

Steering Committee on Media and Information Society – CDMSI

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

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**14th meeting of Steering Committee on Media and Information Society
(CDMSI)**

19-21 June 2018

(Strasbourg, Council of Europe, Palais de l'Europe, rooms 10 and 1)

Abridged meeting report

The CDMSI held its 14th meeting from 19 to 21 June 2018 in Strasbourg, chaired by Ambassador Thomas Schneider (Switzerland). The CDMSI adopted the agenda as it is set out in Appendix I. The list of participants appears in Appendix III. Gender distribution: 69 participants, 37 men (54%) and 32 women (46%).

Items submitted to the Committee of Ministers for information

Adopted standards

The CDMSI welcomed the adoption by the Committee of Ministers, on 7 March 2018 of the recommendations it had approved at its last plenary meeting in December 2017: (CM/Rec(2018)1 to member States on media pluralism and transparency of media ownership and CM/Rec(2018)2 on the roles and responsibilities of internet intermediaries). Delegates took note of first steps taken for their implementation with several initiatives. Among them, the Committee took note of the workshop organised with representatives of internet companies on 23 May to discuss their responsibilities in particular with respect to data protection, content moderation and enhanced transparency requirements. Delegates welcomed the overall support that the recommendation on internet intermediaries has received from large and small/medium sized businesses and discussed the scope and direction that further collaboration with the private sector should take.

Delegates were also informed of the fact that the CM had taken note of the three studies prepared by the Committees of experts, MSI-MED and MSI-NET, and approved by the CDMSI in December 2017, namely the Study on the use of internet in electoral campaigns, the Study on media coverage of elections with a specific focus on gender equality, and the Study on the human rights dimensions of automated data processing techniques (in particular algorithms) and possible regulatory implications.

Work in the Expert Committees

Expert Committee on Quality Journalism in the Digital Age (MSI-JOQ)

The Committee welcomed the outlines for the expected deliverables of its Expert Committee on Quality Journalism in the digital age, MSI-JOQ. It supported the idea for the draft recommendation on promoting a favourable environment for quality journalism in the digital age to declare journalism a public good, so as to distance it from the competitive market and to encourage member states to ensure enhanced protection, including financing, for news production and distribution. It also decided to task the MSI-JOQ to prepare a declaration on the funding of quality journalism and emphasised the urgency of revising the funding models and providing a more sustainable environment for quality journalism. Regarding responsibilities of internet platforms, the CDMSI emphasised that they should assume more substantial, also financial, responsibilities corresponding to their active engagement with the media ecosystem. Finally, regarding the study on media and information literacy in the digital environment, the members highlighted the importance of enhancing the users' awareness of quality journalism and its fundamental elements.

Expert Committee on Human Rights Dimensions of Automated Data Processing and Different Forms of Artificial Intelligence (MSI-AUT)

The CDMSI expressed its support for the on-going work in the MSI-AUT and welcomed the directions taken with regard to the three deliverables. Regarding the follow-up to the 2017 Study on the human rights dimensions of algorithms, delegates supported the idea of a declaration to focus the attention of policy makers and the public on the manipulative powers of algorithm-empowered tracking devices that may be used not only to predict but also to manipulate and control economic, social and political behaviour. With respect to the preparation of a draft recommendation on the human rights impacts of the use of algorithms, they welcomed the intention to direct the guidelines to private sector entities engaged in the design, programming, training, selling and application of algorithms as well as to states, and they further drew attention to the importance of enhanced transparency requirements for internet companies. Finally, regarding the Study on the development and use of AI, the CDMSI welcomed the focus on the implications of AI decision-making systems for the concept of responsibility within a human rights framework. Given the pace and complexity of technological evolution, it would support the preparation of a possible standard-setting instrument related to AI development, if the Expert Committee considered that feasible and desirable. References were made in particular to the significant advancements in methods to fake audio-visual material, with serious impacts on the media environment and broader societal, including democratic, processes. Delegates further encouraged the MSI-AUT to remain attentive to on-going AI-related initiatives towards ethical standards at European and global level, while welcoming its effort to provide

guidance on how to embed human rights in the application of AI systems. The CDMSI endorsed the on-going work on the preparation of the Study on forms of liability and jurisdictional issues in the application of defamation laws. Outlines of the deliverables will be ready by the end of August to be discussed in the Expert Committee in September.

