

Steering Committee on Media and Information Society – CDMSI

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

CDMSI(2017)017

08/12/2017

13th meeting of Steering Committee on Media and Information Society (CDMSI)

05-08 December 2017

(Strasbourg, Council of Europe, Agora building, room G02)

Abridged meeting report

The CDMSI held its 13th meeting from 05 to 08 December 2017, in Strasbourg chaired by Elfa Ýr Gylfadóttir (Iceland). The CDMSI adopted the agenda as it is set out in Appendix I. The list of participants appears in Appendix II. Gender distribution: 50 participants, 26 men (52%) / 24 women (48%).

Items submitted to the Committee of Ministers for decision

Draft Recommendation of the Committee of Ministers to Members States on media pluralism and transparency of media ownership.

The CDMSI considered the draft recommendation prepared by its subordinate expert committee, MSI-MED as further amended in accordance with the comments received from member states since September 2017. Following some further textual amendments introduced during the discussion, it approved the draft recommendation and decided to transmit it to the Committee of Ministers for possible adoption. (Appendix III). The Russian Federation signalled its intention to make a reservation at CM level on paragraph 2.5 of the draft recommendation.

Draft Recommendation of the Committee of Ministers to Member States on the roles and responsibilities of internet intermediaries

The CDMSI considered the draft recommendation prepared by its subordinate expert committee, MSI-NET, as further amended in accordance with comments received from member states since September 2017. It took note of the clarification provided by a representative from the European Commission (DG Connect) regarding the compatibility of the proposed text with the EU acquis. Following some further amendments

introduced during the discussion, it approved the draft recommendation and decided to transmit it to the Committee of Ministers for possible adoption (Appendix IV).

Draft study on the use of internet in electoral campaigns

It also considered and took note of a draft study on the use of internet in electoral campaigns. It decided to bring it to the attention of the Committee of Ministers.

Draft study on media coverage of elections with a specific focus on gender equality

It also considered and took note of a draft study on media coverage of elections with a specific focus on gender equality. It decided to bring it to the attention of the Committee of Ministers.

Draft Study on the human rights dimensions of automated data processing techniques (in particular algorithms) and possible regulatory implications

The CDMSI considered and took note of the draft study on the human rights dimensions of automated data processing techniques (in particular algorithms) and possible regulatory implications. It decided to bring it to the attention of the Committee of Ministers and to continue the work as foreseen under the next terms of reference through the respective expert committee MSI-AUT.

Items submitted to the Committee of Ministers for information

Having been informed of co-operation activities, and mindful that assistance and co-operation is crucial for the promotion of Council of Europe values and standards, the CDMSI decided to address a message to the Committee of Ministers to raise their attention to the instability of their funding, as follows:

"Assistance and co-operation activities are instrumental in promoting the implementation of the Council of Europe standards in the fields of freedom of expression and information and media freedom, both online and offline. The development of the Council of Europe standards should always be supplemented by technical co-operation to facilitate their implementation.

Co-operation activities have, for years, been run through voluntary contributions or with funding provided by the EU. With this kind of irregular funding is not possible to ensure continuity in order to achieve sustainable results. CDMSI invites the Committee of Ministers to take note of the importance of securing regular funding for co-operation activities in order to promote and to safeguard freedom of expression and information, a core value of any democratic and pluralistic society."

The CDMSI discussed the practical steps taken towards the organisation of a Conference of Ministers responsible for Media and Information Society foreseen in May 2020 in Cyprus and possible topics and took note of a timeline for the next 6 months. Furthermore, it agreed on the principle of forming an informal working group dedicated to the preparation of the Conference.

The CDMSI again discussed the regrettable standstill of the revision of the European Convention on Transfrontier Television in the presence of an EU Commission official responsible for the revision of the EU Audiovisual Media Services Directive (AVMSD). It took note of the information provided that due to the complexity of the matter the revision process is still not completed and will have to be continued under the Bulgarian EU Presidency. The CDMSI also acknowledged that the current political changes in the European Union may add to the complexity. It decided to address the issue again at its next plenary meeting in June 2018. The Chairperson strongly encouraged all members that have not yet done so to answer to the questionnaire sent on the topic as a complete picture is necessary to formulate a CDMSI position.

The CDMSI discussed the state of implementation of the Council of Europe Internet Governance Strategy 2016-2019 and, in particular, welcomed the exchange of official letters between the Council of Europe and representatives of major internet companies at a formal ceremony held on 8 November 2017. It is looking forward to enhanced co-operation with the private sector.

It also took note of the foreseen participation of the Council of Europe in the Internet Governance Forum (Geneva, 18-21 December 2017), and expressed wishes that the organisation will continue to promote human rights in internet governance fora. It also took note of Council of Europe remote participation in the last ICANN meeting in Abu Dhabi and of the state of play of the organisation of the 2018 edition of EuroDIG (5-6 June 2018 in Tbilisi).

Furthermore, the CDMSI welcomed the adoption by the Committee of Ministers of its renewed terms of reference for the biennium 2018-2019 as well as for two new subordinate experts committees, the Committee of experts on human rights dimensions of automated data processing and different forms of artificial intelligence (MSI-AUT) and the Committee of experts on Quality Journalism in the digital age (MSI-JOQ). Mindful of the importance that the expert committees should be able to start working as soon as possible in 2018 and should remain fully operational throughout their mandate, it decided to elect substitute members. It then elected the seven national experts of each committee based on nominations previously submitted by delegates as well as substitute members who will automatically replace outgoing national experts should the situation arise. The results of the votes appear in Appendix V and VI. Six independent

technical experts will be appointed for each sub-committee by the Secretary General.

The CDMSI proceeded to elections for its Bureau as follows:

Chair: Thomas Schneider (Switzerland)

Vice-Chair: Elfa Ýr Gylfadóttir (Iceland)

Members of the Bureau: Ingvil Conradi Andersen (Norway) elected for one year, Matthias Traimer (Austria), Joanna Chansel (France), Mati Kaalep (Estonia), Kathleen Stewart (UK).

It also designated Elfa Ýr Gylfadóttir as gender equality rapporteur.

In addition, the CDMSI dealt with the items below:

The CDMSI:

- had an exchange of views with Jan Kleijssen, Director of Information Society and Action against Crime, who informed the members on current budgetary issues and their consequences, on the adoption of the Council of Europe budget and programme, and CDMSI terms of reference for 2018-2019. On that latter topic, the CDMSI will have, in the future, better opportunity to discuss prospective terms of reference before they are adopted by the Committee of Ministers. He also thanked Austria for their warm hospitality on the occasion of the very good conference co-organised in Vienna by the Austrian Chairmanship of the OSCE, the Czech Chairmanship of the Council of Europe's Committee of Ministers and the Council of Europe on "The roles and responsibilities of internet intermediaries". Mr Kleijssen also informed the CDMSI on the exchange of letters between the Secretary General and a group of representatives of internet companies, which enhances the multi-stakeholder approach followed by the Council of Europe;
- took note with interest of new initiatives and developments in member states related to its work and shared by Austria on work undertaken to comply with the CM Recommendation on internet freedom in assessing the level of internet freedom, by Bosnia and Herzegovina on their national internet governance forum, by the Netherlands on aspects of the new Dutch government programme related to media, by Iceland on social network implications on election day 2017, as well as on an injunction against media outlets prohibiting them from future reporting on the financial dealings of an Icelandic politician and his family, and by Switzerland on a public vote foreseen for March 2018 on the funding of the public service broadcasters;
- The CDMSI welcomed the publication of the report "Information disorder – Towards an interdisciplinary framework for research and policymaking", commissioned to the globally active training and research

organisation First Draft. Delegates expressed their appreciation for the quality and timeliness of the report and underlined the importance of promoting more understanding and awareness amongst policy-makers and the public of the possible impacts of propaganda and misinformation on societies. Mindful of the possible harm that the term “fake news” may inflict on media and their credibility, delegates emphasised the need for more caution and recommended to refrain from it and rather resort to the various concepts that are analysed in the report. The CDMSI also received information from EPRA about two upcoming reports on «News in Digital Age: the role of regulators » and «Media Literacy: Focus on the role of regulators » that will be shared, two high-level sessions at the upcoming IGF 2017, and the EU initiative to create a high-level expert group to advise on policy initiatives to counter disinformation spread online. Delegates further recommended sharing the report through relevant networks and ensuring follow-up through the work of the two expert committees established under the CDMSI in the next biennium;

- The CDMSI took note of information on the Migration and Media Awareness 2017 Conference (Hamburg, 23-25/11/2017), organised by the Radio Refugee Network with support from the CMFE (Community Media Forum Europe) and the Council of Europe. Gathering about 280 participants from civil society, institutions and media, the event focussed on the role of media in facilitating or hindering participation and empowerment of all members of society. Findings of a Council of Europe commissioned explorative study on the role of community media in promoting the freedom of expression and participation of refugees and migrants was presented and discussed. The study will be finalised and made public in early 2018;

- took note of information provided by the Secretariat on the growing globalisation of Convention 108, the state of play of its modernisation and the on-going work of the Committee of the Convention on the use of personal data by the police and health related data; it also took note that the topic of Data protection was higher on ICANN agenda;

- Delegates took note of the information provided on the on-going preparation of the second chapter on freedom of expression of the fifth Annual Secretary General Report on the state of human rights, democracy, and the rule of law in Council of Europe member states. Covering the year 2017, the report will build on the 2017 report “Populism - How strong are Europe’s checks and balances”. Its general theme will relate to the role of institutions and threats to institutions, with a particular focus through all chapters on corruption. The report will be made public in spring 2018;

- decided to invite the TC-INF, Ambassador Corina Călugăru, for an exchange of views at its next plenary meeting in June 2018;

- took note of the state of play of its comments prepared and finalised by written procedure on PACE Recommendation 2111(2017) on “Political influence over independent media and journalists”; it also took note of CM’s reply to PACE Recommendation 2097 (2017) – “Attacks against journalists and media freedom in Europe”; PACE Recommendation 2098 (2017) – “Ending cyber discrimination and online hate”; on PACE Recommendation 2102(2017) “Technological convergence, artificial intelligence and human rights” and on CPLRE Recommendation 398 (2017) – Open data for better public services; took also note of the adoption of the Recommendation of the Committee of Ministers to member states on the Challenges of Big Data for Culture, Literacy and Democracy by the Committee of Ministers and of the World Forum for Democracy (8-10 November 2017) and decided to invite the PACE secretariat to the Committee on Culture, Science, Education and Media to the CDMSI June 2018 plenary;
- took note of the procedure and candidates for the election of the future Human Rights Commissioner to take place at the January 2018 Parliamentary Assembly session;
- took note of information provided by a representative of the Conference of INGOs of the Council of Europe on a country visit to Estonia with a report forthcoming in January 2018; the progress made by CODEXTER on a draft recommendation on terrorists acting alone shared by Maja Raković (Serbia) who followed the work on its behalf; took note of the work of the Steering Committee for Human Rights (CDDH); held an exchange of views with representatives of the European Audiovisual Observatory and with the Head of the Children’s Rights Division; it decided to entrust Emir Povelakić (Bosnia and Herzegovina) with the task of ensuring liaison with both the CDDH and the T-CY; finally it took note of the developments regarding the Platform to promote the protection of journalism and safety of journalists;
- took note of information provided by CDMSI members on their participation in activities, meetings and events relating to media and internet issues, in particular on the conference in Vienna, co-organised by the OSCE Chairmanship (Austria) and the CM Chairmanship of the Czech Republic on “The roles and responsibilities of internet intermediaries” (13 October 2017), in which the secretariat took a very active part;
- took note of the information shared by the Estonian delegate on the activities carried out in the framework of the outgoing presidency of the Council of the EU as well as of information by the Bulgarian delegate on the priorities for the upcoming EU presidency;

- took note of dates for its plenary and bureau meetings in 2018:
 - 13th CDMSI Bureau meeting, Thursday 12 + Friday 13 April 2018
 - 14th CDMSI plenary meeting, Tuesday 19 to Friday 22 June 2018
 - 14th CDMSI Bureau meeting, Tuesday 16 + Wednesday 17 October 2018
 - 15th CDMSI plenary meeting, Tuesday 27 to Friday 30 November 2018

- The CDMSI adopted its abridged report.
- .

