

# *Steering Committee on Media and Information Society – CDMSI*



06/07/2016

CDMSI (2016)007rev

10th meeting  
28 June -1 July 2016  
(Strasbourg, Palais de l'Europe, Room 3)

## Meeting report

### 1. Opening of the meeting

The Steering Committee on Media and Information Society (CDMSI) held its 10th meeting from 28 June to 1 July 2016 in Strasbourg chaired by Elfa Ýr Gylfadóttir, (Iceland). The gender distribution among 78 participants was 28 women (36%) and 50 men (64%).

The CDMSI observed a minute of silence to pay tribute to the victims of the terrorist attack on 28 June 2016 at Istanbul airport.

The meeting was opened by Jan Kleijssen, Director of Information Society and Action against Crime, who welcomed all participants to the 1<sup>st</sup> meeting under a new ambitious mandate. In particular, he greeted the representatives of Morocco and Tunisia who attended the CDMSI for the first time. He informed the plenary about the main events in the Council of Europe since its last meeting, in particular the adoption of the important standards that were finalised by the CDMSI in December 2015 (see item 7.4) as well as of the Council of Europe Internet Governance Strategy 2016-2019, and the follow-up they will receive. In that respect, he mentioned a Conference on Internet freedom (9 September, Strasbourg, co-organised with the Estonian CM Chairmanship and the German Chairmanship of the OSCE).

Referring to the adoption of the new Internet Governance Strategy 2016-2019, he emphasized a "Forum for dialogue with Internet private sector" as one of its main activities. He underlined the publication of the Secretary General's 2016 Report on the State of Democracy, Human Rights and the Rule of Law in Europe, which points out worrying trends regarding freedom of expression. The Committee of Ministers will decide on follow-up activities to be undertaken.

Mr Kleijssen commended the very active contribution of the Council of Europe to the 2016 EuroDIG meeting, emphasising the Secretary General's participation, together with other high level participants, such as EU Vice-President Ansip and Commissioner Oettinger, Marina Kaljurand, Minister of Foreign Affairs of Estonia, ICANN CEO Göran Marby. He also informed the CDMSI about regular meetings of the CM deputies organised by the Thematic Coordinator on Information Policy (TC-INF) in the form of breakfast meetings bringing to Permanent representatives concrete information on freedom of expression and Internet issues and about new co-operation programmes. Lastly, he informed the CDMSI

about a very successful conference, held on 17 June, on the promotion of the Convention 108, where Mauritius became the 50<sup>th</sup> party to the convention, signalling that, among the 100 countries that currently have a data protection legislation, 50 are parties to the Council of Europe convention on data protection (see item 6). He concluded by informing the Committee of staff changes, thanking Onur Andreotti for her valuable work in the Media and Internet Division and welcoming a new staff member Urška Umek and Małgorzata Pek, who is seconded by Poland.

## 2. Adoption of the agenda

The CDMSI adopted the agenda of the meeting without changes; it appears in Appendix I.

## 3. Standard setting

### *3.1 Committee of experts on media pluralism and transparency of media ownership (MSI-MED)*

Onur Andreotti, Secretary of the MSI-MED, informed the CDMSI about its first meeting (22-23 March 2016) and progress of work in this committee. She presented a draft outline of the draft Recommendation on media pluralism and transparency of media ownership, which should be ready for discussion at the next plenary meeting in December. The CDMSI discussed the draft, welcomed its structure, notably the thematic pillars, and gave guidance to the MSI-MED for its future work in that respect.

The CDMSI also took note of the preparation of a feasibility study for a standard setting instrument on media coverage of elections, with a specific focus on gender equality and the use of the Internet in elections.

Following the resignation of the Greek member of the Committee of experts on media pluralism and transparency of media ownership (MSI-MED), the CDMSI designated Ivane Makharadze (Georgia) as national expert.

### *3.2 Committee of experts on Internet intermediaries (MSI-NET)*

Elvana Thaçi, Secretary of the MSI-NET, reported on its first meeting (17-18 March 2016) and progress of work in this committee. She presented the planning and the state of play of the work undertaken on the deliverables included in the mandate of the Committee, namely, a recommendation on Internet intermediaries and a feasibility study on human rights dimension of algorithms. The CDMSI welcomed the draft structure and made observations about the scope and the content of the future draft recommendation and noted that the report on the feasibility study should be ready for its 1<sup>st</sup> plenary meeting of 2017.

Furthermore, the CDMSI noted that the MSI-NET was informed about its request of December 2015 to propose that the issue of up-dating the 2008 Human rights Guidelines for Internet Service Providers is put on agenda of the Committee of experts. However, due to the absence of the representative of the European Association of Internet Service Providers EuroISPA, Michael Rotert, at the 1<sup>st</sup> MSI-NET meeting, the issue could not be discussed. The roles and responsibilities of Internet service providers, which are considered by MSI-NET as intermediaries, will be addressed in the draft recommendation, thus benefiting

from an enhanced attention. Besides, the invitation will be renewed to Mr Rotert to attend the next MSI-NET meeting.

#### 4. Co-operation activities

The CDMSI took note of the information by the Secretariat on on-going and future co-operation programmes and activities, as reflected in document MEDIA-COOP(2016)01. Currently twelve cooperation projects are being implemented on external funding (voluntary contribution or jointly funded by the European Commission) for a total of 7,229,398 Euros.

Since the last plenary session, two projects were completed, in Ukraine (strengthening the Information Society in Ukraine, funded by the European Union) and in Morocco (promoting freedom of expression and media independence, funded by the Principality of Liechtenstein). Besides, three new projects were signed and have started: two projects in Ukraine (one financed by the EU as a part of the CoE/EU Eastern Partnership Programmatic Co-operation Framework and one from the voluntary contributions of CoE member states), and one in Morocco funded by Norway. The current project in Tunisia will be extended until December 2017. Finally, a three-year project covering six locations in the South-East Europe region was signed mid-April with the European Commission focussing on training of the judiciary and including components on regulatory authorities and journalists.

Other activities are financed by the ordinary budget of the Council of Europe. In November 2016, a conference will be organised with EBU with the participation of 19 countries on the public service media and the role of national parliaments, one of the session being dedicated to hate speech. The Secretariat thanked the member States that contribute to the funding of its co-operation activities and also thanked those delegates who bring in their expertise as well as their knowledge of Council of Europe standards into cooperation activities.

The CDMSI took particular note of the detailed presentation of the co-operation projects in Ukraine on Strengthening Freedom of Media and Establishing a Public Broadcasting System in Ukraine, in Morocco (Promoting freedom of expression, media independence and plurality in Morocco) and in Tunisia (Accompanying the transitional process towards democracy in Tunisia with the promotion of freedom of expression, independence of the media and public access to information).

