Information Documents

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Council of Europe Strategy on Internet Governance (2016-2019)

Final report

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Background

1. Internet governance is the development and application by governments, the private sector and civil society, in their respective roles, of shared principles, norms, rules, decision-making procedures, and programmes that shape the evolution and use of the internet.[1] Since 2012 the Council of Europe's strategic approach to internet governance has been a meaningful tool to co-ordinate this process, as well as to provide timely and adequate responses to the challenges to human rights, democracy and the rule of law inevitably deriving from the ever-evolving digital environment.

2. At their 1252nd meeting on 30 March 2016, the Ministers' Deputies adopted the Council of Europe Strategy on Internet Governance for 2016-2019. It builds on the 2012-2015 Strategy and is based on the understanding that the core values of the Council of Europe – democracy, human rights and the rule of law – are inter-related and interdependent and should be protected effectively both in the offline and in the online environment.

3. The aim of the Strategy was to ensure that all public policies related to the internet, including relevant aspects of its infrastructure and functioning which can affect access to, and the exercise of, human rights are people-centred and respect the core values. In accordance with its aim, the Strategy pursues the objectives of (1) building democracy online, (2) ensuring online safety and security for all, and (3) respecting and protecting the human rights of everyone in the digital world.

Oversight of Strategy implementation

4. The Steering Committee on Media and Information Society (CDMSI) was mandated to oversee the implementation of the 2016-2019 Strategy, in co-operation with the Thematic Co-ordinator on Information Policy (TC-INF), appointed by the Committee of Ministers.

5. At the secretariat level, co-ordination of the implementation of and reporting on the Council of Europe Internet Governance Strategy has traditionally been supported by the Inter-secretariat Task Force on Internet Governance and Information Society (IGTF).

6. In April 2018, the IGTF mandate was reviewed to update the scope of its activities and to reaffirm the commitment of all participating major administrative entities. At the same time, to ensure enhanced communication and appropriate co-ordination across the Organisation on internet governance issues, Mr Jan Kleijssen, Director, Information Society – Action against Crime Directorate, was designated as Internet Governance Co-ordinator.

7. The implementation of the Strategy was carried out over two biennium cycles (2016-2017 and 2018-2019), with a focus on the implementation of existing legal instruments, on the development of new policy documents, and on initiatives to raise awareness and build capacity for internet governance in Council of Europe member states. A list of specific activities launched and completed during the Strategy implementation period are annexed.

Main achievements

Pillar I: Building democracy online

8. Building democracy online implies action aimed at making democratic institutions work, thus ensuring that all individuals can exercise their rights and freedoms equally online as offline. This requires strengthening individuals' competencies relevant for democratic citizenship,

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[1] Tunis Agenda, adopted at the second phase of the World Summit on the Information Society in November 2005, point 34.

action to counter hate speech, and wide-ranging initiatives to enhance inclusion and online participation in public life. To this end a variety of activities were carried out by the Council of Europe.

9. The annual editions of the <u>World Forum for Democracy</u>[2] in 2016-2019 channelled the debate on the most topical and complex issues, such as the spread of populism, gender equality in the digital age, and information and democracy.

10. New <u>standard-setting instruments</u> provided guidance to member states on the regulatory approach to social, market and technical challenges induced by the digital revolution and affecting all democratic processes and institutions. These standards include Committee of Ministers' recommendations on standards for e-voting,[3] on Big Data for culture, literacy and democracy,[4] as well as Guidelines for civil participation in political decision-making.[5]

11. The <u>No Hate Speech Movement</u> carried out its campaign in 45 countries, with a campaign committee or support group involving national authorities, civil society partners, human rights and anti-discrimination bodies. While the Council of Europe's campaign has now been successfully completed, national movements and organisational structures continue operating at the national level and are being supported to organise themselves into an international network.

12. The <u>European Commission on Racism and Intolerance</u> (ECRI) prepared a series of <u>country reports</u> that included an assessment of measures tackling hate speech on the internet in member states.[6]

13. The intergovernmental project "<u>Digital Citizenship Education</u>" focused on reshaping education systems to provide children with the competencies that are required for digital citizens in democratic societies.