APPENDIX I

Meeting agenda

1. Opening of the meeting

2. Adoption of the agenda

3. Standard setting

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

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

4. Cooperation activities

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

5.1 Initiatives in member states

5.2 Internet governance

6. Exploratory and other works

7. European Convention on Transfrontier Television

8. Data protection

9. Work of other Council of Europe institutions and bodies

9.1 Secretary General's initiatives

9.2 Committee of Ministers

9.3 Parliamentary Assembly of the Council of Europe

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

9.5 Commissioner for Human Rights

9.6 Conference of INGOs of the Council of Europe

9.7 Committee of Experts on terrorism (CODEXTER)

9.8 Steering Committee for Human Rights (CDDH)

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

9.10 Steering Committee for Culture, Heritage and Landscape (CDCPP)

9.11 World Forum for Democracy

9.12 European Audio-visual Observatory

9.13 Participation of CDMSI members in meetings and events

10. Other organisations

11. CDMSI work programme and working methods

11.1 Reflection on a future conference of ministers responsible for media and information society

11.2 Information on future terms of reference, new expert committees, election of new Bureau and gender equality rapporteur

12. Elections

13. Any other item

14. Adoption of the abridged report

APPENDIX II**List of participants****LIST OF PARTICIPANTS / LISTE DES PARTICIPANTS PROVISoire**

Total number of participants : 50

Gender distribution : 26 men (52%) / 24 women (48%)

Parité entre hommes / femmes : 26 hommes (52 %) / 24 femmes (48%)

ARMENIA / ARMENIE

Apologised / Excusé

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 Powlakic

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

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

CZECH REPUBLIC / REPUBLIQUE TCHEQUE

Mr Artus Rejent

Media and Audio-vision Department, Ministry of Culture

ESTONIA / ESTONIE

Mr Mati Kaalep

Adviser of Audiovisual Affairs of Estonian Ministry of Culture

DENMARK / DANEMARK

Apologised / Excusé

FINLAND / FINLANDE

Apologised / Excusé

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

GEORGIA / GEORGIE

Mr George Paniashvili
Deputy Director, International Law Department
Ministry of Foreign Affairs of Georgia

GERMANY / ALLEMAGNE

Ms Sara Diefenbach, LL.M.

Ms Annik Kuhl
Representation of the Free State of Bavaria to the EU

GREECE / GRECE

Mr Iordanis Giamouridis
Head of Department for Audiovisual and Electronic Media

Ms Maria Sfetsa
Head of Department for Registry and Transparency

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

IRELAND / IRLANDE

Mr Eanna O’Conghaile

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

LIECHTENSTEIN

Apologised / Excusé

LITHUANIA

Mr Deividas Velkas
Head of Public Information Policy Division, Department of Cultural Policy
Ministry of Culture of the Republic of Lithuania

LUXEMBOURG

Céline Flammang
Conseillère, Ministère d’État
Service des médias et des communications

MALTA / MALTE

Apologised / Excusé

MOLDOVA / MOLDOVIE

Mr Artur Cozma

Member of Coordinating Council of the Audiovisual of the Republic of Moldova

MONACO

M. Serge Robillard

Chef de Division, Direction des Communications Électroniques, Principauté de Monaco

MONTENEGRO

Mr Ranko Vujovic

Executive Director, UNEM

THE NETHERLANDS / PAYS-BAS

Ms Pien van den Eijnden

Senior legal adviser

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

Ms Noor Huijboom

Policy direction

Information Society and Government of the Ministry of the Interior

NORWAY / NORVEGE

Ms Ingvil Conradi Andersen

Senior adviser LL.M, Ministry of Culture

Department of Media Policy and Copyright

ROMANIA / ROUMANIE

Apologised / Excusé

RUSSIAN FEDERATION / FEDERATION RUSSIE

Mr. Maksim Buyakevich, Head of Division, Press and Information Department, Ministry of Foreign Affairs

Mr Arsenyi Nedyak, Deputy Director, Department of Media Regulation, Ministry of Telecom and Mass Communication

SAN MARINO / SAINT MARIN

Apologised / Excusé

SERBIA / SERBIE

Ms Maja Raković

Ministry of Foreign Affairs

SLOVENIA / SLOVENIE

Mr Skender Adem

Undersecretary, Ministry of Culture of Republic of Slovenia

SLOVAK REPUBLIC / REPUBLIQUE SLOVAQUE

Ms Viktória Knappová

Ministry of Culture of the Slovak Republic, advisor at Media, Audiovisual and Copyright Department

SWEDEN / SUEDE

Ms Johanna Lantz
Desk Officer
Division for Media and Film, Ministry of Culture

SWITZERLAND / SUISSE

Mr Thomas Schneider
Director of International Affairs
Federal Department of the Environment, Transport, Energy and Communication DETEC
Federal Office of Communications OFCOM

M. Pierre Smolik
Spécialiste des médias, Service des Affaires internationales
Département fédéral de l'environnement, des transports, de l'énergie et de la communication DETEC

M. Oliver Gerber
Service des Affaires internationales
Département fédéral de l'environnement, des transports, de l'énergie et de la communication DETEC

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

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

TURKEY / TURQUIE

Mr Mehmet Bora Sönmez
Expert, International Relations Department
Radio and Television Supreme Council

Mr Taha Yücel
Council Member,

Mr İsmet Demirdöğen
Council Member

UKRAINE

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

UNITED KINGDOM / ROYAUME-UNI

Ms Kathleen Stewart
Head of International Broadcasting Policy

Ms Rebecca Clutterbuck
Head of E-Commerce and Open Internet Policy

* * *

OBSERVERS/PARTICIPANTS

ASSOCIATION OF EUROPEAN JOURNALISTS (AEJ) / MEDIA FREEDOM REPRESENTATIVE

Apologised / Excusé

BELARUS

Mr Dmitry Mironchik
Ministry of Foreign Affairs of Belarus

EPRA

Emmanuelle Machet, Secretary

EUROPEAN DIGITAL RIGHTS (EDRI)

Apologised / Excusé

EUROPEAN ASSOCIATION FOR VIEWERS INTERESTS (EAVI)

Apologised / Excusé

EUROPEAN BROADCASTING UNION (EBU)

Mr Michael Wagner
Head of Media and Communications Law, Legal Department

EUROPEAN COMMISSION

Mr Marcel Boulogne
DG Connect

Ms Irene Roche-Laguna
DG Connect

EUROPEAN FEDERATION OF JOURNALISTS (EFJ)

Mr Marc Gruber

HOLY SEE / SAINT SIEGE

Dr Michael Lukas - Episcopal Press Office (confirmed)

IFEX

Ms Silvia Chocarro
Global Advocacy Strategist

IRP COALITION

Apologised / Excusé

MEXICO . MEXIQUE

Madame Lorena Alvarado Quezada
Adjointe à l'Observateur Permanent du Mexique auprès du Conseil de l'Europe.

MOROCCO / 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

* * *

COUNCIL OF EUROPE / CONSEIL DE L'EUROPE

**ADVISORY COUNCIL ON YOUTH OF THE COUNCIL OF EUROPE / CONSEIL
CONSULTATIF SUR LA JEUNESSE DU CONSEIL DE L'EUROPE**

Mr Milosh Ristovski
Centre for Intercultural Dialogue

Consultative Committee T-PD

Mr Peter Kimpian

CAHENF

Ms Regina Jensdottir, Head of the Children's Rights Division

EUROPEAN AUDIOVISUAL OBSERVATORY / OBSERVATOIRE EUROPEEN DE L'AUDIOVISUEL

Susanne Nikoltchev, Executive Director

Maja Cappelle, Head of the Legal Unit

* * *

INTERPRETERS / INTERPRETES

Ms Elisabetta Bassu

Ms Clarissa Worsdale

Ms Maryline Neuschwander

* * *

SECRETARIAT

Mr Jan Kleijssen, Director, Information Society and Action against crime Directorate, 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 Charlotte Altenhöener-Dion, Administrator, Media and Internet Division, Directorate General Human Rights and Rule of Law

Ms Lejla Dervisagic, Administrator, Media and Internet Division, Directorate General Human Rights and Rule of Law

Ms Christina Lamprou, Administrator, Media and Internet Division, Directorate General Human Rights and Rule of Law

Ms Francesca Montagna, Administrator, Media and Internet Division, Directorate General Human Rights and Rule of Law

Ms Małgorzata Pek, Administrator, Media and Internet Division, Directorate General Human Rights and Rule of Law

Ms Urška Umek, 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**MSI-MED (2016)09rev6****Draft Recommendation CM/Rec(201x)xx of the Committee of Ministers
to member states on media pluralism and transparency of media
ownership****Preamble**

