

Steering Committee on Media and Information Society - CDMSI

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

Strasbourg, 19 June 2018

CDMSI(2018)010

Comments of the Steering Committee on Media and Information Society on PACE Recommendation 2130(2018) on Legal challenges related to hybrid war and human rights obligations.

- 1.** The Steering Committee on Media and Information Society (CDMSI) examined with interest the Parliamentary Assembly Recommendation 2130(2018) on "Legal challenges related to hybrid war and human rights obligations".
- 2.** At the outset, the CDMSI notes that the notions of "hybrid war threats" or "hybrid war" may include a wide range of military and non-military tools. The CDMSI, taking guidance from its mandate set out in the 2018-2019 Terms of Reference, will focus its comments on the disruptions caused by mass disinformation campaigns, in particular via social media, and, more generally, the impact of social media platforms on the conduct of free elections and on democratic processes.
- 3.** As concerns the phenomenon of mass disinformation campaigns intended to undermine peaceful democratic processes referred to by paragraphs 3 and 4 of Resolution 2217(2018) and, indirectly, by paragraphs 2.1 and 2.2 of the present PACE Recommendation, the CDMSI has taken several steps to address these concerns. In order to provide an understanding of such campaigns in their manifold and complex dimensions, a report "Information disorder: Towards an interdisciplinary framework for research and policy making" was commissioned. This study provides an in-depth analysis and description of various forms of information disorder (covering mis-dis- and mal-information) and their use of one of their primary vehicles, social platforms. It evokes both their impact on democratic processes and explores possible multi-disciplinary solutions, including the strengthening of existing media, news literacy projects and regulation. In this regard, it is widely accepted that the phenomenon of information disorder requires intervention on the part of states.
- 4.** At one end of the spectrum there is behaviour that requires a criminal-law response on the part of states. It involves, *inter alia*, hacking accounts to spread false information, including to manipulate elections, or employing disinformation for spreading extremism and terrorist propaganda. The CDMSI therefore expresses its full support for the call to promote ratification by member and non-member States of the Convention on Cybercrime (ETS No. 185).
- 5.** Furthermore, since such dissemination of intentionally false information is conducted online, it requires vigilance also on the part of the internet intermediaries. In this regard, Recommendation CM/Rec(2018)2 on the roles and responsibilities of internet intermediaries adopted by the Committee of Ministers on 7 March 2018 sets out the conditions for restricting access to illegal content online, as determined by either the national laws or judicial authorities, or by their own content-restriction policies or codes of ethics.
- 6.** However, in cases not involving illegal content, regulatory solutions to tackle intentionally false messages may lead to censorship and may be at odds with Article 10 of the Convention

for the Protection of Human Rights and Fundamental Freedoms (ETS No. 5, the Convention). Regarding this category of cases, fact-checking methods aimed at identifying and neutralizing such messages, coupled with availability of quality journalism across a range of platforms and with an aware and responsive audience, can effectively counter the lies and propaganda spread in cyberspace. In this connection, the Council of Europe has given support to initiatives which develop fact-checking capabilities, so that the users may flag possible false information. In addition, the organisation promotes digital citizenship education and media and information literacy programmes for all age groups. Furthermore, the CDMSI, through its expert committee on Quality Journalism in the Digital Age (MSI-JOQ), is currently working on a standard-setting instrument on promoting a favourable environment for quality journalism, in line with the CDMSI's 2018-2019 terms of reference. This instrument aims to, *inter alia*, reclaim the essential role that journalism plays in providing accurate information free from undue interference, address the current state of mistrust towards journalism and provide an "antidote" to the phenomenon of information disorder.

7. Finally, as regards the specific context of electoral processes, the CDMSI recalls Recommendation CM/Rec(2007)15 on measures concerning media coverage of election campaigns, which provides guidelines and principles for the coverage of election campaigns by the media in full respect of Article 10 of the Convention. It notes that further to the shift of electoral communication to the internet, and, in particular, to social media, existing regulation of electoral campaigns should be adapted to the new media environment. The CDMSI, relying on the conclusion of the Council of Europe "Study on the use of internet in electoral campaigns", underlines that due to such developments, current regulation cannot ensure a level playing field between all political actors, nor fully ensure the integrity, fairness and legitimacy of the election process. The Study identifies a number of areas where problems have emerged further to the digitalisation of electoral campaigning and proposes to update regulation in these areas. Therefore, in addition to its on-going work aimed at countering disinformation campaigns, the CDMSI supports the PACE's proposal to address social media platform's involvement in elections through further regulation (see paragraph 2.2).