

2nd Meeting 13 - 14 December 2012 (Strasbourg, Agora, Room G05)

**Meeting report
MSI-DUI (2013)002
11 January 2013**

Opening of the meeting and adoption of the agenda

1. Gender distribution of the 23 attendants of the meeting: 8 women (34%) and 15 men (65%) (see Appendix 1).
2. The MSI-DUI adopted the agenda without changes (Appendix 2).
3. Jan Malinowski, Head of the Information Society Department underlined the importance of the MSI-DUI work and informed the group that the Steering Committee on Media and Information Society (CDMSI) welcomed the progress being made. He stated that Council of Europe instruments will help to gauge the content of rights of Internet users. From this deductive approach rights and remedies derived should be carefully considered.
4. The European Commission (EC) informed the MSI-DUI about discussions in Directorate General for Communications Networks, Content and Technology (DG-CONNECT) regarding the elaboration of an Internet governance strategy by the EC as well as the European Parliament resolution of 11 December 2012 on a Digital Freedom Strategy in EU Foreign Policy. The desirability of finding synergies between these actions and the Council of Europe's Internet governance strategy was underlined.
5. The EC added that it is keen to see a simple Compendium document that can be used by Internet users at large.

Compendium of existing human rights for Internet users

6. The Secretariat provided a summary of the replies received to the questionnaire agreed at the first MSI-DUI meeting (13-14 September 2012). The main issues reported were those in conjunction with the exercise of the right to freedom of expression and access to information (e.g. end-user disconnection, website blocking, removal of user-generated content), the protection of personal data as well as Internet users protection from illegal activities taking place on the Internet. MSI-DUI members shared information on feedback received from their networks on the questionnaire them ([MSI-DUI\(2012\)07](#)) and examined the sources of the Compendium, mapping out possible interferences with the exercise of human rights online, evaluating applicable remedies and reviewing best practices ([MSI-DUI\(2012\)06](#)).
7. The Secretariat presented a preliminary explanatory report aimed at analysing elements for possible inclusion in the Compendium. This report covered issues relating to the right

to freedom of expression, freedom of association, the right to private life and personal data protection, the protection of reputation, due process and effective remedies ([MSI-DUI \(2012\)08](#)). Emphasis was placed on the sources of the identified elements in existing Council of Europe standards, including conventions, recommendations and declarations. The MSI-DUI examined the report and held an exchange of views on this basis.

Outlining a preliminary draft

8. The MSI-DUI members agreed to outline elements for inclusion in the Compendium, in the first place by defining its basic structure and principal chapters. Some members, based on the experience of the Internet Rights and Principles Dynamic Coalition in elaborating the Charter of Internet Rights and Principle, considered that an all-rights-encompassing approach may not be conducive to the elaboration of a document which is targeted to the user. It was suggested that the focus should be on the right to freedom of expression and access to information, privacy and data protection.

9. The issue of effective remedies was stressed given the fact that certain national regulatory frameworks sometimes fail to be effective. Some members suggested the recommendation of new remedies to Council of Europe member states based on best practices such as Internet ombudsperson, directories containing the contact information of institutions competent to deal with Internet issues (e.g. data protection authorities), and consumer protection associations/groups. Remedies also lie in public policies such as Internet users' education. Above all, the Compendium should on remedies that would meet their reasonable expectations.

10. Based on these discussions, the MSI-DUI identified in broad lines the chapters of the draft Compendium and outlined elements of rights to be included in each of them, as per below:

- ***preamble*** - framing the rationale of the Compendium;
- ***Internet access/disconnection*** – building on the notions of proportionality of access interruption/disconnection measures and the principle of non-discrimination;
- ***freedom from interception*** and the ***right to respect for correspondence*** – focusing on requirements of article 8 of the European Convention of Human Rights (ECHR) and the jurisprudence of the European Court of Human Rights (ECtHR);
- ***freedom to express one's opinions*** on the Internet in compliance with article 10 of ECHR;
- ***Internet content and services*** – focusing on the right to choose and access online legal content;
- ***filtering*** – highlighting the right to be informed when filtering measures that meet requirements of article 10 of the ECHR are employed and focusing on the ECtHR jurisprudence ;
- ***content removal*** – highlighting the right of Internet users to be informed about action to remove online information;
- ***freedom from monitoring*** – focusing on the right to receive and impart information without prior state or non-state actors control of communications;
- ***personal data protection*** – focusing on the right to be informed about the data collector; the right to obtain information on collection and processing of personal data;

- free specific and informed consent; objection, deletion and rectification of personal data where legal requirements are not met; tracking and profiling;
- **freedom of religion** – highlighting the right to manifest religious views on the Internet in compliance with Article 9 of the ECHR;
 - **the protection of reputation**;
 - **the right to online assembly and association**;
 - **participation in public life**;
 - **online safety** – focusing on human dignity and protection from cyber harassment;
 - **education** – focusing on access to and use of digital materials;
 - **the rights of the child** – highlighting the rights of the child to be protected from criminal and other harmful activities in online environments;
 - **the rights of people with disabilities** – focusing on the right of people with disabilities to have non-discriminatory access to the Internet;
 - **culture** – focusing on the right of Internet users to have access to content in their languages; and
 - **the right to effective remedies**.

11. This outline is not exhaustive. Discussion on its structure resulted in the desirability for each chapter to refer to (1) right/s in issue, (2) permissible restriction/s, (3) effective remedies and (4) identifying real examples.

12. The text of the Compendium should be user-centric and contain simple language that can be understood by Internet users. A glossary of terms and definitions was considered as a useful part of the Compendium.