1. Media freedom and pluralism are crucial corollaries of the right to freedom of expression, as guaranteed by Article 10 of the Convention for the Protection of Human Rights and Fundamental Freedoms (ETS No. 5, hereinafter "the Convention"). They are central to the functioning of a democratic society as they help to ensure the availability and accessibility of diverse information and views, on the basis of which individuals can form and express their opinions and exchange information and ideas. Furthermore, transparency of media ownership can help to make media pluralism effective in practice by creating awareness among the public and regulatory authorities about the ownership structures behind the media, which can affect their editorial policies.
2. The Committee of Ministers of the Council of Europe has, in numerous previous instruments, underlined the importance of media pluralism and transparency of media ownership for safeguarding public debate in democratic societies. The existing framework must be further developed to deal with on-going technological, financial, regulatory and other changes in the media sector in Europe.
3. The media play essential roles in a democratic society, by widely disseminating information, ideas, analysis and opinions; acting as public watchdogs, and providing forums for public debate. In the evolving multi-media ecosystem, these roles continue to be fulfilled by traditional media, but are also increasingly performed by other media and non-media actors, from multinational corporations to non-governmental organisations and individuals. All such actors must be accountable to the public in a manner appropriate to the roles they fulfil in relation to the free circulation of information and ideas. Effective self-regulatory systems can enhance both public accountability and trust.
4. Different types of media, along with different genres or forms of editorial content or programming contribute to diversity of content. Although content focusing on news and current affairs is of most direct relevance for fostering an informed society, other genres are also very important. Examples include cultural and educational content and entertainment, as well as content aimed at specific sections of society, such as local content and content aimed at vulnerable groups such as minorities or persons with disabilities.
5. In the present multi-media environment, online media and other internet platforms enable access to a growing range of information from diverse sources. This transformation in how media content is made available and used creates new opportunities for more and more people to interact and communicate with each other and to participate in public debate.
6. This on-going evolution also raises concerns for media pluralism. Internet intermediaries have acquired increasing control over the flow, availability, findability and accessibility of information and other content online. This may affect the variety of media sources that individuals are exposed to and result in them selecting or being exposed to information which confirms their existing views and opinions and which is further reinforced by exchange with other like-minded individuals (phenomena sometimes referred to as "filter bubbles" and "echo chambers"). Selective exposure and the

resulting limitations on the use of media content can generate fragmentation and result in a more polarised society. Such personalised selection and presentation of media content are of particular concern if the individual users are not aware of these processes or do not understand them.

7. The activities of intermediaries differ from those of traditional media outlets in respect of the provision of news. However, the wide scope of information they distribute, their wide audience reach and their potential for highly targeted advertising have contributed to a shift of advertising and marketing revenues towards the internet. These trends challenge the traditional media business models and contribute to an increase in media consolidation and convergence. Single or a few media owners or groups acquire positions of considerable power where they can separately or jointly set the agenda of public debate and significantly influence or shape public opinion, reproducing the same content across all platforms on which they are present. These trends can also lead to cost-cutting, job losses in traditional journalism and established media sectors, and the risk of financial dependencies for journalists and the media, which may ultimately cause a reduction in diversity, reliability and quality of news and content and impoverish public debate.

8. Fresh appraisals of existing approaches to media pluralism are called for in order to address the challenges for freedom of expression resulting from how users, businesses and other stakeholders have adapted their behaviour to the abovementioned developments. In this connection, there is a need for more comparative data on individuals' use of online media content in order to obtain a comprehensive picture of how internet intermediaries affect media pluralism. Furthermore, it is imperative that these changes are appropriately reflected in the media regulation in order to maintain or restore the integrity of the democratic process and to prevent bias, misleading information or suppression of information. New policy responses and strategic solutions are needed to sustain independent, quality journalism, and to enhance citizens' access to diverse content across all media types and formats. It is also necessary to address the growing concerns arising from pressure exerted on the media by political and economic interests acting alone or in concert in order to influence public opinion or otherwise impinge on the independence of the media. The ultimate and overarching objective of state policies promoting media pluralism must be the protection and promotion of the right to freedom of expression.

9. Independent and sustainable public service and not-for-profit community media can serve as a counterbalance to increased media concentration. By virtue of their remit and organisation, public service media are particularly suited to address the informational needs and interests of all sections of society, as is true of community media in respect of their constituent users. It is of utmost importance for public service media to have within their mandates the responsibility to reflect political pluralism and foster awareness of diverse opinions, notably by providing different groups in society – including cultural, linguistic, ethnic, religious, sexual or other minorities – with an opportunity to receive and impart information, to express themselves and to exchange ideas.

10. In light of the increased range of media and content, it is very important for individuals to develop the cognitive, technical and social skills and capacities that enable them to effectively access and critically analyse media content; to make informed decisions about which media they use and how to use them; to understand the ethical implications of media and technology, and to communicate effectively, including by creating content. Furthermore, media literacy contributes to media pluralism and diversity by reducing the digital divide; by facilitating informed decision-making, especially in respect of political and public affairs and commercial content, and by enabling the identification and countering of false or misleading information and harmful and illegal online content.

11. The adoption and effective implementation of media-ownership regulation can play an important role in respect of media pluralism. Such regulation can enhance transparency in media ownership; it can address issues such as cross-media ownership, direct and indirect media ownership and effective control and influence over the media. It should also contribute to ensuring effective and manifest separation between the exercise of political authority or influence and control of the media or decision making as regards media content. Transparency of media ownership, organisation and financing help to increase media accountability.

12. Against this background, the present Recommendation reaffirms the importance of existing Council of Europe standards dealing with different aspects of media pluralism and transparency of media ownership and the need to fully implement them in democratic societies. The Recommendation builds further on those standards, adjusting, supplementing and reinforcing them, as necessary, to ensure their continued relevance in the current multi-media ecosystem.

Under the terms of Article 15.b of the Statute of the Council of Europe (ETS No. 1), the Committee of Ministers recommends that governments of member States:

- i. fully implement the guidelines set out in this recommendation;
- ii. remain vigilant to, assess and address threats to media freedom and pluralism, including the lack of transparency of media ownership, by regularly monitoring the state of media pluralism in their national media markets, and by adopting appropriate regulatory responses and measures, including by paying systematic attention to such focuses in the on-going reviews of their national laws and practices;
- iii. in implementing the Guidelines, take account of the relevant case-law of the European Court of Human Rights and previous Committee of Ministers' Recommendations and Declarations set out in the appendix to this Recommendation;
- iv. promote the goals of this recommendation at the national and international levels and engage and co-operate with all interested parties to achieve those goals;
- v. review regularly the measures taken to implement this recommendation with a view to enhancing their effectiveness.

Guidelines

In the context of this Recommendation, the media are understood as including print, broadcast and online media. In line with Recommendation CM/Rec(2011)7 of the Committee of Ministers to member states on a new notion of media, online media encompasses a wide range of actors involved in the production and dissemination of media content online and any other intermediaries and auxiliary services which, through their control of distribution of media content online or editorial-like judgments about content they link to or carry, have an impact on the media markets and media pluralism. This broad notion of media requires a graduated and differentiated approach to the application of media standards to individual actors, which should be subject to appropriate forms and levels of protection and responsibility, having regard to their specific functions in the media process, the characteristics and needs of the media markets within the jurisdiction of the States and the relevant standards of the Council of Europe.

1. A favourable environment for freedom of expression and media freedom

1.1. The principles of freedom of expression and media freedom, as grounded in the Convention, apply and must be adhered to, also in the present multi-media ecosystem, in which a range of new media actors have come to the fore. Those principles must continue to be developed in a way that takes full account of the fast-evolving nature of the sector.

1.2. States have a positive obligation to foster a favourable environment for freedom of expression offline and online, in which everyone can exercise their right to freedom of expression and participate in public debate effectively, irrespective of whether or not their views are received favourably by the State or others. Such an environment encompasses the rights to privacy and data protection, and the right to access information on issues of public interest held by public bodies which is necessary for the exercise of the right to freedom of expression. States should guarantee free and pluralistic media for their valuable contribution to robust public debate in which societal diversity can be articulated, explored and sustained.

1.3. National legislative and policy frameworks should safeguard the editorial independence and operational autonomy of all media so that they can carry out their key tasks in a democratic society. These frameworks should be designed and implemented in such ways as to prevent the State, or any powerful political, economic, religious or other groups from acquiring dominance and exerting pressure on the media.

1.4. The media should have the freedom and resources at all times to fulfil their task of providing accurate and reliable reporting on matters of public interest, in particular concerning vital democratic processes and activities, such as elections, referenda and public consultations on matters of general interest. Adequate safeguards, including legislative safeguards, as appropriate, should also be put in place to prevent interference with editorial independence of the media, in particular in relation to coverage of conflicts, crises, corruption and other sensitive situations where objective and quality journalism and reporting are key tools in countering propaganda and disinformation.

1.5. In a favourable environment for freedom of expression, media regulatory authorities and other bodies entrusted with responsibility for regulating or monitoring other (media) service providers or media pluralism or having any of the other functions set out in this Recommendation must be able to carry out their remit in an effective, transparent and accountable manner. A prerequisite for them to be able to do so is that they themselves enjoy independence that is guaranteed by law and borne out in practice.

1.6. The independence of the authorities and bodies referred to in the previous paragraph should be guaranteed by ensuring that they: have open and transparent appointment and dismissal procedures; have adequate human and financial resources and autonomous budget allocation; function according to transparent procedures and decision-making; are open to communication with the public; have the power to take autonomous, proportionate decisions and enforce them effectively, and that their decisions are subject to appeal.

1.7. States should ensure transparency of media ownership, organisation and financing, as well as promote media literacy, so as to provide individuals with the information and critical awareness that they need in order to access diverse information and participate fully in the multi-media ecosystem.

2. Media pluralism and diversity of media content

General requirements of pluralism

2.1. As ultimate guarantors of pluralism, States have a positive obligation to put in place an appropriate legislative and policy framework to that end. This implies adopting appropriate measures to ensure sufficient variety in the overall range of media types, bearing in mind differences in terms of their purposes, functions and geographical reach. The complementary nature of different media types strengthens external pluralism and can contribute to creating and maintaining diversity of media content.

2.2. States are called upon to ensure that there is regular independent monitoring and evaluation of the state of media pluralism in their jurisdictions based on a set of objective and transparent criteria for identifying risks to the variety in ownership of media sources and outlets, the diversity of media types, the diversity of viewpoints represented by political, ideological, cultural and social groups, and the diversity of interests and viewpoints relevant to local and regional communities. States should also ensure that bodies conducting the independent monitoring and evaluation exercises have sufficient access to all relevant data and sufficient resources to be able to carry out those tasks. States are further urged to develop and enforce appropriate regulatory and policy responses effectively addressing any risks found.

Specific requirements of pluralism

Diversity of content

2.3. States are encouraged to adopt regulatory and policy measures to promote the availability, findability and accessibility of the broadest possible diversity of media content as well as the representation of the whole diversity of society in the media, including by supporting initiatives by media to those ends. In respect of the audiovisual media, those measures could include must-carry rules; rules on due prominence of general interest content on electronic programme guides, and rules on accessibility for persons with disabilities.