Pillar II: Ensuring online safety and security for all

14. Member states have the obligation to ensure effective access to and enjoyment of the rights and freedoms enshrined in the European Convention on Human Rights, both offline and online. In addition, several Council of Europe's instruments and frameworks address specific challenges stemming from the digital environment. These instruments include, in particular:

   a) the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (Convention 108),[7]
   b) the Council of Europe Convention on Cybercrime (Budapest Convention),[8]
   c) the Additional Protocol to the Convention on Cybercrime, concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems,[9]

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[2] www.coe.int/en/web/world-forum-democracy
[3] Recommendation CM/Rec (2017)5 on standards for e-voting.
[4] Recommendation CM/Rec(2017)8 on Big Data for culture, literacy and democracy.
[5] Guidelines CM(2017)83 for civil participation in political decision making.
[6] Examples of ECRI's Hate Speech and violence related recommendations can be found in ECRI's fifth cycle country reports.
[7] Council of Europe Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data, ETS 108, as amended by the Protocol amending the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data, CETS 223.
[8] Convention on Cybercrime of the Council of Europe, CETS 185.
[9] Additional Protocol to the Convention on Cybercrime, concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems, ETS 189.

    d) the Convention on the Prevention of Terrorism,[10]
    e) the Additional Protocol to the Council of Europe Convention on the Prevention of Terrorism[11],
    f) the Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention)[12],
    g) the Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (Lanzarote Convention),[13] and
    h) the Convention on the Counterfeiting of Medical Products and Similar Crimes Involving Threats to Public Health (Medicrime Convention).[14]

Activities carried out under the Strategy therefore largely involved the implementation of relevant provisions of these Conventions and their readjustment to the new challenges stemming from the digital environment.

15. A range of Council of Europe convention committees oversee the implementation of the conventions and ensure that they remain up to date with the current technical, social and economic developments. They are mandated to respond to such developments by proposing revisions of their respective conventions where necessary.

16. An important example of such revision is the modernisation of Convention 108 which was completed in May 2018.[15] The new Protocol to the Convention (now commonly referred to as "Convention 108+") addresses the challenges arising from the digital environment and thereby reinforces the protection of persons with regard to the processing of personal data, notably by extending the range of rights available to data subjects and by providing additional safeguards. As of 12 December 2019, Convention 108+ counted 36 signatories and one ratification.

17. The Cybercrime Convention Committee (T-CY) is drafting the Second Additional Protocol to the Budapest Convention to enhance international co-operation, covering specific solutions for more effective mutual legal assistance, direct co-operation with service providers in other jurisdictions, rules for existing practices of transborder access to data, and safeguards regarding data protection requirements.

18. Council of Europe convention committees are also involved in the development of additional guidance to member states, thereby facilitating the effective implementation of the conventions and proactively addressing challenges induced by emerging technologies and new social and institutional developments. Examples of such documents delivered during the reference period include two sets of Guidance Notes by the Cybercrime Convention Committee, one on Aspects of Terrorism covered by the Budapest Convention and the other on Production Orders for Subscriber Information (Article 18 of the Budapest Convention)[16], or the Guidelines on the protection of individuals with regard to the processing of personal data in a world of Big Data,[17] adopted by the Consultative Committee of Convention 108.

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[10] Council of Europe Convention on the Prevention of Terrorism, CETS 196.

[11] Additional Protocol to the Council of Europe Convention on the Prevention of Terrorism, CETS 217.

[12] Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence, CETS 210.

[13] Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse, CETS 201.

[14] Council of Europe Convention on the counterfeiting of medical products and similar crimes involving threats to public health, CETS 211.

[15] Modernised Convention for the Protection of Individuals with Regard to the Processing of Personal Data CM/Inf(2018)15-final.

[16] T-CY Guidance Note #10 on Production orders for subscriber information (Article 18 Budapest Convention), and T-CY Guidance Note #11 on Aspects of Terrorism covered by the Budapest Convention).

