advocacy groups and civil society. This may take the form of inviting these actors to participate in MSI-DUI meetings and/or to contribute with comments on the work of the MSI-DUI, engaging with Internet communities in the context of different events with a view to building support for the Council of Europe's initiative. Events such as EuroDIG and the IGF provide opportunities for consultations and dialogue. The MSI-DUI agreed to develop at its next meeting a road-map for multi-stakeholder consultations.

Other business

26. No other business was discussed.

Dates of next meeting

27. The MSI-DUI members agreed to hold their second meeting on 13 and 14 December 2012 in Strasbourg.

Appendix 1

List of Participants
Liste de participants

MEMBER EXPERTS / EXPERTS MEMBRES

Prof. Yaman AKDENIZ (Turkey / Turquie)
Professor of Law, Faculty of Law, and Pro-Rector for the Istanbul Bilgi University

Prof. Dr. Wolfgang BENEDEK (Austria / Autriche)
Institute for International Law and International Relations, University of Graz

Mr Alexander BORISOV (Russian Federation / Fédération de Russie)
Professor, Moscow State Institute of International Relations

Mr Hasan Ali ERDEM (Turkey / Turquie)
Expert, International Relations Department, Turkish Radio and Television Supreme Council (RTÜK)

Mr Johan HALLENBORG (Sweden / Suède)
Deputy Director, Department for International Law, Human Rights and Treaty Law, Ministry for Foreign Affairs

Ms Dixie HAWTIN (United Kingdom / Royaume-Uni)
Project Manager, Freedom of Expression, Global Partners & Associates

Ms Rikke Frank JORGENSEN (Denmark / Danemark)
Special Adviser, The Danish Institute for Human Rights

Dr. Michael KOGLER (Austria / Autriche)
Deputy Head of Department for Media Law, Constitutional Service, Federal Chancellery

Ms Eva KUSHOVA (Albania / Albanie)
Press Adviser, Ministry of Foreign Affairs

Ms Meryem MARZOUKI (France)
EDRI & CNRS / Université Pierre et Marie Curie (Paris VI)

Mr Thomas SCHNEIDER (Switzerland / Suisse)
Deputy Head of International Relations Service, Coordinator international Information Society, International Affairs, Federation Office of Communication, Federal Department for the environment, transport, energy and communication

Ms Nelly STOYANOVA (Bulgaria / Bulgarie)
Head of Information Society Policy and Development Department, Ministry of Transport, IT, and Communications

Mr Francisco TEIXEIRA da MOTA (Portugal)
Lawyer, Freedom of expression and media

PARTICIPANTS

EUROPEAN AUDIVIOSUAL OBSERVATORY/ Council of Europe
Ms Susanne NIKOLTCHEV, Head of Department for Legal Information, (Apologised)

EUROPEAN COMMISSION / COMMISSION EUROPEENNE
Mr Oluf NIELSEN, European Commission, D1 International, CONNECT Directorate General, European Commission

ORGANIZATION FOR SECURITY AND COOPERATION IN EUROPE (OSCE)
Mr Roland BLESS, Principal Adviser, Representative on Freedom of the Media (Apologised)

UNITED NATIONS / NATIONS UNIES
Ms Xianhong HU, UNESCO, Division for Freedom of Expression, Democracy and Peace - Communication and Information Sector (Apologised)

PARLIAMENTARY ASSEMBLY OF THE COUNCIL OF EUROPE, / ASSEMBLEE PARLEMENTAIRE DU CONSEIL DE L'EUROPE
Mr Rüdiger Dossow, The Committee on Culture, Science, Education and Media (Apologised)

PARTICIPANTS DESIGNATED BY MEMBER STATES

Mr Mustafa ÖZDEMİR (Turkey / Turquie)
Expert, Information Technologies and Communication, Council of Turkey

COUNCIL OF EUROPE SECRETARIAT / SECRETARIAT DU CONSEIL DE L'EUROPE

Mr Jan KLEIJSEN, Director, Information Society and Action Against Crime Directorate, Directorate General of Human Rights and Rule of Law (Apologised)

Mr Jan MALINOWSKI, Head of Information Society Department, Directorate General of Human Rights and Rule of Law

Mr Lee HIBBARD, Head of Information Society Unit, Directorate General of Human Rights and Rule of Law

Ms Elvana THAÇI, Administrator, Information Society Unit, Directorate General of Human Rights and Rule of Law

Mr Edo KORLJAN, Secretary of the European Committee on Legal Co-operation (CDCJ) (Apologised)

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Mr Nicolas WEVELSIEP, Secretariat to the Consultative Committee of the Convention for the Protection of Individuals with Regard to Automatic Processing of Personal Data [ETS No 108], Data Protection Unit

Ms Gioia SCAPUCCI, Secretary to the Lanzarote Committee, Children's Rights Division, Directorate General of Human Rights and Rule of Law

Mr Matthias KLOTH, Administrator, Human Rights Law and Policy Division, Directorate General of Human Rights and Rule of Law

Mr Matthieu BIRKER, Adviser, Office of the Commissioner for Human Rights

Ms Marise BOYLAN, Assistant, Directorate General of Human Rights and Rule of Law

Ms Elisabeth MAETZ, Assistant, Directorate General of Human Rights and Rule of Law

INTERPRETERS/INTERPRETS

Julia TANNER

Nicolas GUITTONNEAU

Didier JUNGLING

Appendix 2

Agenda

1. Opening of the meeting

2. Adoption of the agenda

3. Elections

Chair

Vice-Chair

4. Committee of Ministers decisions and other information by the Secretariat

[Resolution CM/Res \(2011\) 24](#) on intergovernmental committees and subordinate bodies, their terms of reference and working methods

MSI-DUI Terms of Reference

Internet Governance – Council of Europe Strategy 2012-2015
[CM\(2011\)175 final](#)

5. Discussion and examination of issues related to the preparation of a compendium of existing human rights for Internet users

6. Other business

7. Dates of next meeting