#### 5. Implementation of Council of Europe adopted standards

##### *5.1 Workshop on implementation of Council of Europe standards on safety of journalists*

To answer to the wish expressed by the CDMSI at its last meeting, the Secretariat organised a workshop on implementation of Council of Europe standards on safety of journalists. This workshop was structured in two sessions. The first session (*How to support member States in implementing Council of Europe standards on safety of journalists and other media actors*) was opened by Elfa Ýr Gylfadóttir and moderated by Silvia Grundmann. The CDMSI heard several presentations and was able to ask questions to the respective speakers, as follows:

- an analysis of the answers to a questionnaire on the implementation of Council of Europe standards on safety of journalists and other media actors, by the Secretariat;
- a study on "How to strengthen soft powers for press freedom: national human rights institutions", by Joan Barata Mir;
- an overview and stock taking of the Council of Europe Platform to promote the protection of journalism and the safety of journalists, after its first year of operation, by Matjaž Gruden, Director of Policy Planning of the Council of Europe. This presentation was completed by a presentation of the point of view of the European Federation of Journalists, a partner NGO of the Platform, by its General Secretary, Ricardo Gutiérrez;
- Volodymyr Arieu, Ukrainian member of the Parliamentary Assembly (PACE), Chairman of PACE Committee on Culture, Science, Education and Media, and General Rapporteur on media freedom and safety of journalists brought the point of view of the Parliamentary Assembly.

The second session, moderated by William Horsley, was devoted to *Mutual engagements on the protection of journalism and safety of journalists and other media actors: identification of best practices for the implementation of Recommendation CM/Rec(2016)4*. Delegates were able to share with the Committee the measures taken or envisaged in their respective countries.

Eugenia Siapera (Deputy Director of the Institute for Future Media and Journalism), brought a sociological aspect into the discussion and also informed the participants of some technological developments that can contribute to the protection of journalists. Katie Morris (Head of Europe and Central Asia at Article 19) raised the issue of the protection of journalists' sources in the context of anti-terrorism legislation and surveillance measures.

The CDMSI concluded this work by tasking the Secretariat to provide a report as well as a compilation of selected best practices based on the four pillars of the CM/Recommendation (2016)4 at its next plenary meeting. Members are encouraged to send, on a voluntary basis, any information they would think relevant to this compilation.

## 5.2 Initiatives in member States

The Ukrainian delegate presented developments and measures to protect freedom of expression and safety of journalists.

Besides, to answer the need for the Secretariat to be informed of developments in member States on issues of relevance for its work, as well as for the CDMSI members to share information, the Secretariat has developed, upon the Bureau's request, a simple form that would facilitate and standardise the reporting. The CDMSI discussed the form, decided on some changes and approved it. The form will be available on the CDMSI web page together with information submitted by delegations.

## 5.3 Defamation

The CDMSI took note of the on-going work on the topic. A study on decriminalisation of defamation in Council of Europe member States has been commissioned to experts. It focuses on the case-law of the European Court of Human Rights and will be released in September in both official Council of Europe

languages. The 2012 study on the situation of criminalisation of defamation in member States, will be appended to it. The CDMSI emphasised the need for this appendix to be up-dated.

#### *5.4 Fear in journalism*

The CDMSI took note of information by the Secretariat on a study on Fear in journalism commissioned to an expert, Prof. Marilyn Clark, from Malta University. This study is an initiative of the Information Society Department and completes the work done on safety of journalists. It is based on answers received on a questionnaire sent to journalists via the NGO partners of the Platform for safety of journalists. 943 responses were collected from journalists in the 47 member States. The timeline is the following: a quantitative analysis will be completed at the end of 2016 and presented to the Committee at its 11<sup>th</sup> meeting; a qualitative analysis will be completed at the end of 2017.

The CDMSI agreed to invite Prof. Clark to present the study at its next plenary meeting.

#### *5.5 Internet governance*

The CDMSI took note of the Secretary General's final report on the Council of Europe Internet Governance Strategy 2012-2015, in which he concluded that most activities planned were completed and the outstanding ones will be carried over to the 2016-2019 Strategy. Most outcome led to greater up-take of Internet in various areas of work of the Council of Europe and to enhanced transversal work.

The representative of the Conference of INGOs expressed his satisfaction to see education mentioned as important items in both Strategies and informed the CDMSI on the interest the Conference has in this issue and the work it has undertaken.

The CDMSI decided to invite the Chairman of the Conference of INGOs to its next plenary meeting for an exchange of views on topics of common interest.

The Secretariat informed the CDMSI about the Council of Europe Strategy on Internet Governance 2016-2019, that was adopted on 30 March 2016 by the Committee of Ministers. It highlighted its transversal nature, which is reflected by the wide range of activities listed in the appendix of the Strategy. The list of planned activities covers current issues but also leaves room for new actions if necessary due to unforeseen developments. The progress of the Strategy will be reported twice a year to the CDMSI to enable it, inter alia, to identify synergies with other organisations.

The CDMSI welcomed the information and discussed more particularly the project of a structure for dialogue with the Internet private sector.

The CDMSI also took note of the report by the Secretariat on the 2016 edition of EuroDIG, which took place in Brussels on 9 and 10 June 2016 and of the high level Council of Europe participation in it. It noted the Secretary General Jagland's intervention, together with European Commissioners Ansip and Oettinger, Dunja Mijatović, OSCE special representative for freedom of the

media, the Estonian Minister of Foreign Affairs, Marina Kaljurand and the new ICANN CEO, Göran Marby.

The CDMSI welcomed the high visibility given to the Council of Europe and discussed some issues linked to the content of EuroDIG, namely, the respective responsibilities of the various actors of the Internet governance, the need to raise the level of quality of interventions and participation together with the need to focus discussions and avoid duplication with other fora, and the human rights specificity that the Council of Europe should strive to bring into Internet governance discussions.

The Secretariat informed the CDMSI on the next edition of the Internet Governance Forum, that will take place in Guadalajara (Mexico) on 6-9 December 2016.

Finally, it also informed the CDMSI on discussions within ICANN and on the expectation that the Council of Europe be involved in their work on various issues, in particular child abuse.

## 6. Data Protection

The CDMSI took note with interest of the information provided by the Secretariat on the on-going work in the field of data protection and discussed it:

- CAHDATA: the Committee of Ministers adopted terms of reference at the end of March, for it to examine outstanding issues regarding the modernisation of Convention 108. The CAHDATA met on 15 and 16 June 2016 and finalised the work and submitted the modernisation proposal to the Committee of Ministers. The relevant Group of rapporteurs will consider it after the summer to take note of it, examine the objection raised by one delegation and consider the way forward. The Secretariat emphasised the clear wish of almost all delegations and the European Union for a modernised Convention 108 in order to rapidly respond to current developments.