[17] T-PD Guidelines on the protection of individuals with regard to the processing of personal data in a world of Big Data.

19. Convention committees also addressed new challenges by means of elaborating reports and studies to help parties better understand newly arising issues and consider possible regulatory responses. For example, the Cybercrime Convention Committee delivered a Mapping study on cyberviolence (with a focus on cyberviolence against women and children) in July 2018[18] and a Guidance Note on Election Interference by means of computer systems in July 2019.[19]

20. During the reference period, the number of parties to these international instruments continued to grow. This reflects increased awareness through promotion of the Council of Europe's work, including at international forums, conferences and workshops. Accession by non-member states from different regions of the world remains a significant trend.

21. On the date of publication of this document, there are 55 parties to Convention 108 and the Consultative Committee of Convention 108 gathers a considerable number of observers. The Budapest Convention has 64 parties while the Protocol to the Budapest Convention on Xenophobia and Racism has 32. The Istanbul Convention counts 34 parties, the Lanzarote Convention 45, and the Convention on the Prevention of Terrorism 40 parties. The "Medicrime" Convention, which addresses among others, the supply, the offering and the counterfeiting of medical products using the internet, counts 16 parties and 16 signatories.

Pillar III: Respecting and protecting the human rights of everyone in the digital world

22. Member states have a duty to protect and ensure respect for the rights and freedoms of internet users, including the right to freedom of expression, freedom of assembly, association and participation, privacy and data protection, education, protection of children and freedom from gender-based violence. To assist member states in complying with this obligation, a series of activities has been carried out as part of the Strategy implementation.

23. Notable results during the reference period include the adoption by the Committee of Ministers of a number of important and politically binding recommendations on:
    a) preventing and combating sexism,[20]
    b) media pluralism and transparency of media ownership,[21]
    c) the roles and responsibilities of internet intermediaries,[22]
    d) internet freedom,[23]
    e) the protection of journalism and safety of journalists and other media actors,[24]
    f) human rights and business.[25]

The Committee of Ministers also adopted Guidelines to respect, protect and fulfil the rights of the child in the digital environment[26] and Declarations on the financial sustainability of quality journalism in the digital age[27] and on the manipulative capabilities of algorithmic processes.[28]

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[18] T-CY Mapping study on cyberviolence.
[19] T-CY Guidance Note #9 on Aspects of election interference by means of computer systems covered by the Budapest Convention.
[20] Recommendation CM/Rec(2019)1 on preventing and combating sexism.
[21] Recommendation CM/Rec(2018)1 on media pluralism and transparency of media ownership.
[22] Recommendation CM/Rec(2018)2 on the roles and responsibilities of internet intermediaries.
[23] Recommendation CM/Rec(2016)5 on internet freedom.
[24] Recommendation CM/Rec(2016)4 on the protection of journalism and safety of journalists and other media actors.
[25] Recommendation CM/Rec(2016)3 on human rights and business.
[26] Recommendation CM/Rec(2018)7 on Guidelines to respect, protect and fulfil the rights of the child in the digital environment.
[27] Declaration Decl(13/02/2019)2 by the Committee of Ministers on the financial sustainability of quality journalism in the digital age.
[28] Declaration Decl(13/02/2019)1 on the manipulative capabilities of algorithmic processes.

24. Council of Europe underline studies and reports developed during the reporting period inform the public as well as policy makers and importantly support standard-setting work. They also facilitate a better understanding of emerging internet-related challenges within member states. Topical studies and other publications issued during the reference period addressed:

a) the human rights dimensions of automated data processing techniques and algorithms,[29]
b) the use of the internet in electoral campaigns,[30]
c) media coverage of elections with a specific focus on gender equality,[31]
d) challenges and opportunities for news media and journalism in an increasingly digital, mobile, and social media environment,[32]
e) journalists under pressure, unwarranted interference, fear and self-censorship,[33]
f) information disorder,[34]
g) and media and information literacy in the digital environment.[35]

Also, a revised Internet Literacy Handbook[36] offers users of all age groups the knowledge needed to navigate in the digital world. A handbook on youth participation in internet governance is currently being developed to promote a more inclusive dialogue with youth activists and movements in the field.