Co-operation activities

The CDMSI took note of the information by the Secretariat on co-operation activities carried out in the field of freedom of expression, media, internet and on future projects, notably some awaiting funding, and reiterated the importance of co-operation for the implementation of adopted standards.

Privacy and data protection

During a joint session held on 20 June, the CDMSI and the Consultative Committee of Convention 108 discussed and jointly approved 'Guidelines on safeguarding privacy in the media'. Prepared in 2017 in the framework of the CoE/EU joint programme Partnership for Good Governance and tested by Georgian journalist organisations, these Guidelines are largely based on the ECtHR case law and are an instrument of practical advice to journalists; they do not introduce new standards, nor do they have legal force. They will be open for feedback, updates and additions. A minor editorial change will be made before the Guidelines are published, and the German delegation expressed their intention to submit a declaration to be incorporated in the meeting reports of the two committees in order to specify the balance between media freedom, right of privacy and personality rights, to the effect that they approved of the text with the understanding that the Guidelines are not legally binding and are subject to further revision (see appendix III).

Safety of journalists

The CDMSI considered a strategy for the implementation of Recommendation CM/Rec(2016)4 on the protection of journalism and safety of journalists and other media actors together with a draft implementation guide to the Recommendation and endorsed them both. The members were invited to provide observations on these documents by 14 September 2018. If no changes are suggested by that date, the implementation strategy will be considered adopted.

It further held a hearing on the topic, notably based on valuable practices, such as the Swedish Action Plan on Defending Free Speech (presented by Christoffer Lärkner), the Netherlands' Audit of Freedom of Expression (presented by experts Tarlach McGonagle and Leon Trapman), and the research into best practices carried out in connection with the 3rd edition of the OSCE Safety of Journalists Guidebook (presented by William Horsley, AEJ).

Members further took note of the information shared by Ricardo Gutiérrez, General Secretary of the European Federation of Journalists, and Tom Gibson, EU

Representative of the Committee to Protect Journalists, about their exchange with the Committee of Ministers (GR-H meeting of 21 June 2018) on the Platform to promote the protection of journalism and safety of journalists. This exchange demonstrated very high level of interest from member states towards the issue of safety of journalists and reaffirmed that the Platform is a unique and important tool.

The CDMSI also discussed the Reporters without Borders "Journalism Trust Initiative" and decided to follow this standardisation process proposed by RSF, EBU, the Agence France Press and the GEN, in collaboration with CEN and AFNOR (European and French standardisation committees) through informal engagement with the respective partners.

Internet governance

The CDMSI discussed the progress of the implementation of the *Council of Europe Internet Governance Strategy 2016-2019* on the basis of information provided by the secretariat and of the Secretary General's mid-term report. It took note of the appointment of Jan Kleijssen, Director of Information Society and Action against Crime Directorate, as Internet Governance Coordinator and of the fact that the development of Artificial Intelligence and ensuing impacts on human rights will be on the agenda of the Human Rights Commissioner.

The CDMSI took note of the information given by some delegates and the secretariat on the 2017 edition of the Internet Governance Forum (Geneva, 18-21 December 2017) and of the preparation of the 2018 IGF (12-14 November in Paris). It also took note of the Council of Europe involvement in the 2018 edition of EuroDIG (Tbilisi, 5-6 June 2018) and suggested that the Council of Europe continue to support it, not only through expert contributions but also financially. This has been the case since its creation in 2008. Information was also shared on the organisation of national IGFs, i.e. France and Bosnia and Herzegovina. The CDMSI took note of information delivered by the Chairman, delegates and the secretariat on Council of Europe participation in ICANN meetings, as well as on the visit of Nigel Hickson, Vice-President, Government Engagement, ICANN to the Council of Europe.

