

Steering Committee on Media and Information Society

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

6th Meeting – 20 to 23 May 2014 (Strasbourg, Agora building, Room G03)

**Meeting report
CDMSI(2014)008
10/07/2014**

1. Opening of the meeting

1. The Steering Committee on Media and Information Society (CDMSI), met in Strasbourg under the chairmanship of Ms Maja Rakovic. The gender distribution among 74 attendants was 25 women (34%) and 49 men (66%).

2. Adoption of the agenda

2. The CDMSI adopted the draft agenda with the addition of CODEXTER activities as sub item 8.7. The list of participants and the agenda appear in Appendices I and II respectively.

3. Information by the Chair and the Secretariat

3. The CDMSI Chair welcomed the new delegates.

4. Mr Jan Kleijssen, Director of Information Society and Action against Crime provided the CDMSI with information and held an exchange of views with him notably on topical issues related to Internet governance. The CDMSI took note of the adoption by the Committee of Ministers of two texts prepared by the Steering Committee, namely the Declaration on the protection of journalism and safety of journalists and other media actors and the Recommendation CM/Rec(2014)6 of the Committee of Ministers to member states on a Guide to human rights for Internet users. It agreed to communicate to the Secretariat steps taken in member States for the Guide's dissemination and its implementation. Estonia as the Thematic Coordinator for Information Policy provided information with regard to a side-event organised in the margins of the Freedom Online Conference in Tallinn (28-29 April 2014) where the Guide was launched to the public. Other members, including Bulgaria, Greece, Netherlands, Russia, Poland and Austria, provided positive feedback on activities to promote the Guide.

5. The CDMSI took note of the information on the European Union Human Rights Guidelines on Freedom of Expression Online and Offline provided by Mr Giovanni Carlo Bruno, Deputy to the Head of the Delegation of the European Union to the Council of Europe, and welcomed the Guidelines.

4. Implementation of Council of Europe adopted standards in member states

6. It agreed on a proposal by the Secretariat for the format of follow-up of the implementation of Council of Europe adopted standards in member states and decided that the first theme will be "Safety of journalists" to be discussed at its next meeting in November 2014.

5. Media

7. The Secretariat informed the CDMSI about the 1st meeting of the Committee of experts on protection of journalism and safety of journalists (MSI-JO). The CDMSI welcomed the work of the Committee of Experts and agreed on the approach proposed by the secretariat for a collection of best practices prior to the elaboration of a draft recommendation on protection of journalism and safety of journalists.

8. CDMSI members and the Secretariat informed the Steering Committee about the Round Table on Safety of Journalists which took place on 19 May 2014. The CDMSI underlined that work on safety of journalists should be carried out as a matter of priority.

9. The CDMSI welcomed the Report of the Secretary General of the Council of Europe on the State of Democracy, Human Rights and the Rule of Law in Europe and noted that it looks forward to follow-up decisions of the Committee of Ministers in its respect.

10. The Secretariat informed the CDMSI about the follow up given to the Recommendation CM/Rec(2013)1 of the Committee of Ministers to member States on gender equality and media. The CDMSI took note of this information and welcomed the ongoing cooperation with the Gender Equality Commission.

11. The CDMSI took note of the information provided by the Secretariat on the New Hate Speech draft strategic objectives, which were prepared by the Secretariat of the Youth Department on the basis of the document revised by the follow-up group of the No Hate Campaign. The CDMSI emphasised the expertise and past work of the CDMSI and its predecessor committees and considered it necessary to draw upon that expertise in any development of new initiative or new instruments in the field, bearing in mind the need for transversal cooperation.

12. Regarding transparency of media ownership, the CDMSI took note of plans by the European Commission for a high level event towards the end of 2014. The CDMSI was also informed about a possible initiative in PACE on this matter, notably to develop and present an expert report on Transparency of Media Ownership in Autumn 2014 with a view to adoption of a PACE report together with a resolution and a recommendation at the spring session of 2015. The CDMSI stressed the importance of this topic and agreed to discuss the matter further during its next meeting.

13. The CDMSI was briefed by the Secretariat on past, on-going and planned co-operation activities in the field of media and internet governance. Noting the concrete results of some of these activities, the CDMSI welcomed this work, in particular the most recent project launched for Ukraine in the framework of the immediate measures package regarding media coverage of the presidential election campaign, the election to take place on 25 May 2014.