- An international conference on the promotion of Convention 108, held in Strasbourg on 17 June attended by representatives of all 49 States parties to the Convention and 15 non-European countries. During the conference, Mauritius ratified its accession to the Convention and, since, two countries have asked to be invited (Capo Verde and Indonesia). The representative of the Netherlands reported on her attendance of the conference on behalf of the CDMSI and emphasised that freedom of expression and data protection are two sides of the same coin, the absence of one having undoubtedly a chilling effect on the other.

- Work carried out by the Consultative Committee of the Convention on the Protection of Individuals with regard to Automatic Processing of Personal Data (T-PD):

- a draft CM Recommendation on the protection of health data is under preparation and will be sent out to CDMSI for comments. Ultimately, it will be transmitted to the CDMSI for submission to the Committee of Ministers. This work is a revision of an existing recommendation of 1997, broadening its scope from medical to health data and aiming at addressing issues raised by modern technologies;
- draft Guidelines on the protection of individuals with regard to the processing of personal data in a world of big data: exchanges are taking place

between the T-PD and the MSI-NET with reciprocal participation of experts. When advanced enough, the draft will be sent out to CDMSI for comments;

- a draft opinion on Passengers Name Records (PNR): aiming at recalling the application of data protection principles to the processing of passengers' data by public authorities; with consultation of other competent committees and bodies of the Council of Europe;
- a draft practical guide on the use of personal data in the police sector: the work is on-going, with the help of police specialists, and translates into practical terms the context of a 1987 recommendation.

These documents will be forwarded to the CDMSI for information or transmission to the Committee of Ministers.

## 7. Work of other Council of Europe institutions and bodies

### 7.1 Secretary General's initiatives

#### *3<sup>rd</sup> Secretary General's Annual report on Democracy, Human Rights and the Rule of Law*

The CDMSI discussed the 3<sup>rd</sup> Secretary General's Annual report on Democracy, Human Rights and the Rule of Law 2016 and in particular its substantive chapter on freedom of expression. The report signals worrying findings such as increased violence against journalists with a high level of impunity, a trend of higher pressure on journalists' sources that percolates into legal frameworks, arbitrary application of laws, in particular to enhance the protection of public figures against alleged defamation and more interference in editorial lines and journalists' work hampering media independence. The findings regarding Internet draw mostly on the Comparative Study mentioned below.

The CDMSI expressed concern about the deteriorating situation in all Council of Europe member States and regretted the lack of a proper monitoring mechanism on Article 10 of the European Convention of Human Rights. It is looking forward to the follow-up recommendations still to be issued by the Committee of Ministers.

#### *Comparative Study on Blocking, Filtering and Take-down of Illegal Internet Content in the 47 Member States of the Council of Europe*

The CDMSI also welcomed the information by the Secretariat on a Comparative Study on Blocking, Filtering and Take-down of illegal Internet content in the 47 member States of the Council of Europe. The study was commissioned to the Swiss Institute of Comparative Law of Lausanne, that itself, outsourced some of the country researches to independent experts. The country reports were communicated to the respective countries for comments, then adjusted when relevant. The complete study was presented in EuroDIG during a dedicated side event and received a high interest. Its analytical report as well as country reports are published on the Information Society web site; it is worth noting that the comments made by countries on their respective reports are being published, for transparency purposes. It also enables all countries to learn about the situation in other countries.

The Russian Federation made a statement with several observations, emphasising that its country report contains inaccurate information on a number of points. The Secretariat noted that the comments sent by all member States

were transmitted to the authors of the reports who assessed them independently. Also, the Secretariat noted that due to the evolving nature of Internet-related laws and policies the information contained in the Comparative Study needs updating.

### *7.2 Chairmanship of the Committee of Ministers*

The Estonian delegate presented the priorities of the Estonian Chairmanship of the Committee of Ministers and activities relevant for the CDMSI work. He encouraged CDMSI members to take part in them, in particular in a Conference on Internet freedom (*Internet freedom - A constant factor of democratic security in Europe* – 9 September, Strasbourg), co-organised with the Estonian Chairmanship of the Committee of Ministers and the German Chairmanship of the OSCE.

### *7.3 Committee of Ministers Thematic Co-ordinator on Information Policy (TC-Inf)*

The CDMSI held an exchange of views with the Belgium Ambassador, Dirk van Eeckhout, outgoing Committee of Ministers Thematic Co-ordinator on Information Policy, who explained his work in that capacity during the course of his mandate. In particular, some of his efforts went into enhancing the knowledge and understanding of his peer ambassadors of the work of the CDMSI and more broadly, of various areas covered by freedom of expression.

### *7.4 Committee of Ministers*

The CDMSI took note of information by the Secretariat on the adoption of the following texts and of possible planned or on-going follow-up:

- Recommendation CM/Rec(2016)1 of the Committee of Ministers to member States on protecting and promoting the right to freedom of expression and the right to private life with regard to network neutrality, adopted on 13 January; some member States have informed the Secretariat of on-going translation in their own language;
- Council of Europe Internet Governance Strategy 2016-2019, on 30 March; for follow-up, see item 5.5;
- Recommendation CM/Rec(2016)4 of the Committee of Ministers to member States on protection of journalism and safety of journalists and other media actors, on 13 April;
- Recommendation CM/Rec(2016)5 of the Committee of Ministers to member States on Internet Freedom, on 13 April; a follow-up conference is being organised jointly by Estonia under its chairmanship of the Committee of Ministers and Germany as chair of the OSCE. It will take place in Strasbourg on 9 September. The Secretariat informed the CDMSI of the Conference, its content, its organisation, as well as what is expected in terms of output;
- Recommendation CM/Rec(2016)3 of the Committee of Ministers to member States on human rights and business, on 2 March 2016.

In respect of the Recommendation on Internet freedom, the CDMSI noted that Austria and Bosnia and Herzegovina are reflecting on carrying out an evaluation of Internet freedom and reaffirmed the importance of carrying such an exercise. It decided that follow-up to this Recommendation should be a regular item on the agenda of its future meetings.



### *7.5 Parliamentary Assembly of the Council of Europe*

The CDMSI held an exchange of views with Volodymyr Arieu, Ukrainian member of the Parliamentary Assembly (PACE), Chairman of the PACE Committee on Culture, Science, Education and Media, and General Rapporteur on media freedom and safety of journalists. Mr Arieu presented the work of the Committee on on-going and planned activities

Pursuant to the Committee of Ministers' invitation to provide comments on PACE Recommendation 2089(2016) "Intellectual property rights in the digital era", the CDMSI finalised a text of comments, approved it and decided to transmit them to the Committee of Ministers (Appendix III).