25. During the reference period, Council of Europe action concerning children's rights in the digital environment has been particularly progressive and productive in following up on the priorities set under the Council of Europe Strategy for the Rights of the Child (2016-2021) and the Internet Governance Strategy (2016-2019). Co-ordination and co-operation among the relevant sectors of the Organisation is regularly ensured to maximise impact. Also, based on Recommendation CM/Rec(2018)7 on Guidelines to respect, protect and fulfil the rights of the child in the digital environment, the Children's Rights Division is currently preparing the publication of a Handbook for policy makers and a child-friendly version of the Guidelines, to be released before the end of 2019.

26. The Committee of the Parties of the Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (Lanzarote Committee) is looking into "The protection of children against sexual exploitation and sexual abuse facilitated by information and communication technologies" in its current monitoring round. At its meeting in June 2019, the Committee adopted an Opinion on child sexually suggestive or explicit images and/or videos generated, shared and received by children.[37]

Transversal work on artificial intelligence

27. Although artificial intelligence (AI) was not explicitly mentioned in the current Internet Governance Strategy (2016-2019), its rapid development and impact on the evolution and use of the internet led the Organisation to get involved in this matter. Hence, during the second part of the implementation cycle, the issue of AI and its implications for the core values of the

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[29] Algorithms and Human Rights: Study on the human rights dimensions of automated data processing techniques and algorithms, December 2017.
[30] Internet and Electoral Campaigns: Study on the use of internet in electoral campaigns.
[31] Media, Elections and Gender: Study on media coverage of elections with a specific focus on gender equality.
[32] Challenges and opportunities for news media and journalism in an increasingly digital, mobile, and social media environment.
[33] Journalists under pressure: unwarranted interference, fear and self-censorship in Europe.
[34] Information Disorder: Toward an interdisciplinary framework for research and policy making.
[35] Draft Study on media and information literacy in the digital environment.
[36] Internet Literacy Handbook.
[37] See T-ES(2019)02_en final.

Council of Europe has been a subject of close attention and intensive work of all statutory bodies and thematic sectors of the Organisation.

28. The European Commission for the Efficiency of Justice (CEPEJ) carried out extensive work in examining the challenges of the use of AI in judicial systems, which led to the adoption of the Ethical Charter on the use of artificial intelligence in judicial systems - the first document of this kind at the European and global level, accompanied by a glossary.[38]

29. To ensure timely awareness raising among member states regarding implicit risks to human rights, democracy and the rule of law, the Committee of Ministers adopted a Declaration on the manipulative capabilities of algorithmic processes.[39]

30. The Committee of Experts on Human Rights Dimensions of automated data processing and different forms of artificial intelligence (MSI-AUT) elaborated a study on the Implications of advanced digital technologies (including AI systems) for the concept of responsibility within a human rights framework. The Consultative Committee of Convention 108 adopted Guidelines on Artificial Intelligence and Data Protection.[40]

31. Laying the ground for future work on AI-related issues across the Organisation, the Council of Europe initiated a multi-dimensional debate on the impact of AI on the exercise of human rights at the 2019 High Level Conference "Governing the Game Changer – Impacts of artificial intelligence development on human rights, democracy and the rule of law".

32. The Committee of Ministers, at the level of Foreign Ministers in Helsinki in May 2019, took a decision to examine the feasibility and potential elements of a legal framework for the development, design and application of AI, based on the Council of Europe's standards on human rights, democracy and the rule of law. On the basis of this decision, the Ministers' Deputies have set up an Ad hoc Committee on Artificial Intelligence (CAHAI), which started working in November 2019.[41]

33. Noting that it is increasingly difficult for lawmakers to adapt to the speed at which science and technologies evolve and to draw up the required regulations and standards, the Parliamentary Assembly of the Council of Europe (PACE) adopted a Recommendation on Technological convergence, artificial intelligence and human rights.[42] The PACE Committee on Legal Affairs and Human Rights established a Sub-Committee on Artificial Intelligence and Human Rights.