2.4. As media content is not only distributed, but also increasingly managed, edited, curated and/or created by internet intermediaries, States should recognise the variety of their roles in content production and dissemination and the varying degrees of their impact on media pluralism. Any regulation governing those activities should be appropriate and proportionate, fully compliant with the requirements of Article 10 of the Convention and in line with the graduated and differentiated approach provided for by Recommendation CM/Rec(2011)7 of the Committee of Ministers to member states on a new notion of media. Any self-regulatory mechanisms developed in this area should operate independently and transparently, be open to meaningful participation from all

relevant stakeholders, be accountable to the public, and work in accordance with ethical standards that take full account of the multi-media ecosystem.

2.5. States should encourage the development of open, independent, transparent and participatory initiatives by social media, media actors, civil society, academia and other relevant stakeholders, that seek to improve effective exposure of users to the broadest possible diversity of media content online.

The visibility, findability, accessibility and promotion of media content online is increasingly being influenced by automated processes, whether they are used alone or in combination with human decisions. States should encourage social media, media, search and recommendation engines and other intermediaries which use algorithms, along with media actors, regulatory authorities, civil society, academia and other relevant stakeholders to engage in open, independent, transparent and participatory initiatives that:

- increase the transparency of the processes of online distribution of media content, including automated processes;
- assess the impact of such processes on users' effective exposure to a broad diversity of media content;
- seek to improve these distribution processes in order to enhance users' effective exposure to the broadest possible diversity of media content;
- provide clear information to users on how to find, access and derive maximum benefit from the wide range of content that is available, and
- implement the principle of privacy by design in respect of any automated data processing techniques and ensure that such techniques are fully compliant with the relevant privacy and data protection law and standards.

2.6. States should make particular efforts, taking advantage of technological developments, to ensure that the broadest possible diversity of media content, including general interest content, is accessible to all groups in society, particularly those which may have specific needs or face disadvantage or obstacles when accessing media content, such as minority groups, refugees, children, the elderly and persons with cognitive or physical disabilities. This implies that such media content should be made available in different languages and in suitable formats and that it should be easy to find and use.

2.7. Diversity of media content can only be properly gauged when there are high levels of transparency about editorial and commercial content: media and other actors should adhere to the highest standards of transparency regarding the provenance of their content and always signal clearly when content is provided by political sources or involves advertising or other forms of commercial communications, such as sponsoring and product placement. This also applies to hybrid forms of content, including branded content, native advertising and advertorials and infotainment. In cases where these obligations are not fulfilled, there should be a provision for proportionate measures to be applied from the competent regulatory authorities.

Institutional frameworks for media pluralism

2.8. States should recognise the crucial role of independent public service media organisations in fostering public debate, political pluralism and awareness of diverse opinions. States should accordingly guarantee adequate conditions for public service media to continue to play this role in the multi-media landscape, including by providing them with appropriate support for innovation and the development of digital strategies and new services.

2.9. States should adopt appropriate specific measures to protect the editorial independence and operational autonomy of public service media by keeping the influence of the State at arm's length. The supervisory and management boards of public service media must be able to operate in a fully independent manner and the rules governing their composition and appointment procedures must be transparent and contain adequate checks and balances to ensure that independence.

2.10. States should also ensure stable, sustainable, transparent and adequate funding for public service media on a multi-annual basis in order to guarantee their independence from governmental, political and market pressures and enable them to provide a broad range of pluralistic information and diverse content. This can also help to counterbalance any risks caused by a situation of media concentration. States are moreover urged to address, in line with their positive obligation to guarantee media pluralism, any situations of systemic underfunding of public service media which jeopardise that pluralism.

2.11. States should encourage and support the establishment and functioning of minority, regional, local and not-for-profit community media, including by providing financial mechanisms to foster their development. Such independent media give a voice to communities and individuals on topics relevant to their needs and interests, and are thus instrumental in creating public exposure for issues that may not be represented in the mainstream media and in facilitating inclusive and participatory processes of dialogue within and across communities and at regional and local levels.

2.12. Media which serve communities outside the country where they are established can supplement national media and can help certain groups in society, including immigrants, refugees and diaspora communities, to maintain ties with their countries of origin, native cultures and languages. States should not impede access to such cross-border media provided the publication, transmission, retransmission or any other form of dissemination of such media within their jurisdictions is in compliance with international law.

Support measures for the media and media pluralism

2.13. For the purpose of enhancing media pluralism, States should develop, in consultation with representatives of the media and civil society organisations, strategies and mechanisms to support professional news media and quality independent and investigative journalism, including news production capable of addressing diverse needs and interests of groups that may not be sufficiently represented in the media. They should explore a wide range of measures, which would be available to different media types and platforms, including those of online media. In addition to non-financial support, States are encouraged to provide various forms of financial support such as advertising and subsidies. States are also encouraged to support projects relating to journalism education, media research, investigative journalism and innovative approaches to strengthen media pluralism and freedom of expression.

2.14. Support measures should have clearly defined purposes and should be based on pre-determined clear, precise, equitable, objective and transparent criteria. They should be implemented in full respect of the editorial and operational autonomy of the media. Support measures could include positive measures to enhance the quantity and quality of media coverage of issues that are of interest and relevance to groups which are underrepresented in the media.

2.15. Support measures should be administered in a non-discriminatory and transparent manner by a body enjoying functional and operational autonomy such as an independent media regulatory authority. Independent bodies responsible for the allocation of direct subsidies should publish annual reports on the use of public funds to support media actors.

3. Regulation of media ownership: ownership, control and concentration

3.1. As part of their obligation to guarantee pluralism in their jurisdictions, States are encouraged to develop and implement a comprehensive regulatory framework that includes focuses on media ownership and control and is adapted to the current state of the media industry. The relevant regulation of the media should take full account of the impact of online media on public debate, including by ensuring that the producers of media content distributed through online distribution channels and users are protected from possible anti-competitive behaviour of online gatekeepers which adversely impacts media pluralism.

3.2. Monitoring and enforcement of the relevant regulation should be conducted by an independent body provided with sufficient and stable financial and staff resources to enable it to carry out the tasks in an effective manner.

Ownership and control

3.3. The enforcement of competition law including merger control applicable to media should aim to ensure effective competition and prevent individual actors from acquiring significant market power in the overall national media sector or in a specific media market/sector at the national level or sub-national levels, to the extent that such significant market power adversely impacts media pluralism.

3.4. Media ownership regulation can include restrictions on horizontal, vertical and cross-media ownership, including by determining thresholds of ownership in line with Recommendation CM/Rec 2007(2) of the Committee of Ministers to member states on media pluralism and diversity of media content. Those thresholds may be based on a number of criteria such as capital shares, voting rights, circulation, revenues, audience share or audience reach.

3.5. States can set criteria for determining control of media outlets by explicitly addressing direct and beneficial control. Relevant criteria can include proprietary, financial or voting strength within a media outlet or outlets and the determination of the different levels of strength that lead to exercising control or direct or indirect influence over the strategic decision-making of the media outlet or outlets including their editorial policy.

3.6. As the key democratic tasks of the media include holding authorities to account and promoting transparency, ownership of media outlets by political parties or individuals actively involved in politics, and especially by any holder of an elected office, should be subject to reinforced checks and balances, such as a self-regulatory system, aimed at ensuring editorial independence and transparency of ownership. The exercise of editorial decision-making should be incompatible with the exercise of political authority. The incompatibility of these functions should be recognised as a matter of principle. The criteria of incompatibility and a range of appropriate measures for addressing conflicts of interest should be set out clearly.

3.7. Any restrictions on the extent of foreign ownership of media should be implemented in a non-arbitrary manner and should take full account of States' obligations under international law and in particular, the positive obligation to guarantee pluralism.

Concentration

3.8. States are encouraged to develop and apply suitable methodologies for the assessment of media concentration, in respect of both the influence of individual media and the aggregated influence of a media outlet/group across sectorial boundaries. In

addition to measuring the availability of media sources, this assessment should reflect the real influence of individual media by adopting an audience-based approach and using appropriate sets of criteria to measure the use of individual media and their impact on opinion-forming. The audience-based approach should comprise the offline and online footprint of the media. The measurement exercise should be carried out by an independent authority or other designated body.

3.9. States are further encouraged to ensure procedures to prevent media mergers or acquisitions that could adversely affect pluralism of media ownership or diversity of media content. Such procedures should involve a requirement for media owners to notify the relevant independent regulatory authority of any proposed media merger or acquisition whenever the ownership and control thresholds, as set out in legislation, are met.

3.10. The relevant independent regulatory authority or other designated body should be vested with powers to assess the expected impact of any significant proposed concentration on media pluralism and to make recommendations or decisions, as appropriate, about whether the proposed merger or acquisition should be cleared, subject or not to any restrictions or conditions, including divestiture. Decisions of the independent authority should be subject to judicial review.

4. Transparency of media ownership, organisation and financing

4.1. States should promote a regime of transparency of media ownership that ensures the public availability and accessibility of accurate, up-to-date data concerning direct and beneficial ownership of the media, as well as other interests that influence the strategic decision-making of the media in question or its editorial line. This information is necessary for media regulatory and other relevant bodies to be able to conduct informed regulation and decision-making. It also enables the public to analyse and evaluate the information, ideas and opinions disseminated by the media.

4.2. Any transparency requirement should be based on clear criteria as to which media are targeted. The requirements to disclose ownership information may be limited with regard to criteria such as the commercial nature of the media outlet, a wide audience reach, exercise of editorial control, frequency and regularity of publication or broadcast, etc., or a combination thereof. Legislation should also determine the timeframe within which reporting obligations must be met.

4.3. Transparency requirements should be implemented in accordance with the right to privacy and data protection and should be limited to individuals directly involved in the ownership of a media outlet or its editorial oversight structures. Furthermore, in exceptional circumstances to be laid down in national law, where full disclosure would expose the owner to personal risk or where the owner is a minor or otherwise incapable, States should provide for an exemption from access to all or part of the information on ownership on a case-by-case basis. States should ensure that these exemptions are granted upon an evaluation of the exceptional nature of the circumstances.

Transparency requirements

4.4. Media transparency requirements should be specific and include a requirement for media outlets operating within the jurisdiction of the States to disclose ownership information directly to the public on their website or other publication and to report this information to an independent national media regulatory body or other designated body, tasked with gathering and collating the information and making it available to the public.

The body charged with these tasks should be provided with sufficient and stable financial and staff resources to enable it to carry out the tasks in an effective manner.