Furthermore, it took note of information on the Committee of Ministers reply to a number of PACE Recommendations on which the CDMSI had provided comments following a written procedure.

### *7.6 Commissioner for Human Rights*

The CDMSI held an exchange of views with Alessandra Ricci, representative of the Office of the Council of Europe Commissioner for Human Rights on his mission and areas of work. It took note of the Commissioner's annual report 2016.

### *7.7 European Commission against racism and intolerance (ECRI)*

Stefano Valenti, member of the Secretariat of the European Commission against racism and intolerance (ECRI) presented their work, and in particular their General Policy recommendation no. 15 on combating hate speech. The CDMSI had an exchange of views with him.

### *7.8 Steering Committee for Heritage, Culture and Landscape (CDCPP)*

The CDMSI took note of information by the Secretariat that recalled the comments it provided in 2015 on a draft Recommendation on the Internet of citizens. The comments were taken into account; the recommendation was since adopted by the Committee of Ministers.

### *7.9 European Committee on Legal Co-operation (CDCJ)*

The Secretariat recalled the CDMSI's inter-sessional work to prepare comments on a draft recommendation on the legal regulation of lobbying activities in the context of public decision-making and thanked in particular the Chair for her leadership in finalising comments within the short timeframe. The comments by the CDMSI were forwarded to the CDCJ.

### *7.10 Committee of Experts on Terrorism (CODEXTER)*

The CDMSI held an exchange of views with Kristian Bartholin, co-secretary of CODEXTER, who informed it about on-going work, in particular on terrorism and the Internet, and notably on their involvement with the private sector on combatting terrorism.

Another on-going work of CODEXTER is the revision of the 2005 Recommendation on special investigation techniques, where the CDMSI is represented by Maja Raković. Absent to this meeting, she sent a written report on the last meetings she attended on 13-14 June, to be communicated to CDMSI.

#### *7.11 European Audio-visual Observatory*

Its Executive Director, Susanne Nikoltchev, explained the situation of the Greek membership of the Observatory and thanked the Bureau for its efforts to prevent a possible withdrawal. The CDMSI reiterated its concern about this unfortunate situation, which will affect all audio-visual actors in Greece.

Besides, it held an exchange of views with Maja Capello, Head of the Legal Information Department of the Observatory, about on-going and planned work and possible synergies between both bodies.

#### *7.12 Participation of CDMSI members in meetings and events*

The CDMSI took note of the participation of some of its members in other meetings and events.

### 8. Other organisations

#### *European Union*

##### *Reform of the Audio-visual Media Service Directive (AVMSD)*

The CDMSI discussed the state of play of the reform of the EU Audio-visual Media Service Directive, and had an exchange of views with Krisztina Stump, Deputy Head of Unit, Converging Media and Content, DG CONNECT. It stressed the need to address the inconsistency between the EU Directive and the European Transfrontier Television Convention. It further exchanged with Maciej Tomaszewski, Policy Officer, DG JUST on the Code of Conduct with Internet companies on illegal hate speech, and a public consultation launched for the 2016 Annual Colloquium on Fundamental Rights on 'Media Pluralism and Democracy', which will take place on 17-18 November 2016 in Brussels;

### 9. CDMSI work programme and working methods

#### *9.1 Draft programme / roadmap of CDMSI work*

The CDMSI discussed timelines for its deliverables under the current Terms of Reference and agreed on a roadmap to ensure proper planning of its activities.

#### *9.3 Reflection on a future ministerial conference*

The CDMSI discussed the opportunity of holding a Conference of specialised Ministers and exchanged views on political relevance and possible impact on future work. It took note of the conditions set out by the Committee of Ministers.

The CDMSI had a brief discussion on challenges to the profession of journalism following technological disruption of media organisations' operations. It decided to continue its discussions on the topic at the next Bureau and plenary meetings on the basis of suggestions and ideas to be communicated to the Secretariat.

It noted also that any country which could possibly be interested in hosting such a conference can ask the secretariat for logistical information.

### *9.3 Evaluation of NGOs' participation in Steering Committees*

The Secretariat informed the CDMSI on the findings and conclusions of an evaluation report undertaken by the Council of Europe Directorate of Internal Oversight on the topic. In particular, the report praised the CDMSI for its transparency and the active involvement of NGOs in its debate. Silvia Grundmann thanked those members who participated in the respective survey carried out for this report.

### 10. Any other issue

No issue was raised

### 11. Abridged report

The CDMSI finalised and adopted its abridged report (document CDMSI(2016)006).

## APPENDIX I

## Meeting agenda

27/06/2016

CDMSI(2016)OJ1rev7

10<sup>th</sup> meeting – 28 June – 1 July 2016  
(Strasbourg, Palais de l'Europe, room 3)

28 June: 14:00 – 18:00  
29 June: 09:30 – 18:00  
30 June: 09:30 – 18:00  
1 July: 09:30 – 13:00

## Order of Business

	Morning	Afternoon
28 June: 14h00 to 18h00	No session	Items: 1; 2; 3.1; 3.2; 6
29 June 9h30-18h00	Items: 5.2; 5.3; 5.4; 5.5; 4	Items: 7.2; 7.3; 7.4; 7.5; 7.6; 7.7; 7.8; 7.9; 7.10; 7.12
30 June 9h15-18h00	Items: 5.1 (Workshop)	Items: 5.1 (Workshop - continued); 8; 9.1; 9.2; 9.3; 7.1;
1 July 9h30-13h00	Items: 7.11; Finalisation of pending items; 10; 11	No session

1. Opening of the meeting by Jan Kleijssen, Director, Information Society and Action against Crime

2. Adoption of the agenda

CDMSI (2016)OJ1Rev7 Draft agenda

For decision  
Adopt the agenda

3. Standard setting

*3.1 Committee of experts on Media Pluralism and Transparency of Media Ownership (MSI-MED)*

MSI-MED(2016)05rev

*Report of the 1st meeting  
of the MSI-MED (22-23  
March 2016)*

For discussion  
Take note of  
information on 1<sup>st</sup>  
meeting of the MSI-  
MED. Discuss on the  
work progress of the

MSI-MED(2016)06 Hard

*Draft outline for the draft*

<i>copies distributed in the room</i>	<i>Recommendation on media pluralism and transparency of media ownership.</i>	Committee of Experts
<u>MSI-MED(2016)04</u>	<i>Issue mapping non-paper prepared by the Secretariat on a feasibility study on a standard-setting instrument on media coverage of elections, with a specific focus on gender equality, and the use of the Internet in elections</i>	Hold elections of a national expert to replace an outgoing member.

