



Strasbourg, 2 March 2017

CDMSI(2017)003

**DRAFT CDMSI comments on the Parliamentary Assembly
Recommendation 2098 (2017)**

“Ending cyberdiscrimination and online hate”

1. The CDMSI took note of the Parliamentary Assembly Recommendation 2098 (2017) “Ending cyberdiscrimination and online hate”.¹ It welcomes the approach taken in point 2 of the PACE Recommendation 2098 (2017), emphasising sharing experiences and good practices among member states as a means of tackling the issue of hate speech in online environments.

2. The CDMSI agrees that in combating hate speech member states should be guided by the standards of the Council of Europe, notably the European Convention on Human Rights, the case law of the European Court of Human Rights and the Recommendation No. R(97)20 of the Committee of Ministers to member states on “hate speech”. The principles of this Recommendation apply to both offline and online environments, to all forms that hate speech may take, thereby building common approaches for tackling the issue while respecting the cultural differences that exist in the member states on the notion of hate speech. The non-exhaustive list of forms of and grounds for hate speech contained in this Recommendation is therefore a unique tool enabling member states to address hate speech not as a conventional concept but with the necessary flexibility needed for such a many-sided and constantly evolving phenomenon.

3. The CDMSI recalls that for assessment whether a statement can be qualified as hate speech the European Court of Human Rights has adopted an approach which can be described as highly context-specific. In effect, the Court takes into account not only the grounds for the statement at issue, but also the

¹ Statement by the Delegation of the Russian Federation in the CDMSI: “Referring to the request for the CMDC [CDMSI] members to provide to the Secretariat comments on the two PACE Recommendations (Recommendation 2097 (2017) – “Attacks against journalists and media freedom in Europe” and Recommendation 2098 (2017) – “Ending cyberdiscrimination and online hate”) we would like to state the following: The above mentioned recommendations were adopted at the PACE session (January, 2017, Strasbourg) in the absence of the Russian parliamentary delegation that had been discriminated for a long period by PACE. Accordingly we believe these two documents to be non-consensual and should not be considered in our future work. Taking into account that the Russian side opposed previously launching the CoE Platform mentioned in p.1 of the PACE Recommendation 2097 (2017) we consider it unacceptable to us and refrain from participation in its activities.”

interplay between various factors such as different contexts, aims and effects of the contested speech. In this sense the Recommendation No. R(97)20 is fully in line with the Court's approach.

4. The CDMSI is already working on a draft recommendation on internet intermediaries which is expected to provide guidance on the obligations of states and responsibilities of intermediaries vis-à-vis the exercise of fundamental rights and freedoms online. The draft recommendation will be submitted to the Committee of Ministers in 2017 for adoption.

5. The CDMSI is pleased to note that the Internet Governance Strategy 2016-2019 already envisages measures which are fully in line with the PACE Resolution 2144 (2017) "Ending cyberdiscrimination and online hate" and the PACE Resolution 2141 (2017) "Attacks against journalists and media freedom in Europe", and it also provides for human rights education, including work with children. The corresponding provisions of the Strategy are being enacted primarily through the No Hate Speech Campaign, the Hate Speech Watch, the Platform to promote the protection of journalism and safety of journalists, and also through the work with internet intermediaries. Within its competence the CDMSI will continue working on these issues in a consistent manner.

6. Lastly the CDMSI recalls that the European Commission against Racism and Intolerance (ECRI) has recently adopted General Policy Recommendation No. 15 on combating hate speech. The CDMSI is also mindful of the ongoing revision of the Audiovisual Media Services Directive in the EU, which includes provisions on tackling hate speech by internet video-sharing platforms as well as the Code of Conduct on Countering Illegal Hate Speech Online of the European Commission and IT Companies. The CDMSI will keep track of developments in the field of regulation of hate speech related issues and will consider possible future work on a compilation of good practices during the next biennium.