4.5. States should adopt and implement legislative or other equally effective measures that set out disclosure/transparency obligations for media in a clear and precise way. Such obligations can include the following information:

- Legal name and contact details of a media outlet;
- Name(s) and contact details of the direct owner(s) with shareholdings enabling them to exercise influence on the operation and strategic decision-making of the media outlet. States are recommended to apply a threshold of 5% shareholding for the purpose of the disclosure obligations.
- Name(s) and contact details of natural persons with beneficial shareholdings. Beneficial shareholding applies to natural persons who ultimately own or control shares in a media outlet or on whose behalf those shares are held, enabling them to indirectly exercise control or influence on the operation and strategic decision-making of the media outlet.
- Information on the nature and extent of the share-holdings or voting rights of the above legal and/or natural persons in other media, media-related or advertising companies which could lead to decision-making influence over those companies, or positions held in political parties;
- Name(s) of the persons with actual editorial responsibility;
- Changes in ownership and control arrangements of a media outlet.

4.6. The scope of the above criteria for disclosure/transparency obligations for the media includes legal and natural persons based in other jurisdictions and their relevant interests in other jurisdictions.

4.7. High levels of transparency should also be ensured with regard to the sources of financing of media outlets in order to provide a comprehensive picture of the different sources of potential interference with the editorial and operational independence of the media and allow for effective monitoring and controlling of such risks.

To this end, States are encouraged to adopt and implement legislation or other equally effective measures that set out the disclosure of information on the sources of the media outlet's funding obtained from State funding mechanisms (advertising, grants and loans).

States are furthermore encouraged to promote the disclosure by media outlets of contractual relations with other media or advertising companies and political parties that may have an influence on editorial independence.

Transparency database and reports

4.8. Such legislation should also provide for the independent national media regulatory authority or other designated body to ensure that the public has easy, swift and effective access to data about media ownership and control arrangements in the State, including disaggregated data about different types of media (markets/sectors) and regional and/or local levels, as relevant. These data should be kept up to date on a rolling basis; made available to the public free of charge and without delay, and their availability publicised. Ideally they should be accessible and searchable, for example in the form of online databases; their contents should be made available in open formats and there should be no restrictions on their re-use.

4.9. States should encourage the independent national media regulatory body or other designated body or institution (academic institution, civil society organisation) to publish regular reports on media ownership. The reporting requirements should include:

- A description of media ownership and control arrangements for media under its jurisdiction (including media whose services are directed at other countries);
- A description of changes to the media ownership and control arrangements within the State during the reporting period;
- An analysis of the impact of those changes on media pluralism in the State.

4.10. The publication of the reports on media ownership should be accompanied by appropriate explanations of the data and the methodologies used to collect and organise them, in order to help members of the public to interpret the data and understand their significance.

Coordination of transparency regimes

4.11. States are encouraged to issue clear, up-to-date guidance on the interrelationship and implications of the different regulatory regimes and on how to implement them correctly and coherently. That guidance could take the form of user-friendly guidelines, handbooks, manuals, etc.

4.12. States should also facilitate inter-agency cooperation and coordination, including the relevant exchange of information about media ownership held by different national authorities (such as media regulatory authorities, competition authorities, data protection authorities, company registers and financial supervisory authorities). Similarly, the exchange of information and best practices with equivalent authorities in other jurisdictions should be facilitated.

4.13. Up-to-date and reliable information relating to media ownership issues constitutes a valuable resource for citizens and a wide range of stakeholders, but it remains a challenge to collect such information in a comprehensive manner. States are therefore encouraged to support information gathering, updating and dissemination activities relating to media ownership issues, such as relevant activities of the European Audiovisual Observatory, in particular its MAVISE database, insofar as those activities contribute to a fuller understanding of media ownership in Europe.

5. Media literacy/education

5.1. States should introduce legislative provisions or strengthen existing ones that promote media literacy with a view to enabling individuals to access, understand, critically analyse, evaluate, use and create content through a range of legacy and digital (including social) media. This should also include appropriate digital (technological) skills for accessing and managing digital media. Another important aim of media literacy is to enable individuals to know and understand how their personal data are collected, stored and used by internet platforms.

5.2. States should also develop a coordinated national media literacy policy and ensure its operationalisation and implementation through (multi-)annual action plans and by providing adequate resources for those purposes. A key strategy could be to support the creation of a coordinated national media literacy network comprising a wide range of stakeholders, or the further development of such a network where it already exists. Positive practices developed within national networks should be actively exchanged and promoted in relevant international forums.

5.3. In the multi-media ecosystem, media literacy is essential for people of all ages and all walks of life. Measures promoting media literacy should thus help to develop the teaching of media literacy in school curricula at all levels and as part of lifelong learning cycles, including by providing suitable training and adequate resources for teachers and educational institutions to develop teaching programmes and project-oriented learning schemes.

5.4. States should encourage all media, without interfering with their editorial independence, to promote media literacy through policies, strategies and activities. Public service media and community media can play leading roles in promoting media literacy, by virtue of their objectives, mandates and working methods. States should also promote media literacy through support schemes for media, taking into account the particular roles of public service media and community media.

5.5. States should ensure that independent national regulatory authorities and/or other bodies have the scope and resources to promote media literacy in ways that are relevant to their mandates and encourage them to do so.

5.6. States are encouraged to include in their coordinated national media literacy programmes focuses on media pluralism and transparency of media ownership in order to help citizens to make an informed and critical evaluation of the information and ideas propagated via the media. To this end, States are called upon to include in their strategies for ensuring transparency in the media sector educational content which enables individuals to use information relating to media ownership, organisation and financing, in order to better understand the different influences on the production, collection, curation and dissemination of media content.

*Appendix to Recommendation CM/Rec(201X)XX***Reference instruments**

Committee of Ministers' Recommendations and Declarations dealing with media pluralism and transparency of media ownership:

Recommendation No. R 94/13 on measures to promote media transparency

Recommendation No. R 99/1 on measures to promote media pluralism

Recommendation CM/Rec 2007/2 on media pluralism and diversity of media content

Declaration on protecting the role of the media in democracy in the context of media concentration (31.01.2007)

Other relevant Recommendations and Declarations

Recommendation No. R 2000/23 on the independence and functions of regulatory authorities or the broadcasting sector

Recommendation CM/Rec 2007/3 on the remit of public service media in the information society

Declaration on the role of community media in promoting social cohesion and intercultural dialogue (11.02.2009)

Recommendation CM/Rec 2011/7 on a new notion of media

Recommendation CM/Rec 2012/1 on public service media governance

Recommendation CM/Rec 2012/3 on the protection of human rights with regard to search engines

Recommendation CM/Rec 2015/6 on the free, trans-boundary flow of information on the internet

Recommendation CM/Rec 2016/1 on protecting and promoting the right to freedom of expression and the right to private life with regard to network neutrality

Recommendation CM/Rec 2016/4 on the protection of journalism and safety of journalists and other media actors

Recommendation CM/Rec 2016/5 on internet freedom

APPENDIX IV**MSI-NET(2016)05rev7****Draft Recommendation CM/Rec(2017)xxx of the Committee of Ministers
to member states on the roles and responsibilities of internet
intermediaries****Preamble**

1. In accordance with the European Convention for the Protection of Human Rights and Fundamental Freedoms (ETS No. 5, hereinafter "the Convention"), as interpreted by the European Court of Human Rights (hereinafter "the Court"), Council of Europe member states have the obligation to secure the rights and freedoms enshrined in the Convention to everyone within their jurisdiction, both offline and online. Access to the internet is a precondition for the exercise of Convention rights and freedoms on the Internet.

2. By enhancing the public's ability to seek, receive and impart information without interference and regardless of frontiers, the internet plays a particularly important role with respect to the right to freedom of expression. It also enables the exercise of other rights protected by the Convention and its Protocols, such as the right to freedom of assembly and association, the right to education, access to knowledge and culture, as well as participation in public and political debate and in democratic governance. However, speech and action that is incompatible with the values enshrined in the Convention is not protected by Article 10 or any other of its provisions by virtue of Article 17 of the Convention.

3. The protection of privacy and personal data is a foundation for the enjoyment and exercise of most of the rights and freedoms guaranteed in the Convention. However, the internet has facilitated an increase of privacy-related risks and infringements and has spurred the spread of certain forms of harassment, hatred and incitement to violence, in particular on the basis of gender, race and religion, which remain under-reported and rarely remedied or prosecuted. Moreover, the rise of the internet and related technological developments have triggered substantial challenges for the maintenance of public order and national security, for crime prevention and law enforcement, as well as for the protection of the rights of others, including intellectual property rights. Targeted disinformation campaigns online, designed specifically to sow mistrust and confusion and to sharpen existing divisions in society, may also have destabilising effects on democratic processes.

4. A wide, diverse and rapidly evolving range of actors, commonly referred to as internet intermediaries, facilitate interactions on the internet between natural persons and between natural and legal persons by offering and performing a variety of functions and services. Some connect users to the internet, enable the processing of information and data, or host web-based services, including for user-generated content. Others aggregate information and enable searches, and give access to, host and index content and services designed and/or operated by third parties. Some facilitate the sale of goods and services, including audio-visual services, and enable other commercial transactions, including payments.

5. Intermediaries may carry out several functions in parallel. They may also moderate and rank content, including through automated processing of personal data, and may thereby exert forms of control which influence users' access to information online in ways comparable to media, or they may perform other functions that resemble those of publishers. Intermediary services may also be offered by traditional media, for instance, when space for user-generated content is offered on their platforms. The regulatory framework **governing the intermediary function is without prejudice to the**

frameworks that are applicable to the other functions offered by the same entity.

6. The rule of law is a prerequisite for the protection and promotion of the exercise of human rights and for pluralistic and participatory democracy. Member states have the obligation to refrain from violating the right to freedom of expression and other human rights in the digital environment. They also have a positive obligation to protect human rights and to create an enabling and safe environment for everyone to participate in the public debate and to express their opinions and ideas without fear, including those that offend, shock, or disturb the state or any sector of the population. This positive obligation to ensure the exercise and enjoyment of rights and freedoms includes, due to the horizontal effects of human rights, the protection of individuals from actions of private parties by ensuring compliance with relevant legal and regulatory frameworks. It is further indispensable that due process guarantees are in place and access to effective remedies is facilitated vis-à-vis both states and intermediaries with respect to the services in question.

7. A variety of network effects and mergers have led to the existence of fewer, larger entities that dominate the market in a manner that may jeopardise the opportunities for smaller intermediaries or start-ups and places them in positions of influence or even control of principal modes of public communication. The power of such intermediaries as protagonists of online expression makes it imperative to clarify their role and impact on human rights as well as their corresponding duties and responsibilities, including as regards the risk of misuse by criminals of the intermediaries' services and infrastructure.