### 3.2 Committee of experts on Internet Intermediaries (MSI-NET)

<u>MSI-NET(2016)04</u>	<i>Report of the 1st meeting of the MSI-NET (17-18 March 2016)</i>	For discussion Take note of information on 1st meeting of the MSI-NET. Discuss on the work progress of the Committee of Experts
<u>MSI-NET (2016)05</u>	<i>Draft recommendation of the Committee of Ministers to member States on Internet intermediaries – draft structure</i>	
<u>MSI-NET(2016)06</u>	<i>Study on human rights dimensions of algorithms - Draft structure</i>	

### 4. Cooperation activities

<u>MEDIA-COOP(2016)01</u>	<i>Completed and ongoing projects in the field of media and freedom of expression</i>	For information and discussion Take note of information provided by Secretariat and discuss
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### 5. Implementation of Council of Europe adopted standards and best practices

#### 5.1 Workshop on implementation of Council of Europe standards on safety of journalists

<u>CDMSI(2015)018rev4</u>	<i>Compilation and analysis of replies received from</i>	<i>For discussion and decision</i>
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	<i>CDMSI members on the implementation of Council of Europe relevant standards on safety of journalists</i>	Hold a workshop on the topic. Decide on best practices to be elaborated. Task the Secretariat to provide a report on the workshop and to prepare a compilation of best practices on the protection of journalism and safety of journalists for the next plenary meeting.
<u>CDMSI(2016)Misc2Rev11</u>	<i>Description and programme of workshop</i>	
<u>Report</u>	<i>"How to Strengthen Soft Powers for Press Freedom: National Human Rights Institutions" – Report by J.Barata</i>	

### 5.2 Initiatives in member States

<u>CDMSI(2016)Misc1</u>	<i>Ukraine – Communication - National Council of Television and Radio Broadcasting</i>	For information and discussion Take note and, where necessary, discuss the issues.
<u>CDMSI(2016)Misc3</u>	<i>Reporting form on developments in member States</i>	Agree on the form

### 5.3 Defamation

<i>Freedom of expression and defamation: A study of the case-law of the European Court of Human Rights</i>	<i>For information</i> Take note of progress made
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### 5.4 Fear in journalism

<u>MSI-MED(2016)07</u>	<i>Study "Journalists at Risk: part of the job? " Unwarranted interference, fear and self-censorship among journalists in CoE member States</i>	<i>For discussion</i> Take note of information by the Secretariat. Discuss the opportunity of an exchange of views with the expert of the study at the next meeting
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### 5.5. Internet governance

<u>Report</u>	<i>Secretary General's final report on the Council of Europe Internet Governance Strategy 2012-2015</i>	<i>For discussion</i> Take note of the report.
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<u>Strategy</u>	<i>Council of Europe Internet Governance Strategy 2016-2019.</i>	Discuss the role of CDMSI in respect of follow-up of the Strategy, in particular the Forum for dialogue with the Internet private sector (previously called Platform)
<u>CDMSI(2016)005</u>	<i>Progress in implementation of actions and activities</i>	
<u>EuroDIG</u> <u>EuroDIG - programme</u>	<i>European Dialogue on Internet Governance (9-10 June 2016, Brussels)</i>	<i>For information</i> Take note of information by members and the Secretariat on the 2016 edition of EuroDIG and the 2016 meeting of the IGF and discuss.
<u>1st IGF MAG open consultation meeting - Summary</u>	<i>Internet Governance Forum (Guadalajara, 6-9 Dec 2016)</i>	
6. Data protection		
<u>CAHDATA(2016)ToR</u>	<i>Terms of Reference of CAHDATA</i>	<i>For discussion</i> Take note of information provided by the Secretariat
<u>CAHDATA(2016)RAPAbr</u>	<i>Abridged report of the 2016 meeting of the CAHDATA</i>	
<u>CAHDATA(2016)1</u>	<i>Consolidated text of the modernised version of Convention 108 (with reservations)</i>	
<u>T-PD-</u> <u>BUR(2016)RAP38Abr</u>	<i>Abridged Report of the 38th meeting of the Bureau of the T-PD (22-24 March 2016)</i>	
<u>T-PD(2016)04rev</u>	<i>Draft Recommendation on the protection of health data</i>	
<u>T-PD-BUR(2015)12Rev</u>	<i>Draft Guidelines on the protection of individuals with regard to the processing of personal data in a world of Big Data</i>	
<u>T-PD-BUR(2015)11rev2</u>	<i>Draft opinion on Passengers Name Records</i>	
<u>T-PD(2016)02rev</u>	<i>Draft practical guide on the use of personal data in the police sector</i>	

## 7. Work of other Council of Europe institutions and bodies

### 7.1 Secretary General's initiatives

<u>Study</u>	<i>Comparative study on blocking, filtering and take-down of Internet content in the 47 member States</i>	<i>For information</i> Take note of the publication of the Study and of information by the Secretariat
<u>Report</u>	<i>3<sup>rd</sup> Annual Report of the Secretary General on the Human Rights Democracy and the Rule of Law</i>	Take note of the report and conclusions of the meeting of Ministers' Deputies on 29 June on follow-up to the 3 <sup>rd</sup> Annual Report.

### 7.2 Chairmanship of the Committee of Ministers

<u>Link</u>	<i>Priorities for the Estonian chairmanship of the CM</i>	<i>For discussion</i> Take note of the priorities and discuss CDMSI representation in activities
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### 7.3 Thematic Co-ordinator on Information Policy – TC-Inf

<u>Link</u>	<i>Activities of the TC-Inf to promote the work of the Council of Europe on media and information society.</i>	<i>For discussion</i> <i>Exchange views with the TC-Inf</i>
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### 7.4 Committee of Ministers

<u>CM/Rec(2016)1</u>	<i>Recommendation CM/Rec(2016)1 of the Committee of Ministers to member States on protecting and promoting the right to freedom of expression and the right to private life with regard to network neutrality</i>	<i>For information</i> Take note of the adoption by the Committee of Ministers of these texts and of envisaged follow-up
<u>CM/Rec(2016)4</u>	<i>Recommendation CM/Rec(2016)4 of the Committee of Ministers to member states on the protection of journalism and safety of journalists and other media actors</i>	
<u>CM/Rec(2016)5</u>	<i>Recommendation CM/Rec(2016)5 of the Committee of Ministers to member states on Internet</i>	Take note of information provided by the Secretariat on the Conference on Internet Freedom – Constant



Draft programme of the conference (version 24/6/2016)      *freedom*      Factor of Democratic Security in Europe, 09/09/2016, Strasbourg

Strategy      *Council of Europe Internet Governance Strategy 2016-2019*

CM/Rec(2016)3      *Recommendation CM/Rec(2016)3 of the Committee of Ministers to member States on human rights and business*

#### 7.5 Parliamentary Assembly of the Council of Europe (PACE)

Rec 2089(2016) CDMSI(2016)004      *Recommendation 2089(2016) "Intellectual property rights in the digital era"*      *For decision*  
Finalise and approve the CDMSI comments.