The CDMSI held an exchange of views with the Thematic Coordinator on Information Policy (TC-INF), Ambassador of the Republic of Moldova Corina Călugăru, on relevant activities and, in particular, on the exchange of views between the Committee of Ministers and representatives of internet companies, as follow-up to the exchange of letters between them and the Secretary General in November 2017. It was welcomed that two new entities, Cloudflare and EuroISPA, had joined this initiative which now expands to nine companies and seven associations. The Chair highlighted the importance of having a TC-INF to foster important thematic discussions related to information policy issues at Deputies' level in a flexible manner.

Members took note of information provided by Patrick Penninckx, Head of Information Society Department, on the emphasis placed by the Council of Europe

on Artificial Intelligence (AI) issues. In this regard, a series of activities is being carried out and planned in different sectors of the Organisation.

European Convention on Transfrontier Television

The Committee took note of the latest replies to the consultation, launched in March 2017, on member states' views regarding a possible revision of the Transfrontier Television Convention and urged those members who have not yet done so to send their replies by 19 September 2018. In case they should decide to abstain, the reasons for that decision should be explained as a clear position from all member states is considered important to identify the need for possible steps towards a revision process. The Committee took note of the state of play regarding the revision of the EU Audiovisual Media Services Directive, as presented by Marcel Boulogne, Head of Sector 'Audiovisual Media Services' (Converging Media and Content) at the European Commission.

Parliamentary Assembly

The CDMSI had an exchange of views with the Secretary to the PACE Committee on Culture, Science, Education and Media on the on-going work of the Committee as well as on possible synergies with its work.

To answer the Committee of Ministers' invitation to provide comments on PACE Recommendation 2130 (2018) – "Legal challenges related to hybrid war and human rights obligations", the CDMSI discussed and approved a text of comments and asked the Secretariat to transmit them to the CM.

Ministerial Conference

The CDMSI discussed the holding of the proposed Conference of Ministers responsible for Media and Information Society (Cyprus, May 2020) on the basis of a discussion paper outlining the specific topics which should be addressed. It recommended certain amendments and modifications and endorsed this paper, underlining the need for a multi-stakeholder approach at highest level. The members requested the secretariat to start reflections on a possible draft declaration and draft resolutions on the agreed topics and invited input from CDMSI to be sent to the secretariat by the first week of September 2018. Upon a proposal by its Bureau, the CDMSI decided to set up a working group to steer the preparation of the Conference and decided that that this group would be open also to participants and observers for input. The Chair drew the attention of members to Resolution CM/Res(2011)24 on intergovernmental committees and subordinate bodies, their terms of reference and working methods, which is applicable. The working group is composed of Elfa Ýr Gylfadóttir (Iceland), Sophia A. Michaelides (Cyprus), Thomas Schneider (Switzerland), Kathleen Stewart (UK), Iordanis Giamouridis (GR) and Giacomo Mazzone (EBU) and will hold a first meeting in November ahead of/in parallel with the CDMSI .

The importance of carefully preparing the future Conference of Ministers responsible for Media and Information Society was also emphasised by Patrick Penninckx, particularly in order for the CoE to gain political support for further work on crucial issues such as AI but also information disorder and its impact on democracy.