8. It is further essential to support initiatives promoting media and information literacy skills for accessing and managing the digital space. Such efforts should be implemented through various means, including formal and non-formal education, with a view to promoting the effective and equal enjoyment of the rights enshrined in the Convention by everyone without discrimination of any kind. Given the particularly high number of young and child users of the internet, the protection and empowerment of children in their safe and informed access to and exercise of rights in the digital environment must be ensured throughout. To this end, sustained engagement is required to enhance cognitive, technical, social and critical skills among girls and boys, parents and educators on how to deal with an information and communications environment that provides access to degrading content of a sexual or violent nature.

9. The regulatory framework governing the services provided by or through intermediaries is diverse, multi-layered and continuously evolving. States are confronted with the complex challenge of regulating an environment in which private actors fulfil a crucial role in providing services with significant public service value. The task of regulation is further complicated by the global nature of the internet networks and services, by the diversity of intermediaries, by the volume of internet communication, and by the speed at which it is produced and processed. Owing to the fact that intermediaries operate or are used across many countries, including in a cloud-computing context, their actions may further have effects under several, sometimes conflicting, laws of different jurisdictions.

10. Internet intermediaries also develop their own rules, usually in form of terms of service or community standards that often contain content restriction policies. Moreover, intermediaries collect, generate, retain and process a wealth of information and data from and about users. These activities may interfere with, among other rights, the users' rights to privacy and freedom of expression. Effective reporting and complaints mechanisms may be lacking, be insufficiently transparent and efficient, or be provided only through automated processes.

11. In line with the UN Guiding Principles on Business and Human Rights and the Protect, Respect and Remedy Framework, intermediaries should respect the human rights of their

users and affected parties in all their actions. This includes the responsibility to act in compliance with applicable laws and regulatory frameworks. Owing to the multi-functionality of intermediaries, their corresponding duties and responsibilities and their protection under law, must be determined with respect to the specific services and functions that are performed.

12. Against this background and in order to provide guidance to all relevant actors who are faced with the complex task of protecting and respecting human rights in the digital environment, the Committee of Ministers, under the terms of Article 15.b of the Statute of the Council of Europe, recommends that member states:

- implement the Guidelines included in this recommendation when developing and implementing legislative frameworks relating to internet intermediaries in line with their relevant obligations under the Convention, the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (ETS No. 108, hereinafter "Convention 108"), the Convention on Cybercrime (ETS No. 185, "the Budapest Convention"), the Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (ETS No. 201, "the Lanzarote Convention"), and the Convention on Preventing and Combating Violence against Women and Domestic Violence (ETS No. 210, "the Istanbul Convention) and promote them in international and regional forums that deal with the roles and responsibilities of internet intermediaries and with the protection and promotion of human rights in the online environment;
- take all necessary measures to ensure that internet intermediaries fulfill their responsibilities to respect human rights in line with the UN Guiding Principles on Business and Human Rights and the Recommendation CM/Rec (2016)3 of the Committee of Ministers to member states on human rights and business;
- in implementing the Guidelines, take due account of Committee of Ministers Recommendation 2016/5 on internet freedom; Recommendation 2016/1 on protecting and promoting the right to freedom of expression and the right to private life with regard to network neutrality; Recommendation 2015/6 on the free, trans-boundary flow of information on the internet; Recommendation 2014/6 on a Guide to human rights for internet users; Recommendation 2013/1 on gender equality and media; Recommendation 2012/3 on the protection of human rights with respect to search engines; Recommendation 2012/4 on the protection of human rights with respect to social networking services; Recommendation 2011/7 on a new notion of media; Recommendation 2010/13 on the protection of individuals with regard to automatic processing of personal data in the context of profiling; Recommendation 2007/16 on measures to promote the public service value of the internet; the 2017 Guidelines on the protection of individuals with regard to the processing of personal data in a world of Big Data; and the 2008 Guidelines for the cooperation between law enforcement and internet service providers against cybercrime;
- implement the Guidelines in the understanding that, as far as they concern the responsibilities of internet service providers that have significantly evolved in the past decade, they are intended to build on and reinforce the Human Rights guidelines for internet service providers, developed in 2008 by the Council of Europe in co-operation with the European Internet Service Providers Association;
- engage in a regular, inclusive and transparent dialogue with all relevant stakeholders, including from the private sector, public service media, civil society, education establishments and academia, with a view to sharing and discussing information and promoting the responsible use of emerging technological developments related to internet intermediaries that impact the exercise and enjoyment of human rights and related legal and policy issues;

- encourage and promote the implementation of effective age and gender-sensitive media and information literacy programmes to enable all adults, young people and children to enjoy the benefits and minimise the exposure to risks of the online communications environment, in cooperation with all relevant stakeholders, including from the private sector, public service media, civil society, education establishments and academia;
- review regularly the measures taken to implement this recommendation with a view to enhancing their effectiveness.

Guidelines regarding the roles and responsibilities of internet intermediaries

1 – Obligations of states with respect to the protection and promotion of human rights and fundamental freedoms in the digital environment

1.1 Legality

- 1.1.1. Any request, demand or other action by public authorities addressed to internet intermediaries that interferes with human rights and fundamental freedoms must be prescribed by law, must be exercised within the limits conferred by law and must constitute a necessary and proportionate measure in a democratic society. States should not exert pressure on internet intermediaries through non-legal means.
- 1.1.2. Laws, regulations and policies applicable to internet intermediaries, regardless of their objective or scope of application, including commercial and non-commercial activities, shall effectively safeguard human rights and fundamental freedoms, as enshrined in the Convention, and shall maintain adequate guarantees against arbitrary application in practice.
- 1.1.3. States have the ultimate obligation to protect human rights and fundamental freedoms in the digital environment. All regulatory frameworks, including self- or co-regulatory approaches, must include effective oversight mechanisms to comply with that obligation and must be accompanied by appropriate redress opportunities.
- 1.1.4. The process of enacting legislation or regulations applicable to internet intermediaries should be transparent and inclusive. States should regularly consult with all relevant stakeholders with a view to ensuring that an appropriate balance is struck between the public interest, the interests of the users and affected parties, and the interest of the intermediary. Before adopting legislation or regulations, states should conduct human rights impact assessments to understand and prevent or mitigate potential negative impacts on human rights.
- 1.1.5. States shall ensure that legislation, regulation, and policies related to internet intermediaries are interpreted, applied and enforced without discrimination, also taking into account multiple and intersecting forms of discrimination. The prohibition of discrimination may in some instances require special measures to address specific needs or correct existing inequalities. States should further take into account the substantial differences in size, nature, function and organisational structure of intermediaries when developing, interpreting and applying the legislative framework in order to prevent possible discriminatory effects.
- 1.1.6. States should ensure that legislation, regulation and policies relating to internet intermediaries are effectively implementable and enforceable and that they do not unduly restrict the operation and free flow of trans-border communication.

1.2. Legal certainty and transparency

- 1.2.1. Any legislation applicable to internet intermediaries and to their relations with states and users must be accessible and foreseeable. All laws should be clear and sufficiently precise to enable intermediaries, users and affected parties to regulate their conduct. The laws should create a safe and enabling online environment for private communications and public debate and should comply with relevant international standards.

- 1.2.2. Any legislation must clearly define the powers granted to public authorities as they relate to internet intermediaries, particularly when exercised by law enforcement. The law must indicate the scope of discretion to protect against arbitrary application.
- 1.2.3. States should make available publicly and in a regular manner, comprehensive information on the number, nature and legal basis of content restrictions or disclosures of personal data, that they have applied in a certain period through requests addressed to intermediaries, including those based on international mutual legal assistance treaties, and on actions taken as a result of those requests. For purposes of transparency, states should require intermediaries to disclose clear (simple and machine-readable), easily accessible and meaningful information about interferences with the exercise of rights and freedoms in the digital environment, whether based on court or administrative orders, private complainants' requests, or enforcement of their own content restriction policies.
- 1.2.4. With a view to avoiding legal uncertainty and conflicts of laws, states should commit to cooperating with each other and with all relevant stakeholders in cases where different laws apply, and should support the development of common approaches and jurisdictional principles, including through appropriate non-state forums.

1.3. Safeguards for freedom of expression

- 1.3.1. Any request, demand or other action by public authorities addressed to internet intermediaries to restrict access (including blocking or removal of content), or any other measure that could lead to a restriction of the right to freedom of expression, must be prescribed by law, pursue one of the legitimate aims foreseen in Article 10 of the Convention, be necessary in a democratic society and proportionate to the aim pursued. State authorities must carefully evaluate possible, including unintended, impacts of any restrictions before and after applying them, while seeking to apply the least intrusive measure necessary to meet the policy objective.
- 1.3.2. State authorities should obtain an order by a judicial authority or other independent administrative authority whose decisions are subject to judicial review when demanding intermediaries to restrict access to content. This does not apply in cases concerning content that is illegal irrespective of context, such as when involving child sexual abuse material, or in cases where expedited measures are required in accordance with the conditions prescribed in Article 10 of the ECHR.
- 1.3.3. When internet intermediaries restrict access to third-party content based on a state order, state authorities should ensure that effective redress mechanisms are made available and adhere to applicable procedural safeguards. When intermediaries remove content based on their own terms and conditions of service, state authorities should not consider this as a form of control that makes them liable for the third-party content they give access to.
- 1.3.4. State authorities should consider the adoption of appropriate legislation to prevent strategic lawsuits against public participation (SLAPP) or abusive and vexatious litigation against users, content providers and intermediaries which is intended to curtail the right to freedom of expression.
- 1.3.5. State authorities should not directly or indirectly impose a general obligation on intermediaries to monitor content which they merely give access to, or which they transmit or store, be it by automated means or not. When addressing any request to internet intermediaries or promoting, alone or with other states or international organisations, co-regulatory approaches by internet intermediaries,

state authorities should avoid any action that may lead to general content monitoring. All co-regulatory approaches must comply with rule of law and transparency safeguards.