Rec 2074(2015) CM reply CDMSI(2015)013rev      *Committee of Ministers reply to Parliamentary Assembly Recommendation 2074 (2015) "Increasing transparency of media ownership"*      *For information*  
Take note of the replies.

Rec 2075(2015) CM reply CDMSI(2015)014      *Committee of Ministers reply to Parliamentary Assembly Recommendation 2075 (2015) "Media responsibility and ethics in a changing media environment"*

Rec 2085(2016) CDMSI(2016)002rev      *CDMSI comments on PACE Recommendation 2085(2016) Strengthening the protection and role of human rights defenders in Council of Europe member States*      *For information*  
Take note of the state of play

#### 7.6 Commissioner for Human Rights

Report      *2015 Annual activity report*      *For discussion*  
Exchange views with the Office of the Commissioner for

## Human Rights

## 7.7 European Commission against Racism and Intolerance (ECRI)

<u>General Policy Recommendation</u>	<i>ECRI General Policy Recommendation Combatting Hate Speech</i>	<i>For discussion Exchange views with the Executive Secretary to ECRI on possible synergies between the work of the two organs</i>
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## 7.8 Steering Committee for Heritage, Culture and Landscape (CDCPP)

<u>CM/ Rec(2016)2</u>	<i>Recommendation CM/Rec(2016)2 of the Committee of Ministers to member States on the Internet of citizens</i>	<i>For information Take note of information</i>
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## 7.9 European Committee on Legal co-operation (CDCJ)

<u>Draft recommendation</u>	<i>Draft Recommendation of the Committee of Ministers to member states on the legal regulation of lobbying activities in the context of public decision-making.</i>	<i>For information Take note of the state of play.</i>
<u>CDMSI(2016)003Rev2</u>	<i>CDMSI comments</i>	

## 7.10 Committee of Experts on terrorism (CODEXTER)

<u>Abridged report</u>	<i>CODEXTER meeting 8-10 April 2016</i>	<i>For discussion Take note of information by Maja Raković, representative of the CDMSI to the CODEXTER and discuss</i>
<u>CM/REC(2005)10</u>	<i>Recommendation Rec(2005)10 of the Committee of Ministers to member states on "special investigation techniques" in relation to serious crimes including acts of terrorism</i>	

## 7.11 European Audio-visual Observatory

<u>Link IRIS</u>	<i>-Territoriality and impact on European works</i>	<i>For discussion Exchange views with the representatives of the Observatory</i>
<i>Hard copies in the room</i>	<i>-Smart tv and data protection -On demand services and the material scope of the AVMSD.</i>	

## 7.12 Participation of CDMSI members in meetings and events

<u>Link</u>	<i>High-level Launching Conference on the Council of Europe Strategy for the Rights of the Child 2016-2021, Sofia, 5-6 April 2016</i>	<i>For information</i> Take note of information provided by CDMSI members who participated in these events.
<u>Programme</u>	<i>Conference on national parliaments' role in improving freedom, independence, transparency and diversity of media, London 11 April 2016</i>	
<u>Link</u>	<i>SEEDIG – Belgrade</i>	
<u>Link</u>	<i>TC-Y and Conference (23-25 May)</i>	

## 8. Other organisations

### 8.1 European Union

<u>COM(2016) 287/4</u>	<i>Audio-visual Media Service Directive (AVMSD) Reform and Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions - Online Platforms and the Digital Single Market - State of play</i>	<i>For information and discussion</i> Exchange views with the EC representatives
<u>COM(2016) 288/2</u>	<i>EU Presidency priorities</i>	
<u>Link</u>	<i>EC Public consultation for the 2016 Annual Colloquium on Fundamental Rights on 'Media Pluralism and Democracy' 17-18 November 2016</i>	Take note of the information by EC representatives

## 9. CDMSI work programme and working methods

### 9.1 Draft work programme/roadmap

<u>CDMSI(216)Misc5</u>	<i>Draft work programme/roadmap</i>	<i>For discussion</i> Discuss and agree on follow-up.
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### 9.2 Reflection on a future ministerial conference

<u>Resolution</u> <u>CM/Res(2011)7</u>	<i>Resolution CM/Res(2011)7 on Council of Europe conferences of specialised ministers</i>	<i>For discussion</i> Discuss the desirability of organising a conference of ministers responsible for media and information society.
9.3	<i>Evaluation of Co-operation of NGOs with the Council of Europe in standard setting and monitoring</i>	
<u>Report</u>	<i>Report by the Directorate of Internal oversight of the Council of Europe</i>	<i>For information</i> Take note of information provided by the Secretariat
10	Any other business	
11	Abridged report	
CDMSI(2016)006	Abridged report of the 10 <sup>th</sup> CDMSI meeting	<i>For decision</i> Adopt the abridged report of the meeting

APPENDIX II

LIST OF PARTICIPANTS / *LISTE DES PARTICIPANTS*  
10TH MEETING OF THE STEERING COMMITTEE ON MEDIA AND INFORMATION SOCIETY

*10EME RÉUNION DU COMITÉ DIRECTEUR SUR LES MEDIAS ET LA SOCIETE DE  
L'INFORMATION  
(CDMSI)*

28 JUNE – 1 JULY 2016 / *28 JUIN – 1 JUILLET 2016*  
ROOM/SALLE 3 (PALAIS DE L'EUROPE)

LIST OF PARTICIPANTS / *LISTE DES PARTICIPANTS*

Total number of participants/ *nombre total de participants* : 78  
Gender distribution / *répartition hommes/femmes* : 50 men/*hommes* (64%) /28  
women/*femmes* (36%)

ALBANIA / ALBANIE

Mr Glevin Dervishi

Adviser on Media to the Albanian Minister of Foreign Affairs- Ministry of Foreign  
Affairs

ARMENIA / ARMENIE

Ms Kima Khachatryan

First Degree Specialist

Department of Information and Public Relations - Ministry of Justice of Armenia

AUSTRIA / AUTRICHE

Mr Matthias Traimer

Federal Chancellery, Media Affairs and Information Society, Federal Chancellery,  
Constitutional Service