In addition, the CDMSI took note of and discussed the following items:

- the Secretary General's report on the state of democracy, human rights and the rule of law in 2017, under the title "Role of institutions – Threats to institutions". While noting some positive examples of developments in member states, the ensuing discussion focused on the deteriorating working conditions for journalists throughout Europe, possible steps to promote the independence of media against arbitrary shutdowns and financial manipulation, and efforts to help the media regain trust against an overall environment of growing distrust towards democratic institutions. The Freedom of Expression Chapter of the 2019 report, which will likely maintain a focus on institutions, will be prepared following the same methodology and structure (legal guarantees/ safety of journalists/ media independence/ media pluralism and diversity/ freedom of expression on the internet);
- new initiatives and developments in member states related to its work, notably those shared by Iceland on a new report on the operating environment of independent media and on the funding of Public Service Media in Denmark; by Ireland on a future referendum to remove the offence of blasphemy from the Constitution; by Lithuania and Latvia on new/amended legislation providing for the requirements of media ownership transparency and thus implementing the Recommendation on media pluralism and transparency of media ownership; by Montenegro on a draft law implementing the Recommendation on internet intermediaries; by Norway on a public consultation on a proposal for a new media liability act; by Turkey on Provisions on the "Presentation of media services via Internet" to the Turkish Law No. 6112 on the Establishment of Radio and Television Enterprises and Their Media Services; by Switzerland on the outcome of the vote on Public Service Media funding; by Ukraine on gender equality and the media in Ukraine and on a Round Table "Models of Public Broadcasting Financing: International Experience and Ukrainian Context"; and by the UK on new media mergers currently analysed from the perspective of media pluralism;
- information provided by Lennig Pedron from the ICON IONG and Didier Schretter, Conference of INGOs of the Council of Europe, on activities within civil society to enhance digital trust, in particular as regards cyber security and AI development, highlighting the urgent need to stress cooperation with governments and other stakeholders to raise information and awareness of the public through workshops and round tables. A large digital trust roundtable with some 200 participants from the public, professionals and experts is planned on 13-14 September 2018 in Geneva (GCSP - Maison de la paix). As an example of their activities ICON IONG works with children and young people, with stimuli from the media and the internet. CDMSI members

were invited to participate in relevant events and to test the experimental tool KIDS 4 CYBER. The Conference of INGO's of the Council of Europe is considering a plenary session in April 2019 at CoE Strasbourg.

- a joint initiative with the Gender Equality Commission for a follow-up regarding the implementation of Recommendation CM/Rec(2013)1 on gender equality and media;
- information provided by members of the secretariats of the CDDH, the CDCT, the CAHENF, the European Audiovisual Observatory and the Office of the Commissioner for Human Rights;
- the adoption, by the Committee of Ministers on 18 May in Elsinore, of the amending protocol modernising Convention 108 and congratulated the secretariat of the Consultative Committee for its work; it also took note of the state of play of the on-going work on data protection, *inter alia*, draft Recommendation on the protection of health-related data;
- the CM answers to PACE Recommendations on "Parliamentary scrutiny over corruption: parliamentary cooperation with the investigative media" and on "Political influence over independent media and journalists";
- the state of play of its comments on the draft Recommendation on Culture's contribution to strengthening the internet as an emancipatory force, prepared by the CDCPP;
- information delivered by the Representative of Bulgaria on the out-going Presidency of the Council of the EU and by the Representative of Austria on the next Presidency of the Council of the EU;
- reports on meetings and events by members, namely Elfa Ýr Gylfadóttir, who attended the Conference "Gender Equality – Paving the Way", in her capacity of Gender Equality Rapporteur; Emir Povlakić, who attended the 3rd meeting of the Drafting group on freedom of expression and links to other human rights, and a forthcoming report by Maja Raković, who attended the 1st meeting of the Steering Committee on Counter-Terrorism, to be shared
- information delivered by the secretariat on Council of Europe's Directorate of Internal Oversight (DIO) evaluation of the Council of Europe support to the protection and promotion of freedom of expression;
- finally, the CDMSI took note of an internal reform process undertaken in view of the current financial situation of the Council of Europe, which is headed by Jan Kleijssen.

The CDMSI noted the dates of next meeting, set for 27-29 November 2018 in Strasbourg.