13. The MSI-DUI members volunteered to work on specific chapters according to their area of expertise and special interest and to send their contributions to the Secretariat by the end of January 2013. A consolidated version of these inputs will be sent to MSI-DUI members by the second week of February for their comments/inputs with a deadline 18 February. The objective is to have in place a first draft of the Compendium in time for reporting to the CDMSI and consultations with other steering bodies.

Multi-stakeholder dialogue and outreach

14. The MSI-DUI members had an exchange of views on their participation in the Internet Governance Forum (Baku, 6-9 November 2012). Members who attended the workshop [‘Empowerment of Internet Users – which tools?’](#) valued the outreach opportunities that this event offered, the feedback received on various topics relevant to the Compendium as well as the quality of dialogue with stakeholders. Workshop discussions highlighted Internet users’ problem such as removal of user generated content without due process, issues related to personal data protection and the lack of effective remedies. Private sector stakeholders have a critical role to play in ensuring the effective exercise of fundamental rights and freedoms in Internet environments.

15. To maximise the openness, inclusion and transparency of the MSI-DUI process, a roadmap was prepared and agreed upon complete with milestones, expected outcomes, and consultations with stakeholders at different stages of the Compendium’s preparatory process ([MSI-DUI \(2012\)09](#)).

Other business

16. The Secretariat made a demonstration of the online collaborative work-space created for the members of the MSI-DUI and took stock of the access problems that some of the members reported.

Dates of next meeting

17. The MSI-DUI members agreed to hold their third meeting on 20 and 21 March 2013 in Strasbourg.

Appendix 1
List of Participants

Expert Members

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

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, Chairperson (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)
National expert, Body of European Regulators for Electronic Communications (BEREC)

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

Participants

EUROPEAN AUDIOVISUAL OBSERVATORY/ Council of Europe

Ms Susanne NIKOLTCHEV, Head of Department for Legal Information - *Apologised / Excusée*

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 / Excusé*

UNESCO

Ms Xianhong HU, UNESCO, Division for Freedom of Expression, Democracy and Peace - Communication and Information Sector - *Apologised / Excusée*

European Newspapers Publisher Association (ENPA)

Mr Holger ROSENDAL, Danish Media, Chefjurist/Head of Legal Department

Participants Designated by Member States

Mr Tanel Tang, Deputy to the Permanent Representative, Estonian Permanent Representation to the Council of Europe

Council of Europe Secretariat

Mr Jan KLEIJSEN, Director, Information Society and Action Against Crime Directorate, Directorate General of Human Rights and Rule of Law - *Apologised / Excusé*

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

Mr Lee HIBBARD, Head of Internet Governance Unit, Directorate General of Human Rights and Rule of Law

Ms Elvana THAÇI, Administrator, Internet Governance Unit, Directorate General of Human Rights and Rule of Law

Mr Simon TONELLI, Secretariat of the European Committee on Legal Co-operation (CDCJ) - *Apologised / Excusé*

Mr Rüdiger DOSSOW, the Committee on Culture, Science, Education and Media, Parliamentary Assembly of the Council of Europe

Ms Sophie KWASNY, Secretary 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 Maria MICHAELIDOU, Programme Adviser, Data Protection Unit - *Apologised / Excusée*

Mr Przemysław SIERZPUTOWSKI, Study visitor, Data Protection Unit

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

Mr Laszlo FÖLDI, Education and Training, Youth Department, Directorate for Democratic Participation and Citizenship - *Apologised / Excusé*

Mr Matthias KLOTH, Administrator, Human Rights Law and Policy Division, Directorate General of Human Rights and Rule of Law - *Apologised / Excusé*

Ms Bogumila WARCHALEWSKA-MULLER, Directorate of Policy Planning

Ms Sonya FOLCA, Assistant, Directorate General of Human Rights and Rule of Law

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

Interpreters

Ms Julia TANNER

Mr Grégoire DEVICTOR

Appendix 2 Annotated Agenda

1. Opening of the meeting

2. Adoption of the agenda

The members of the MSI-DUI are invited to adopt the agenda of the meeting.

3. Compendium of existing human rights for Internet users

The MSI-DUI members will be invited to discuss and examine elements for possible inclusion in the compendium of existing rights of Internet users.

Background documents: [MSI-DUI Terms of Reference](#)

Discussion paper mapping-out issues regarding a Compendium of Rights of Internet Users – by Wolfgang Benedek, University of Graz/UNI-ETC (MSI-DUI(2012)03)

Working documents:

Matrix mapping out the application of existing human rights on the Internet the MSI-DUI members (MSI-DUI(2012)06) *(English only)*

Compilation of responses to questionnaire (MSI-DUI(2012)07) *(English only)*

Explanatory report on elements for possible inclusion in the compendium of existing human rights for Internet users (MSI-DUI(2012)08) *(English only)*

4. Multi-stakeholder outreach and dialogue

The members of the MSI-DUI will be invited to discuss and agree on actors, in particular the Dynamic Coalition on Internet Rights and Principles, to be involved in the work of the MSI-DUI (meetings and inter-sessional work), organisation of possible consultations and participation and interactions in multi-stakeholder events.

Background documents: [MSI-DUI Terms of Reference](#)

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

Working documents:

Draft-Roadmap for multi-stakeholder consultations (MSI-DUI(2012)09) *(English only)*

5. Other business

Issues not covered by other items of the agenda should be discussed.

6. Dates of next meeting

The MSI-DUI members will be invited to agree on the dates of its next meeting in 2013.