AZERBAIJAN

Ms Jeyran Amiraslanova

Senior Adviser of the Administration of the President

BOSNIA AND HERZEGOVINA / BOSNIE-HERZEGOVINE

Mr Emir Povelakić

Head of Division for Licensing, Digitalization and Coordination in Broadcasting,  
Communications Regulatory

BULGARIA / BULGARIE

Ms. Nelly Stoyanova

Head of Information Society Policy Department - Ministry of Transport, IT and  
Communications

CYPRUS / CHYPRE

Ms Sofia (Sunny) Papadimitriou Tofa

Press and Information Officer - Ministry of Interior

CZECH REPUBLIC / REPUBLIQUE TCHEQUE

Mr Artus Rejent

Media and Audio-vision Department, Ministry of Culture

DENMARK / DANEMARK

Ms Katja Just Maarbjerg  
Ministry of Culture

ESTONIA / ESTONIE

Mr Mati Kaalep  
Adviser of Audiovisual Affairs of Estonian Ministry of Culture

France

Ms Joanna Chansel  
Bureau des affaires européennes et internationales  
Direction Générale des Médias et des Industries Culturelles  
Ministère de la Culture et de la Communication

M. Julien Plubel

Rédacteur

Ministère des Affaires étrangères, Direction de la coopération culturelle,  
universitaire et de la recherche, Pôle de l'audiovisuel extérieur

GEORGIA / GEORGIE

Ms Salome Imnadze  
Deputy Director of International Law Department, Ministry of Foreign Affairs

GERMANY / ALLEMAGNE

Mr Oliver Schenk

Division K 31

International Media Cooperation - Federal Government Commissioner for Culture  
and the Media

Mr Gajus Köhr

Division K 31 - International Media Cooperation

Federal Government Commissioner for Culture and the Media

Mr Jan Wiegandt

Representation of the State of Rhineland-Palatinate to the EU

Ms Annick Kuhl

Representation of the Free State of Bavaria to the EU

GREECE / GRECE

Mr Evgenios Nastos

Secretariat General for Information & Communication

Ms Irene Andriopoulou

Secretariat General for Information and Communication

Directorate for Mass Media - Department for Audiovisual Media & Archives

HUNGARY / HONGRIE

Mr György Ocskó

International Legal Adviser, National Media and Infocommunications Authority

ICELAND / ISLANDE

Ms Elfa Ýr Gylfadóttir (Chair / *Présidente*)

Media Commission, Ministry of Education, Science and Education

ITALY / ITALIE

Mr Pierluigi Mazzella

Director General, Agency for the right to university education, Professor of Information and Communication, University of Rome

LATVIA / LETTONIE

Mr Andris Mellakauls

Information Space Integration, Ministry of Culture

Luxembourg

Ms Carole Nuss

Le Gouvernement du Grand Duché de Luxembourg

Ministère d'État - Service des médias et des communications

MOLDOVA / MOLDOVIE

Mr Serghei Mihov

Counsellor , Global Affairs and Human Rights Division , General Directorate for Multilateral Cooperation, Ministry of Foreign Affairs and European Integration of the Republic of Moldova

MONACO

M. Serge Robillard

Chef de Division, Direction des Communications Électroniques

MONTENEGRO

Mr Ranko Vujovic

Executive Director, UNEM

THE NETHERLANDS / PAYS-BAS

Mr Nol Reijnders

Senior Adviser for Media Policy

Ms Pien van den Eijnden

Senior legal adviser

Ministry of the Interior and Kingdom Relations, Constitutional Affairs and Legislation, Constitutional Affairs

NORWAY / NORVEGE

Mr Olav Guntvedt

Assistant Director General, Department of Media Policy and Copyright

Ministry of Culture

ROMANIA / ROUMANIE

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Professor, University of Theatre and Film

Senior Advisor, Unit for Project Management, Ministry of Culture and National Heritage

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Mr Alexander Surikov

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Agent de presse - Département des Affaires Etrangères

SLOVENIA / SLOVENIE

Mr Skender Adem  
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SLOVAKIA / SLOVAQUIE

Ms Ivana Maláková  
Head of Unit Media Law and Audiovisual Unit Media, Audiovisual and Copyright  
Department Ministry of Culture of Slovak Republic

SWEDEN / SUEDE

Mr Christoffer Lärkner  
Department of Culture

SWITZERLAND / SUISSE

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Federal Office of Communication, Federal Department for the environment,  
transport, energy and communication

M. Nicolas Rollier  
Federal Office of Communication, Federal Department for the environment,  
transport, energy and communication

„ FORMER YUGOSLAV REPUBLIC OF MACEDONIA „ / „ EX-REPUBLIQUE  
YOUGOSLAVE DE MACEDOINE“

Ms Vesna Poposka  
Head of International PR Department, Government of the Republic of Macedonia,  
PR Department

TURKEY / TURQUIE

Mr Mehmet Bora Sönmez  
Media Expert, Radio and Television Supreme Council of Turkey

Mr. Esat Çiplak  
Vice-Chairman of Radio and Television Supreme Council

Mr Abdulkader Alper Çetinkaya  
Information and Communications Technologies Authority of Turkey

Ms Asyel Kandemir  
Information and Communications Technologies Authority of Turkey

UKRAINE

Ms Olha Herasymiuk  
First Deputy Chair of the National Council of Ukraine for Television and Radio  
Broadcasting

UNITED KINGDOM / ROYAUME-UNI

Ms. Katherine Ribbe  
Media Team, Department for Culture, Media and Sport



## OBSERVERS/PARTICIPANTS

## BELARUS

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Head of Media Department of MFA Belarus, Press-Secretary of MFA

## MOROCCO / MAROC

Ms Meriem El Hilali

Vice-Consul of Morocco / Vice-Consul du Maroc

Mme Chanaz El Akrichi

Chef de Division de la Coopération, Ministère de la Communication

Mme Meriem Khatouri

Directrice des Etudes et du Développement des médias, Ministère de la Communication

## TUNISIA / TUNISIE

Mme Mouna Ghariani,

Membre de la HAICA (Haute autorité indépendante de la communication audiovisuelle)