Noting the absence of a quorum, the CDMSI finalised the abridged report of the meeting and agreed that in the absence of reactions by 6 July end of working day, it will be considered adopted by the plenary.

APPENDIX I

Meeting agenda

1. Opening of the meeting

2. Adoption of the agenda

3. Standard setting

3.1 Committee of experts on Quality Journalism in the Digital Age (MSI-JOQ)

3.2 Committee of experts on Human Rights Dimensions of Automated Data Processing and Different Forms of Artificial Intelligence (MSI-AUT)

4. Cooperation activities

5. Implementation of Council of Europe adopted standards and best practices

5.1 Initiatives in member states

5.2 Internet governance

5.3 Implementation of the CM Recommendation on protection of journalism and safety of journalists and other media actors

5.4 Platform to Promote the Protection of Journalism and the Safety of Journalists

5.5 Implementation of Recommendation CM/Rec(2013) on gender equality and media

6. European Convention on Transfrontier Television

7. Data protection

8. Work of other Council of Europe institutions and bodies

8.1 Secretary General's initiatives

8.2 Committee on Ministers

8.3 Parliamentary Assembly of the Council of Europe

8.4 Congress of Local and Regional Authorities of the Council of Europe

8.5 Commissioner for Human Rights

8.6 Conference of INGOs of the Council of Europe

8.7 Council of Europe Counter-Terrorism Committee (CDCT)

8.8 Steering Committee for Human Rights (CDDH)

8.9 Ad hoc Committee for the Rights of the Child (CAHENF)

8.10 Steering Committee for Culture, heritage and landscape (CDCPP)

8.11 Participation of CDMSI members in meetings and events

8.12 European Audio-visual Observatory

9. Other organisations

10. CDMSI work programme and working methods

10.1 Future conference of ministers responsible for media and information society

10.2 Evaluation by the Directorate of Internal Oversight (DIO)

11. Any other item

12. Abridged report

APPENDIX II

**Statement in the minutes by the Federal Republic of
Germany in respect of the adoption of the
“Guidelines on Safeguarding Privacy in the Media”
by the CDMSI and the T-PD
on 20 June 2018**

The Federal Republic of Germany fully supports the intention of the Guidelines on Safeguarding Privacy in the Media and considers these Guidelines to be a useful tool for journalists all over Europe. Therefore, the Federal Republic of Germany consented to the adoption of these Guidelines.

However, the Federal Republic of Germany considers that these Guidelines could still be improved. In this regard, the Federal Republic of Germany notes that the present Guidelines “are open for further updates and future improvements”.

The Federal Republic of Germany suggests to further work on Chapter 7 once the revision of these Guidelines will take place. The work on Chapter 7 should especially focus on the following points:

- Chapter 7 should contain an introductory remark stating that the right to privacy and data protection on the one hand, and the right to freedom of expression and information (including the right to freedom of the press) on the other hand are fundamental rights that need to be equally taken into consideration in every balancing process.
- Chapter 7 shortly mentions the rights of the data subjects granted under the EU General Data Protection Regulation (GDPR). However, the text should also mention Article 85 GDPR which plays a central role when it comes to the necessity of reconciling the right to the protection of personal data with the right to freedom of expression and information including processing for journalistic purposes.
- It should be made clearer in Chapter 7 that processing for journalistic purposes cannot be limited to content that is actually published. Due to the importance of the right to freedom of expression in every democratic society, it should be highlighted in Chapter 7 that notions relating to freedom of expression, such as journalism, need to be interpreted broadly (cf. recital 153 of the GDPR).
- Not all of the personal data of employed journalists can be regarded as “ordinary” administrative personal data. There may be administrative personal data of employed journalists which could allow others to draw conclusions about journalistic activities - e.g. the travel expenses of a journalist which allow conclusions about the location, time and number of meetings with a journalistic source. Chapter 7 should further elaborate on these specifics.