- 1.3.6. State authorities should ensure that the sanctions they impose on intermediaries for non-compliance with regulatory frameworks are proportionate as disproportionate sanctions are likely to lead to restriction of lawful content and to have a chilling effect on the right to freedom of expression.
- 1.3.7. States should ensure in law and in practice that intermediaries are not held liable for third-party content, which they merely give access to or transmit or which they store. State authorities may hold intermediaries co-responsible with respect to content that they store, if they do not act expeditiously to restrict access to content or services as soon as they become aware of their illegal nature, including through notice-based procedures. State authorities should ensure that notice-based procedures are not designed in a manner that incentivises the take-down of legal content, such as through inappropriately short timeframes. Notices should contain sufficient information for intermediaries to act upon. Notices submitted by states should be based on their own assessment of the illegality of the notified content, in accordance with international standards. Content restrictions should allow notice of such restriction as early as possible to the content producer/issuer, unless this interferes with ongoing law enforcement activities. Information should also be made available to users seeking access to the content, in accordance with applicable data protection laws.
- 1.3.8. In order to ensure that illegal content, as determined either by law or by a judicial authority or other independent administrative authority whose decisions are subject to judicial review, is effectively prevented from being accessed, states should co-operate closely with intermediaries to secure the restriction of such content in line with the principles of legality, necessity and proportionality. They should further consider that automated means, which may be used to identify illegal content, currently have limited capacity to assess context. Such restrictions should not prevent the legitimate use of identical or similar content in other contexts.
- 1.3.9. In cases where the function of intermediaries consists of producing or managing content available on their platforms or where intermediaries perform curatorial or editorial-like functions, including through operation of algorithms, state authorities should apply an approach that is graduated and differentiated, in line with Recommendation CM/Rec(2011)7 of the Committee of Ministers to member states on a new notion of media. States should determine corresponding levels of protection as well as duties and responsibilities according to the role that intermediaries play in content production and dissemination processes, while paying due attention to their obligation to protect and promote pluralism and diversity in the online distribution of content.
- 1.3.10. States should encourage appropriate self-regulatory frameworks or the development of co-regulatory mechanisms, taking due account of the role of intermediaries in providing services of public value and facilitating public discourse and democratic debate, as protected by Article 10 of the Convention.

1.4. Safeguards for privacy and data protection

- 1.4.1. Any demand or request by state authorities addressed to internet intermediaries to access, collect or intercept personal data of their users, including for criminal justice purposes, or any other measure which interferes with the right to privacy, must be prescribed by law, must pursue one of the legitimate aims foreseen in Article 8 of the Convention and Article 9 of Convention 108, and must be used only when it is necessary and proportionate in a democratic society. The

protection of the right to privacy and data protection extends to devices used for accessing the internet or stored data.

- 1.4.2. State authorities should ensure that their legal frameworks and the ensuing policies and practices of intermediaries uphold the principles of data protection (lawfulness, fairness and transparency, purpose limitation, data minimisation, accuracy, storage time limitations, and data security, including integrity and confidentiality,) and guarantee the rights of the data subject in full compliance with Convention 108.
- 1.4.3. State authorities should protect the right to confidentiality of all private communications facilitated by internet intermediaries, extending to the content of the communication as well as metadata, and should ensure that levels of data protection and respect for privacy, in conformity with Convention 108, are also guaranteed in situations of trans-border data flows.
- 1.4.4. Surveillance measures undertaken by states, whether in co-operation with internet intermediaries or not, must be targeted, precisely defined, subject to effective external oversight, and compliant with Article 8 of the Convention as well as Article 9 and other relevant provisions of Convention 108. They must further include guarantees to exercise data subjects' rights and effective redress mechanisms.
- 1.4.5. State authorities should ensure that appropriate complementary safeguards, such as explicit consent of the data subject, apply to the automatic processing of special categories of data as defined in Article 6 of Convention 108.

1.5. Access to an effective remedy

- 1.5.1. States should guarantee accessible and effective judicial and non-judicial procedures that ensure the impartial review of all claims of violations of Convention rights in the digital environment, such as the right to life, the right to liberty and security, the right to respect for privacy and to data protection, the right to freedom of expression, or the right not to be discriminated against, in compliance with Article 6 of the Convention.
- 1.5.2. States should guarantee an effective remedy for all violations of human rights and fundamental freedoms by internet intermediaries, in compliance with Article 13 of the Convention. They should further ensure that intermediaries provide access to prompt, transparent and effective reviews of user or affected party grievances and alleged terms of service violations, and provide for effective remedies. These may include various forms, such as restoration of content, apology, rectification and damages. Judicial review must remain available, when internal and alternative dispute settlement mechanisms prove insufficient or where the affected parties opt for judicial redress or appeal.
- 1.5.3. States should proactively seek to reduce all legal, practical or other relevant barriers that could lead to a denial of an effective remedy for grievances of users, affected parties and internet intermediaries.
- 1.5.4. States should support age- and gender-sensitive activities to promote media and information literacy to ensure that all users are effectively made aware of their rights and freedoms, in particular regarding their right to an effective remedy vis-à-vis both state authorities and internet intermediaries. The promotion of media and information literacy should encompass education about the rights of all stakeholders, including other users and affected parties.

2 - Responsibilities of internet intermediaries with respect to human rights and fundamental freedoms

2.1. Respect for human rights and fundamental freedoms

- 2.1.1. Internet intermediaries should in all their actions respect the internationally recognised human rights and fundamental freedoms of their users and of other parties who are affected by their activities. This responsibility, in line with the UN Guiding Principles on Business and Human Rights, exists independently of the states' ability or willingness to fulfil their own human rights obligations.
- 2.1.2. The responsibility of intermediaries to respect human rights and to employ adequate measures applies regardless of their size, sector, operational context, ownership structure, or nature. The scale and complexity of the means through which intermediaries meet their responsibilities may vary, however, taking into account the severity of impact on human rights that the services provided by the intermediary may have. The higher the impact and the potential damage to the objects of legal protection and the higher the value of the services for the exercise of human rights, the greater the precautions that the intermediary must employ when developing and applying their terms and conditions of service, community standards and codes of ethics aiming, notably, at the prevention of the spread of abusive language and imagery, of hatred and of incitement to violence.
- 2.1.3. Any interference by intermediaries with the free and open flow of information and ideas, be it by automated means or not, should be based on clear and transparent policies and must be limited to specific legitimate purposes, such as to restrict access to illegal content, as determined either by law or by a judicial authority or other independent administrative authority whose decisions are subject to judicial review, or in accordance with their own content restriction policies or codes of ethics, which may include flagging mechanisms.
- 2.1.4. Internet intermediaries should carry out regular due diligence assessments of their compliance with the responsibility to respect human rights and fundamental freedoms and with their applicable duties. To this end, they should conduct assessments of the direct and indirect human rights impacts of their current and possible future policies, products and services on users and affected parties, and ensure appropriate follow-up to these assessments by acting upon the findings, and monitoring and evaluating the effectiveness of identified responses. Intermediaries should conduct these assessments as openly as possible and encourage active user engagement. In all their actions they should be mindful of the public service value of the services they deliver and should seek to avoid and mitigate any adverse effects on the effective exercise of rights by their users or affected parties.
- 2.1.5. Internet intermediaries should seek to provide their products and services without any discrimination. They should seek to ensure that their actions do not have direct or indirect discriminatory effects or harmful impacts on their users or other parties affected by their actions, including on those who have special needs or disabilities or may face structural inequalities in their access to human rights. Intermediaries should further take reasonable and proportionate measures to ensure that their terms of service agreements, community standards and codes of ethics are applied and enforced consistently and in compliance with applicable procedural safeguards. The prohibition of discrimination may under certain circumstances require that intermediaries make special provisions for certain users or groups of users in order to correct existing inequalities.

2.2. Transparency and accountability

- 2.2.1. Internet intermediaries should ensure that all terms of service agreements and policies specifying the rights of users and all other standards and practices for content moderation and the processing and disclosure of user data are publicly available in clear, plain language and accessible formats. When operating globally, intermediaries should translate such documents into the languages that their users and affected parties understand. Users should be notified in advance of all changes in relevant policies regarding the intermediaries' terms and conditions of service as applicable and without delay, and in formats that they can easily access and understand, including explanatory guides.
- 2.2.2. The process of developing and applying terms of service agreements, community standards and content restriction policies should be transparent, accountable and inclusive. Intermediaries should seek to collaborate and negotiate with consumer associations, human rights advocates, and other organisations representing the interests of users and affected parties, as well as with data protection authorities before adopting and modifying their policies. Intermediaries should seek to empower their users to engage in processes of evaluating, reviewing and revising, where appropriate, intermediaries' policies and practices.
- 2.2.3. Internet intermediaries should clearly and transparently provide meaningful public information about the operation of automated data processing techniques in the performance of their functions, including the operation of algorithms that facilitate searches based on user profiling or the distribution of algorithmically selected and personalised content, such as news. This should include information on which data is being processed, how long the data processing will take, which criteria are used, and for what purpose the processing takes place.
- 2.2.4. Intermediaries should regularly publish transparency reports that provide clear (simple and machine-readable), easily accessible and meaningful information about all restrictions of the free and open flow of information and ideas and all requests for such restriction, as well as requests for data access and preservation, whether based on court orders, international mutual legal assistance treaties, private complainant's requests or enforcement of their own content restriction policies.

2.3. Content moderation

- 2.3.1. Internet intermediaries should respect the rights of users to receive, produce and impart information, opinions and ideas. Any measures taken to restrict access (including blocking or removal of content) as a result of a state order or request must be implemented through the least restrictive means.
- 2.3.2. When restricting access to content in line with their own content restriction policies, intermediaries should do so in a transparent and non-discriminatory manner. All content restrictions must be performed by the least restrictive technical means and must be only as broad and maintained for as long as strictly necessary to avoid the collateral restriction or removal of legal content.
- 2.3.3. Any restriction of content must be limited in scope to the precise remit of the order or request and should be accompanied with information to the public, explaining which content has been restricted and on what legal basis. Notice should also be given to the user and other affected parties, unless this interferes with ongoing law enforcement activities, including information on procedural safeguards, opportunities for adversarial procedures for both parties as appropriate and available redress mechanisms.

- 2.3.4. All staff of intermediaries who are engaged in content moderation should be given adequate initial and on-going training on the applicable laws, international human rights standards, their relationship with the intermediaries' terms of service and their internal standards, as well as on the action to be taken in case of conflict. Such training may be provided internally or externally, including through intermediary associations, and should in its scope correspond to the importance of the intermediaries' role and the impact that their actions may have on the ability of users to exercise their freedom of expression. Staff should further be provided with appropriate working conditions. This includes the allocation of sufficient time for assessing content and opportunities to seek professional support and qualified legal advice where necessary.
- 2.3.5. Automated means of content identification are useful to prevent the reappearance of specific items of previously restricted content. Due to their current limited capacity to assess context, intermediaries should carefully assess the human rights impact of automated content management, and should ensure human review where appropriate. They should take into account the risk of over- and under-blocking as a result of inexact algorithmic systems, and the effect this may have on the services that they provide for public debate. Restrictions of access to identical content should not prevent the legitimate use of such content in other contexts.
- 2.3.6. In cases where content is restricted by intermediaries in line with their own content restriction policies because it contains an indication of a serious crime, restriction must be accompanied by adequate measures to ensure that evidence is retained for effective criminal law investigations. If intermediaries have specific knowledge of such restricted content, they should report this to a law enforcement authority without undue delay.