Mr Bilal Chabou

Ministry of Telecommunications and Digital Economy

## EUROPEAN BROADCASTING UNION (EBU)

Mr Michael Wagner

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Mr Giacomo Mazzonne

Head of Institutional Relations, Public Affairs & Communications

## EUROPEAN FEDERATION OF JOURNALISTS (EFJ)

Mr Ricardo Gutiérrez - Secretary General

M. Marc Gruber

EUROPEAN AUDIOVISUAL OBSERVATORY / OBSERVATOIRE  
EUROPPEENNE DE L'AUDIOVISUAL

Ms Susanne Nikoltchev - Executive Director

Ms Maja Cappello – Head of the legal information department

ASSOCIATION OF EUROPEAN JOURNALISTS (AEJ) / MEDIA FREEDOM  
REPRESENTATIVE

Mr William Horsley - Media Freedom Representative

CONFERENCE OF INTERNATIONAL NON-GOVERNMENTAL  
ORGANISATIONS OF THE COUNCIL OF EUROPE / CONFÉRENCE DES  
ORGANISATIONS INTERNATIONALES NON GOUVERNEMENTALES DU  
CONSEIL DE L'EUROPE

Mr Didier Schretter

Member of the Standing Committee - Vice-chair Education and Culture Committee

## HOLY SEE / SAINT SIEGE

Dr Michael Lukas - Episcopal Press Office

## INTERNET WATCH FOUNDATION

Mr Kristof Claesen - Press and Public Affairs Manager

EUROPEAN COMMISSION

Ms Krisztina Stump - Deputy Head of Unit, DG CONNECT  
Mr Daniel Spoiala Policy Officer, DG CONNECT  
Mr Maciej Tomaszewski - Policy Officer, DG JUST

OFFICE OF THE COMMISSIONER FOR HUMAN RIGHTS

Ms Alessandra Ricci - Adviser to the Commissioner

EUROPEAN COURT OF HUMAN RIGHTS

Ms Aida Grgic - Case-Law Information and Publications Division

PARLIAMENTARY ASSEMBLY OF THE COUNCIL OF EUROPE / ASSEMBLEE  
PARLEMENTAIRE DU CONSEIL DE L'EUROPE

Mr Rüdiger Dossow – Committee Secretary, Committee on Culture, Science,  
Education and Media

COUNCIL OF EUROPE STEERING COMMITTEE FOR HUMAN RIGHTS  
(CDDH)

Ms Kristine Līce - Latvian member

ADVISORY COUNCIL ON YOUTH OF THE COUNCIL OF EUROPE

Mr Milosh Ristovski - Centre for intercultural Dialogue

PERMANENT REPRESENTATION OF BELGIUM TO THE COUNCIL OF  
EUROPE

Ambassador Dirk Van Eeckhout

\* \* \*

WORKSHOP ON HOW TO SUPPORT COUNCIL OF EUROPE MEMBER  
STATES IN IMPLEMENTATION OF COUNCIL OF EUROPE STANDARDS ON  
SAFETY OF JOURNALISTS AND OTHER MEDIA ACTORS

Thursday 30 June

Mr Joan Barata – Independent Expert

Dr Tarlach McGonagle - The University of Amsterdam

Mr Patrick James Leerssen - The University of Amsterdam

Mr Roel Maalderink - The University of Amsterdam

Ms Katie Morris - Article 19

Mr Riccardo Gutierrez - International Federation of Journalists

Mr Volodymyr Ariev

Parliamentary Assembly Member, Chairperson of the Committee on Culture,  
Science, Education and Media, General Rapporteur on media freedom and safety  
of journalists

Ms Eugenia Siapera - Dublin City University

Permanent Representation of France to the Council of Europe

Permanent Representation of Luxembourg to the Council of Europe

Permanent Representation of Poland to the Council of Europe

\* \* \*

## INTERPRETERS / INTERPRETES

Ms Bettina Ludewig  
Mr Derrick Worsdale  
Ms Martine Caraly

\* \* \*

## SECRETARIAT

Mr Jan Kleijssen, Director of Information Society and Action against Crime,  
Directorate General Human Rights and Rule of Law

Mr Patrick Penninckx, Head of Information Society Department, Directorate  
General Human Rights and Rule of Law

Ms Silvia Grundmann, Head of Media and Internet Division, Directorate General  
of Human Rights and Rule of Law, Secretary to the Steering Committee on Media  
and Information Society

Ms Onur Andreotti, Administrator, Media and Internet Division, Directorate  
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Ms Amélie Lepinard, Administrator, Media and Internet Division, Directorate  
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Ms **Małgorzata** Pek, Administrator, Media and Internet Division, Directorate  
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Mr Christina Lamprou, Administrator, Media and Internet Division, Directorate  
General Human Rights and Rule of Law

Ms Anne Boyer-Donnard, Principal Administrative Assistant, Media and Internet  
Division, Directorate General Human Rights and Rule of Law

Ms Julia Whitham, Assistant, Media and Internet Division, Directorate General  
Human Rights and Rule of Law

## APPENDIX III

Comments of the Steering Committee on Media and Information Society (CDMSI) on the Parliamentary Assembly Recommendation [2089\(2016\)](#) "Intellectual property rights in the digital era"

1. The CDMSI has taken note of the Recommendation 2089(2016). The protection of intellectual property rights online is essential to effectively safeguard the right to property and to promote cultural and economic development.
2. In respect of point 2.1 of the Recommendation the CDMSI emphasises that if the Committee of Ministers decides to take follow-up action, there is a need to sufficiently balance the right to property against the right to freedom of expression as guaranteed by Article 10 of the European Convention on Human Rights. The European Court of Human Rights (the Court) has affirmed that restrictions on the online use of copyright protected works and criminal sanctions for breaches of copyright law are interferences with freedom of expression and information and should, therefore, be compatible with the requirements of legitimacy, legality and necessity in a democratic society (including proportionality) as foreseen in Article 10 and as interpreted by the Court<sup>1</sup>. It is also important to take into account that in some Council of Europe member States domestic courts do not apply criminal charges on file sharing for private use.
3. If there will be follow-up action to point 2.1 of the Recommendation, it should take fully into account the need to balance the right to receive and impart information online and the necessity to protect copyright when applying criminal sanctions. It is important to assess in particular the proportionality of sanctions and award of damages for copyright infringement as well as evolving legislation in member States. The CDMSI is willing to offer its expertise and contribution if follow-up action is deemed necessary.
4. In respect of point 2.2. of the Recommendation, the CDMSI recalls that according to the Report by the Secretary General on the Review of Council of Europe Conventions ([SG/Inf\(2012\)12](#)) the European Convention on the Legal Protection of Services based on, or consisting of Conditional Access ([ETS No 178](#)) is an active convention which is not considered as key. This Convention has an interest for those States which have expressed their wish to become Parties and which wish to remain Parties. The last meeting of the Parties to the Convention took place on 22 October 2009. The questions falling under point 2.2. of the Recommendation could be considered if the Parties to the Convention consider it necessary to hold a multilateral consultation.

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<sup>1</sup> Decision on **Fredrik Neij and Peter Sunde Kolmisoppi v Sweden (2012)**