

Recommendation on the impacts of digital technologies on freedom of expression

Summary

Freedom of expression, as protected by Article 10 of the European Convention on Human Rights, is not only a fundamental individual right. It is also a means to protect and enhance democracy and other rights through open and public debate. Digital technologies can and indeed must support this right and serve this purpose.

The **Guidelines** appended to the Recommendation are designed to assist States and public and private actors, in particular internet intermediaries, as well as media, civil society organisations, researchers, educational institutions, and other relevant actors in their independent and collaborative efforts to protect and promote freedom of expression in the digital age. The Guidelines formulate principles aimed at ensuring that digital technologies serve rather than curtail such freedom. They also provide recommendations on how to address the adverse impacts and enhance the positive impacts of the widespread use of digital technologies on freedom of expression in human rights compliant ways.

This is accomplished by looking at the issue under several headings:

The first section seeks to define **Foundations for Human Rights-Enhancing Rulemaking**. It distinguishes 11 guiding principles that should underpin any regulatory initiatives. In particular, it calls for *clear and unambiguous objectives* for policymaking, for *focus on processes* rather than content, and for effective *protection* for users; addresses the need for *graduated response* to undesirable or problematic online content by considering alternatives to deletion (which is particularly important when content is not illegal); accentuates the foundational role of *legality, necessity and predictability* of regulation, as well as its *precision*; the *proportionality* of requirements addressed to private actors; compliance with *privacy* and data protection standards. It also stresses the importance of *human rights impact assessments, user empowerment* and *multistakeholder collaboration*.

The second section looks at **Digital Infrastructure Design**. Such infrastructure in democratic systems should be designed in a way that enables and promotes human rights, openness, interoperability, transparency of ownership structures and fair competition.

The third section addresses the crucial issue of **Transparency**. This includes transparency about the design and implementation of key policies, transparency regarding data held by platforms about their users, and about content moderation and curation techniques and processes employed.

The fourth section deals with **Accountability and Redress** for content moderation and curation decisions, including the issue of remedying the situations when damaging information has been spread through a platform.

The fifth section looks at **Education and Empowerment** of users, with the aim of enhancing their capacity to use digital tools in the exercise of freedom of expression and other human rights autonomously, in full awareness of pertinent risks - including those related to their privacy and personal data - and ways to avoid them or to seek remedy for any resulting harms. This includes promoting digital literacy programmes and public debate.

The sixth and final section looks at the promotion of **Independent Research for Evidence-Based Rulemaking** - in particular research that discloses the individual and societal impacts of digital technologies for freedom of expression. This section identifies conditions under which researchers should have access to data held by internet intermediaries, in full compliance with the Convention 108 + and other applicable international data protection standards.

Each section offers guidance to States and other stakeholders on how to fulfil their human rights obligations and responsibilities with regard to freedom of expression, combining legal, regulatory, administrative and practical measures.

Throughout the text, **multi-stakeholder decision-making** is accommodated and promoted as a cross-cutting perspective.