



CDMSI representation in events or meetings

Report

Name of CDMSI member or participants	Matthias Traimer
Date and place of event or meeting	28. April 2017, Nikosia, Cyprus
Organiser	Supreme Court of Cyprus, Chairmanship of Council of Europe, Council of Europe
Title, aim and programme of event or meeting	<p>Title: Evolving European jurisprudence and standard setting activities in the digital age</p> <p>Aim: The overall aim of this Conference is to provide an opportunity for representatives of the judiciary from Member States to reflect on the challenges faced by them when applying freedom of expression and rule of law standards to the online environment, to exchange views on the evolving Internet-related ECHR and CJEU case-law, and to raise awareness of recent Council of Europe standard-setting activities in this field.</p> <p>Programme: http://www.coe.int/en/web/freedom-expression/freedom-of-expression-online-cyprus2017-programme</p>

<p>List of participants (please attach)</p>	
<p>Useful contacts for CDMSI/Council of Europe work (please attach a scanned copy of business cards which could be useful to colleagues or to the Secretariat)</p>	<p>YES <input type="checkbox"/></p> <p>(see business cards in appendix)</p> <p>NO <input type="checkbox"/></p>
<p>Report (please describe main findings and results of the event or meeting; please specify implications for CDMSI work and added value for the CoE)</p>	<p>Findings:</p> <p>The conference offered an update concerning both the case Law of the ECtHR and the Standard Setting of the CoM in context of internet and fundamental rights and freedoms. On the one hand it showed that the basic values and decisions respecting especially Art 10 and Art 8 ECHR are indispensable in the digital world but at the same time challenged by the revolutionary technological and societal developments due to the world wide use of internet infrastructure, services and applications.</p> <p>My part was especially to underline the importance of Standard Setting done by the intergovernmental work in the Council of Europe. Although not legally binding they are understood as important input both for the national legislators, law enforcement bodies and judiciary. Standard-setting is particularly important to help member states "operationalise" their legal obligations. Standard Setting of course goes hand in hand of the Case law of the ECHR, so takes up the decisive elements of the Court decisions, but also express the political common understanding of Member states; in the judgments of the Court you often find those instruments under the section International Standards and the Court also directly quotes the content of recommendations in his assessment, especially in Internet related cases, like in the Delfi case or Yidirim. So one can see this process between Court and CoM as "communicating vessels". As most recent example that sums up both the case law and standard setting for freedom of expression on the internet I presented the main content and working structure of the CoM Recommendation "Internet Freedom".</p> <p>An important part in the conference was dedicated to present the topic of the execution of the judgments of the ECtHR, both the general</p>

	<p>measures and measures of individual nature. So the question was discussed if constant internet progress and technological innovations hurdle compliance with the judgments of the European Court of Human Rights. The very relevant tension between the views on internet intermediaries were discusses in a special panel, showing that on the one hand the protection for them being not liable for any content by third persons is still of importance ("safe harbour" privilege of intermediaries), on the other hand questioning if intermediaries today only act as pure host providers or do meanwhile much more acitivities that come close to editing functions of media. Inputs by a legal director of GOOGLE and the legal adviser of Delfi, moreover contributions about blocking and filtering measures by experts from the NGO "Art 19" and activities on fighting illegal content by the former UK reviewer of terrorism legislation as well as expertise by Judges of the ECtHR (Judge Spano – do we need something like "internet Courts"?) gave a very good mixture of present internet challengers for lawyers working both in the international and national field.</p> <p>Results:</p> <p>It is highly recommended to continue such timely events specially focused at lawyers/judges.</p> <p>Implications for CDMSI work:</p> <p>Awareness raising for the importance of a high quality standard setting, since standards are quoted and intergrated by the European Court of Human Rights in its case law and are at the same time important for member states to operationalise their obligations from the ECHR.</p>
<p>Recommended follow up for CDMSI (please specify points to be addressed by CDMSI)</p>	<p>Continuing contacts and invitations of Judges from the ECtHR and also from the department responsible for the executions of judgements from the CoM.</p>
<p>Any other information</p>	
<p>Signature of CDMSI member or participant</p>	