6. Information Society

13. The Secretariat informed the CDMSI about the 1st meeting of the Committee of Experts on cross-border flow of Internet traffic and Internet freedom (MSI-INT) and the progress of its work. The CDMSI welcomed the work of the MSI-INT and expects to be able to discuss, at its next meeting, the preliminary elements of draft recommendations foreseen in the MSI-INT Terms of Reference.

14. The CDMSI examined the Draft Recommendation CM/Rec(2014)___of the Committee of Ministers to member States on protecting and promoting the right to freedom of expression and the right to private life with regard to network neutrality. It underlined that the human rights approach embodied in the text is the added value of this draft recommendation, in particular in light of the current legislative processes in the European Union and discussions elsewhere notably at NETmundial and IGF. The CDMSI finalised the draft recommendation (Appendix III) and decided to give its members a period of three weeks for validation within their respective administrations. In the absence of any objections or substantive changes proposed to the text to be sent to the Secretariat by 23 June 2014, end of the day, this draft

recommendation is considered approved by the CDMSI. It will then be transmitted to the CM for consideration and possible adoption. The draft recommendation will be sent to the CDDH, CDPC, the TP-D and the T-CY for information.

15. The CDMSI discussed the state of implementation of the Council of Europe's Internet Governance Strategy 2012-2015 and expressed concerns about some of the items of the strategy that are not started yet; it proposed that members make suggestions for emerging issues by the next meeting to be addressed by the future Strategy with the help of the Thematic Co-ordinator on Information Policy (TC-INF) and in view of the summary and proposals of the Conference on "Shaping the Digital Environment – Ensuring our Rights on the Internet" held in Graz, 13-14 March 2014 in the framework of the Austrian Chairmanship of the Committee of Ministers.

16. The CDMSI welcomed the programme and activities of the up-coming edition of the European Dialogue on Internet Governance - EuroDIG (12-13 June 2014, Berlin) and took note of the information provided by the Secretariat on Council of Europe participation and contribution in the Internet Governance Forum – IGF (Istanbul, 25 September 2014). Considering the importance of the World Summit for Information Society (WSIS) +10 Review Process, it decided that an item should be devoted to it in the agenda of its next meeting.

17. The Secretariat informed the CDMSI about Council of Europe participation in ICANN activities, in particular in the High Level Panel on Global Internet Cooperation and Governance Mechanisms (London, December 2013; California, February 2014; Dubai, May 2014) and in some Internet governance important events (NETmundial: Global multi-stakeholder meeting on the future of Internet governance - São Paulo, 23-24 April 2014; Freedom Online Coalition – free and secure Internet for all - Tallinn, 28-29 April 2014).

7. Data protection - Standard setting activities

18. The CDMSI welcomed the state of play of the revision process of the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (CETS 108) and of other activities regarding data protection; it also took note of the on-going work of the ad hoc Committee on data protection (CAHDATA).

8. Information about work of other organisations and other CoE bodies

19. The CDMSI took note of information and reports by the Chair, Ms Maja Rakovic (Serbia), and Bureau members in relation to their participation in different events, notably the report by Ms Christina Lamprou (Greece) and its Chair Ms Rakovic on the Conference on "Protection of minors in the digital era", Athens, 14-15 April 2014, organised in the framework of the Hellenic Presidency of the EU; information provided by Ms Bissera Zankova (Bulgaria) on a Seminar on "Combating Discrimination for a Fair Society", organised by the Bulgarian Commission for Protection against Discrimination (Hissarya, February 2014); report by the Chair on the Council of Europe Conference on "Growing with Children's Rights" (Dubrovnik 27-28 March 2014); an expert report on a Conference on Regional Media, organised by the Institut des Regionen Europas (Novi Sad, 25 April 2014). The CDMSI also noted the up-coming seminar on New media literacy, organised in the framework of the Leonardo da Vinci project in Bratislava (29-30 May 2014), where it will be represented by its Bureau member Mr Emir Povlakic (Bosnia-Herzegovina).