2.4. Use of personal data

- 2.4.1. Intermediaries should not disclose to a third party personal data unless required by law or requested to do so by a judicial authority or other independent administrative authority whose decisions are subject to judicial review that has determined that the disclosure is consistent with applicable laws and standards, necessary in a democratic society and proportionate to the legitimate aim pursued.
- 2.4.2. Internet intermediaries should limit the processing of personal user data to what is necessary in the context of a clearly defined purpose, which is explicitly communicated to all users in a proactive manner. The processing, including collection, retention, aggregation, storage, adaptation, alteration, linking or sharing of personal data must be based on the free, specific, informed and unambiguous consent of the user, with respect to a specific purpose, or on another legitimate basis laid down by law, as prescribed by Convention 108. Complementary safeguards, such as explicit consent, anonymisation or encryption, should be applied to the automatic processing of special categories of data, as defined in Article 6 of Convention 108.
- 2.4.3. User data should only be aggregated and migrated across multiple devices or services following the free, specific, informed and unambiguous consent of users. Users should have the option of using a service without agreeing to such combining of their data. 'Privacy by default' and 'privacy by design' principles should be applied at all stages with a view to prevent or minimise the risk of interference with the rights and fundamental freedoms of users.
- 2.4.4. Users have the right to access their personal data and to obtain correction, deletion and blocking of it. Intermediaries should therefore provide them with relevant information at all stages of processing, using clear and plain language,

especially where such information is addressed to children. Intermediaries should further inform users clearly about the conditions under which they may exercise the right to data erasure, to object to the processing of data, and to withdraw consent provided for the processing of personal data, following which all processing based on the consent of the user should be terminated.

- 2.4.5. Intermediaries should act in line with applicable legal conditions and safeguards regardless of where the collection of data has occurred and including with respect to trans-border data flows.
- 2.4.6. Any tracking and profiling of users by intermediaries should be fully transparent towards users. In order to protect their users' online identity, internet intermediaries should not employ profiling and digital tracking techniques that infringe on the user's exercise of human rights, including the right to freedom of expression and the right to privacy. Intermediaries should seek to protect their users from tracking and profiling by third parties. Adequately trained staff should oversee all matters related to the disclosure of user data to third parties in line with the intermediaries' responsibilities and duties under international personal data protection and privacy standards. A person whose human rights are impacted in a considerable manner by a decision that is taken on the basis of profiling or affected by legal consequences stemming from that decision, should be able to object to that decision.

2.5. Access to an effective remedy

- 2.5.1. Internet intermediaries should make available – online and offline – effective remedies and dispute resolution systems that provide prompt and direct redress in cases of user, content provider and affected party grievances. While the complaint mechanisms and their procedural implementation may vary with the size, impact and role of the internet intermediary, all remedies must allow for an impartial and independent review of the alleged violation. These should - depending on the violation in question - include inquiry, explanation, reply, correction, apology, reinstatement, deletion, reconnection and compensation.
- 2.5.2. Complaint mechanisms, including notice-based procedures, should comply with applicable procedural safeguards and should be accessible, equitable, rights-compatible, affordable and transparent. They should further include in-built safeguards to avoid conflicts of interest when the company is directly administering the mechanism, for example, by involving oversight structures. Complaints mechanisms should be handled without unwarranted delays and should not negatively impact the opportunities for complainants to seek recourse through independent national, including judicial, review mechanisms.
- 2.5.3. Intermediaries should ensure that all users and other parties affected by their actions have full and easy access to transparent information in clear and easily understandable language about applicable complaints mechanisms, the various stages of the procedure, indicative time frames, and expected outcomes.
- 2.5.4. Intermediaries should not include in their terms of service waivers of rights or hindrances to the effective access to remedies, such as mandatory jurisdiction outside of a user's country of residence or non-derogable arbitration clauses.
- 2.5.5. Intermediaries should seek to provide access to alternative review mechanisms that can facilitate the resolution of disputes that may arise between users. Intermediaries should not, however, make alternative dispute mechanisms obligatory as the only means of dispute resolution.
- 2.5.6. Intermediaries should engage in dialogue with consumer associations, human rights advocates and other organisations representing the interests of users and

affected parties, as well as with data protection and other independent administrative or regulatory authorities, to ensure that their complaints mechanisms are designed, implemented, evaluated and improved through participatory processes. They should further regularly analyse the frequency, patterns and causes of complaints received in order to learn lessons for improving their policies, procedures and practices and for preventing future grievances.

- 2.5.7. Intermediaries should engage in and promote targeted age- and gender-sensitive efforts to promote the awareness of all users, irrespective of their background or special needs, of their rights and freedoms in the digital environment, both vis-à-vis states and intermediaries, including in particular information about applicable complaints mechanisms and procedures. The promotion of media and information literacy should encompass education about the rights of all stakeholders, including other users and affected parties.

APPENDIX V

**Composition of the Committee of Experts on Quality Journalism in the Digital Age -
MSI-JOQ
RESULTS OF THE VOTE**

**Composition du Comité d'experts sur un journalisme de qualité à l'ère numérique -
MSI-JOQ
RESULTATS DU VOTE**

CANDIDATES	<i>Nbr of VOTES : total 32</i>	CANDIDATS
1. Dr. Tarlach McGONAGLE , Senior researcher/lecturer, Institute for Information Law, Amsterdam - Irlande	29	1. Dr. Tarlach McGONAGLE , Chercheur et conférencier principal, Institut du droit de l'information d'Amsterdam – Irlande
2. Ms Katharine SARIKAKIS - Professor of Communication Science (Media Industries, Media Organisation, Media Governance), Jean Monnet Chair of European Media Governance and Integration. Director at Media Governance and Industries Research Lab, Department of Communication, Vienna - Greece	28	2. Mme. Katharine SARIKAKIS – Professeur en Sciences de la communication, Chaire Jean Monnet sur la Gouvernance et l'Intégration des médias européens Directrice au laboratoire de recherche sur la gouvernance et l'industrie des médias, Département de la communication, Vienne - Grèce
3. Ms Inge WELBERGEN , Senior Legal officer Media, Ministry of Education, Culture and Science – The Netherlands	28	3. Mme. Inge WELBERGEN , „Senior Legal officer” médias, Ministère de l'éducation, de la culture et des sciences – Pays Bas
4. Mr Markus OERMANN - Policy Consultant, German Federal Commissioner for Culture and the Media, Departement for general issues of the media and media competency – Germany	25	4. M. Markus OERMANN – Consultant en politiques, Commissaire fédéral pour la culture et les médias, Service des questions générales sur les médias et les compétences liées aux médias – Allemagne
5. Mrs Olha Herasymiuk First Deputy Chair, National Council of Television and Broadcasting of Ukraine - Ukraine	22	5. Mme Olha Herasymiuk Première vice-présidente, Conseil national de la télévision et de la radio diffusion d'Ukraine - Ukraine
6. Mr Zoran BOJAROVSKI , professional journalist, specialised in on-line journalism; founder of the first Multimedia Internet platform – the former-yugoslav Republic of Macedonia	22	6. Mr Zoran BOJAROVSKI , journaliste professionnel spécialisé dans le journalisme en-ligne, fondateur de la 1 ^{ère} plateforme de multimédia sur internet – ex-République yougoslave de Macédoine

<p>7. Ms Helena MANDIĆ - Director of Broadcasting - Communications Regulatory Agency - Bosnia and Herzegovina</p>	<p>19</p>	<p>7. Mme Helena MANDIĆ - Directrice de la Radiodiffusion - Autorité de régulations des communications – Bosnie-Herzégovine</p>
<p>Substitute - Pr. Alexander BORISOV, Professor of International Studies at MGIMO – Russian Federation -</p>	<p>9</p>	<p>Suppléant - Pr. Alexandre BORISOV, Professeur d'études internationales au MGIMO – Fédération de Russie</p>

APPENDIX VI
**Composition of the Committee of Experts on human rights dimensions of
automated data processing and different forms of artificial intelligence
(MSI-AUT)**
RESULTS OF THE VOTE

**Composition du Comité d'experts sur les dimensions droits de l'homme des
traitements automatisés des données et différentes formes d'intelligence
artificielle (MSI-AUT)**
RESULTATS DU VOTE

CANDIDATES	Nbr of VOTE: total 32	CANDIDATS
1. Prof. Natali HELBERGER - professor in Information Law, Institute for Information Law - The Netherlands	27	1. Prof. Natali HELBERGER - professeur de droit de l'information - Institut de droit de l'information - Pays-Bas
2. Mr Joe McNAMEE , Executive Director of European Digital Rights (EDRi) – Ireland	26	2. M. Joe McNAMEE , Directeur exécutif de European Digital Rights (EDRi) – Irlande
3. Mr. Luukas ILVES , Counsellor for Digital Affairs, Head of Section, Permanent Representation of Estonia to the EU – Estonia	25	3. M. Luukas ILVES , Conseiller pour les questions numériques, Chef de section, Représentation permanente de l'Estonia auprès de l'UE - Estonie
4. Mr. Jorge Cancio , International Relations Specialist, Federal Office of Communications (OFCOM), Switzerland	24	4. M. Jorge Cancio , Spécialiste des relations internationales, Office fédéral de la communication (OFCOM), Suisse
5. Ms. Tanja Kerševan SMOKVINA - Media and Communications Expert Visiting Lecturer, University of Maribor (Slovenia), Faculty of Electrical Engineering and Computer Science - Founder and Senior Consultant, MeGI, Media Governance Institute – Slovenia	22	5. Mme. Tanja Kerševan SMOKVINA – Experte en média et communication - conférencière invitée, faculté d'ingénierie électrique et des sciences informatiques, Université de Maribor (Slovénie) – Fondatrice et consultante principale, MeGI, Media Governance Institute - Slovénie
6. Mr. Pierluigi PERRI , Professor of Advanced Computer Law at the University of Milan - Italy	19	5. M. Pierluigi PERRI , Professeur de droit de l'informatique à l'Université de Milan - Italie
7. Mr Evgenios NASTOS , Head of Unit for Information Ministry of Digital Policy, Telecoms & Media - Grèce	18	7. M. Evgenios NASTOS , Chef de l'unité de l'information, Ministère des politiques numériques, des télécoms et des médias - Grèce

<p>1st Substitute - . Mr Taha YÜCEL – electrical and electronics engineer – member of the Radio and Television Supreme Council (RTÜK) - Turkey</p>	<p>12</p>	<p>1^{er} suppléant - Mr Taha YÜCEL – Ingénieur en électricité et électronique – membre du Conseil suprême de la radio et de la télévision (RTÜK) - Turquie</p>
<p>2nd Substitute - Mr Arseny NEDYAK – Deputy Director, Department of media regulation, Ministry of Telecom and Mass Communications – Russian Federation</p>	<p>8</p>	<p>2^è suppléant - M. Arseny NEDYAK – Directeur adjoint, Service de la régulation des médias, Ministère des télécommunications et de la communication de masse – Fédération de Russie</p>