34. The Council of Europe Commissioner for Human Rights published, in July 2018, a comment on Safeguarding human rights in the era of artificial intelligence[43] and a Recommendation on Unboxing Artificial Intelligence: 10 steps to protect Human Rights.[44]

Multi-stakeholder co-operation and international dialogue

35. The 2016-2019 Strategy attached importance to the review, strengthening and development of synergies and partnerships with key stakeholders. In its implementation, the

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[38] See European Ethical Charter on the use of AI in judicial systems and their environments.
[39] Declaration Decl(13/02/2019)1 on the manipulative capabilities of algorithmic processes.
[40] T-PD Guidelines on Artificial Intelligence and Data Protection.
[41] https://www.coe.int/en/web/artificial-intelligence/cahai.
[42] PACE Recommendation 2102(2017) on Technological convergence, artificial intelligence and human rights.
[43] Human rights comment by the Council of Europe Commissioner for Human Rights on Safeguarding human rights in the era of artificial intelligence of 3 July 2018.
[44] Recommendation by the Council of Europe Commissioner for Human Rights on Unboxing Artificial Intelligence: 10 steps to protect Human Rights.

Council of Europe continuously promoted partnerships with different stakeholders amongst governments, the private sector, civil society, the technical community and academia.

36. The Organisation's co-operation with civil society and academia has been developing, resulting in, among other things, a significative number of studies and reports laying a solid basis for the Organisation's standard-setting work. As another example, the Platform for the Protection of Journalism and Safety of Journalists[45] operates in collaboration with civil society partner organisations. It collects and disseminates information on the most serious concerns about media freedom and safety of journalists, arising both in the online and offline environment.

37. A framework for closer and more regular co-operation with business stakeholders was set up in November 2017 when the then Secretary General exchanged letters of mutual commitment to co-operate with leading technology firms and associations.[46] This co-operation framework enhances the commitment of private companies in promoting an open and safe online environment where the core principles of human rights, democracy, and the rule of law are respected.

38. In May 2018 and in June 2019, representatives of these business partner stakeholders came to Strasbourg, at the invitation of the TC-INF, for an exchange of views with the Committee of Ministers on ongoing co-operation activities and current challenges to internet governance. Topics of discussion included cyber security systems and solutions, privacy and big data analytics, content moderation on social media, democratic processes and micro-targeting, as well as the question of the feasibility of a legal framework relating to the design, development and deployment of AI tools based on Council of Europe standards. Strengthened dialogue and closer co-operation with the private sector has helped to achieve a better understanding of complex technical matters and has translated into the more active engagement of diverse stakeholders in Council of Europe expert groups and also the targeted promotion of Council of Europe standards at diverse international forums.

39. As a part of international dialogue, the Council of Europe organised numerous national, regional and international events to raise awareness of the specificities of the online environment with respect to access to and exercise of human rights. It also contributed actively to the global debate around digital technologies and internet governance. This included the co-ordinated participation in international discussion forums, such as the UN-led Internet Governance Forum (IGF) at global, regional and national level, the European Dialogue on Internet Governance (EuroDIG), the South Eastern European Dialogue on Internet Governance (SEEDIG), RightsCon or the yearly Computers, Privacy and Data Protection (CPDP) conferences. Due to this work, during the period of the Strategy implementation, the outreach and visibility of the Organisation's work has progressed significantly.

Conclusion

40. The implementation of the Council of Europe's Internet Governance Strategy 2016-2019 led to substantial achievements in the area of internet governance and digital evolution. Particularly useful in this respect were the transversal working methods implemented across the Organisation and the work of the Inter-Secretariat Task Force.

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[45] For further information, please see the official website of the Platform for the Protection of Journalism and Safety of Journalists.

[46] For further information on the Exchange of Letters, please visit: https://www.coe.int/en/web/freedom-expression/exchange-of-letters.