APPENDIX III**LIST OF PARTICIPANTS / LISTE DES PARTICIPANTS**

Total number of participants : 69

Gender distribution : 37 men (54%) / 32 women (46%)

Parité entre hommes / femmes : 37 hommes (54%) / 32 femmes (46%)

ARMENIA / ARMENIE

Ms Kima Khachatryan

Ministry of Justice of Armenia

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Mr Matthias Traimer

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

AZERBAIJAN

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Senior Adviser of the Administration of the President

BOSNIA AND HERZEGOVINA / BOSNIE-HERZEGOVINE

Mr Emir Powlakic

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

BULGARIA / BULGARIE

Ms Nelly Stoyanova

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CROATIA / CROATIE

Ms Nives Zvonarić

Head of Media Sector, Independent Media Sector, Ministry of Culture

CYPRUS / CHYPRE

Ms Sofia (Sunny) Papadimitriou Tofa

Press and Information Officer, Ministry of Interior

Mrs Sophia A. Michaelides

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CZECH REPUBLIC / REPUBLIQUE TCHEQUE

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Die Beauftragte der Bundesregierung für Kultur und Medien
Ms Sara Diefenbach
Internationale Zusammenarbeit im Medienbereich; Deutsche Welle; Rundfunk
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HUNGARY / HONGRIE

Mr György Ocskó
International Legal Adviser, National Media and Infocommunications Authority

ICELAND / ISLANDE

Ms Elfa Ýr Gylfadóttir (Vice-Chair)
Media Commission, Ministry of Education, Science and Education

IRELAND / IRLANDE

Mr Eanna O'Conghaile
Principal Officer, Mining & Exploration Division, Department of Communications, Energy and Natural Resources

ITALY / ITALIE

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

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Mr Arif Firtina
Council Member
Mr Hamit Ersoy
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Ms Kathleen Stewart
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COMMITTEE TO PROTECT JOURNALISTS (CPJ)

Mr Tom Gibson
EU 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
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Ms Lennig Pedron
Co-founder and President of ICON-NGO, member of the INGO network

EUROPEAN ASSOCIATION FOR VIEWERS INTERESTS (EAVI)

Mr Paolo Celot

EUROPEAN COMMISSION

Mr Marcel Boulogne
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EUROPEAN FEDERATION OF JOURNALISTS (EFJ)

Mr Ricardo Gutiérrez
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HOLY SEE / SAINT SIEGE

Dr Michael Lukas - Episcopal Press Office

* * *

MEXICO . MEXIQUE

Mlle Nathalie Gonzales David
Trainee

* * *

**UNIVERSITY OF AMSTERDAM
INSTITUTE FOR INFORMATION LAW (IViR)**

Mr Tarlach McGonagle
Mr Leon Trapman

* * *

COUNCIL OF EUROPE / CONSEIL DE L'EUROPE

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Ms Merete Bjerregaard, Administrator

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Mr Kristian Bartholin
Deputy Head of Counter-Terrorism Division, Co-secretary of CDCT (formerly CODEXTER)

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Ms Alessandra Pierucci (Chair)
Ms Sophie Kwasny, Head of Data Protection Unit

AD HOC COMMITTEE FOR THE RIGHTS OF THE CHILD (CAHENF)

Ms Livia Stoica Becht, Administrator

EUROPEAN AUDIO-VISUAL OBSERVATORY

Ms Susanne Nikoltchev, Executive Director
Ms Maja Cappello, Head of Legal Information Department

EPRA

Ms Emmanuelle Machet

* * *

INTERPRETERS / INTERPRETES

Mr Michael Hill
Ms Sara Webster

* * *

SECRETARIAT

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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 Urška Umek, Head of Media Unit, Media and Internet Division, Directorate General Human Rights and Rule of Law

Ms Charlotte Altenhöner-Dion, Head of Internet Governance Unit, Media and Internet Division, Directorate General Human Rights and Rule of Law

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