20. The CDMSI recalled its comments on the Parliamentary Assembly Recommendation 2036(2014) 'Revision of the European Convention on Transfrontier Television (ECTT)' which were transmitted to the Committee of Ministers (CDMSI(2014)002). It welcomed the participation of a representative of the EU Commission in the meeting and had an exchange of views. While different possibilities to overcome the deadlock in the revision of the ECTT were discussed, the CDMSI noted with regret that the EU Commission's position remained unchanged. It therefore underlined the desirability of overcoming the current situation, possibly through enhanced dialogue between the Council of Europe and the EU. In respect of the PACE recommendation to consider drafting a new convention focussing on freedom of

expression aspects of media regulation and the recommendation to draft guidelines on media freedom adapted to the changing media landscape, the CDMSI agreed that, in the first place, it is necessary to resolve the situation with regard to the ECTT revision process.

21. Further to an exchange of views with the Secretary of the Sub-Committee on Media and Information Society of the Parliamentary Assembly on on-going work of the sub-committee, the CDMSI agreed that there is a need for more regular exchanges of information and cooperation between the two committees. In respect of PACE Rec2041(2014) 'Improving user protection and security in cyberspace', the CDMSI took note of the invitation by the Committee of Ministers to provide comments and agreed to prepare them on the basis of comments by delegations.

22. The CDMSI welcomed the adoption by the Committee of Ministers of a Recommendation CM/Rec(2014)7 on the protection of whistle-blowers. It took note of information provided by the Secretariat of the Consultative Council of European Prosecutors (CCPE) on the Opinion(2013)No. 8 of the Consultative Council of European Prosecutors on relations between prosecutors and the media. The CDMSI took note of the information provided by the Secretariat of the Steering Committee for Human Rights (CDDH) on the Declaration of the Committee of Ministers on the UN Guiding Principles on business and human rights (Adopted by the Committee of Ministers on 16 April 2014) and on the work of the respective drafting group.

23. The European Broadcasting Union (EBU) provided information on difficult situations in some of member states with regard to public service media. The CDMSI agreed to keep the issue of public service broadcasting on the agenda of its future meetings.

24. The CDMSI welcomed the invitation by CODEXTER to take part in the work on the revision of the Recommendation Rec(2005)10 of the Committee of Ministers to member states on 'special investigation techniques' in relation to serious crimes including acts of terrorism, which it will gladly accept.

9. Budget and administrative matters

25. The CDMSI took note of relevant information provided by the Secretariat, notably on the difficulties to replace staff members as a result of the implementation of the contractual policy and budgetary decisions.

10. Priorities of CDMSI work and working methods

26. The CDMSI decided to discuss priorities in view of their current terms of reference and the CM decisions taken at their 1187th meeting, 11-12 December 2013, in light of the Report of the Secretary General on the Council of Europe Conference of Ministers responsible for Media and Information Society (Belgrade, 7 -8 November 2013, CM (2013)162) during its next meeting in November. In preparation of this discussion, CDMSI members will receive a list of outstanding issues to be prepared by the Secretariat to enable members to submit proposals for discussion.

11. Other questions: application to observer statutes by Internet Watch Foundation

27. The Internet Watch Foundation presented its application for observer status. The CDMSI had an exchange of views on the application having regard to the general criteria it has applied in the past in this regard, which include broad experience in the area of competence of the Committee or the subordinate bodies concerned, ability to make an effective and high quality contribution to the relevant bodies' activities and representativeness at European level. The CDMSI agreed to postpone its decision on the application by the Internet Watch Foundation until the applicant provides additional information about its representativeness of hotline networks that have a European remit.

12. Adoption of the abridged report and dates of next meetings

28. The CDMSI considered the draft abridged report of the meeting and adopted it. It asked the Secretariat to circulate it to the plenary via E-mail for information and possible comments. It took note of the dates of the next Bureau meeting (24-25 September 2014) and the plenary CDMSI meeting (18 -21 November 2014).

Appendix I**List of participants****ALBANIA/ALBANIE**

Mr Glevin Dervishi (Excused)
Albanian Ministry of Foreign Affairs

ARMENIA/ARMENIE

Ms Lusine Harutyunyan
Department for Relations with the European Court on Human Rights, Ministry of Justice of the Republic of Armenia

AUSTRIA/AUTRICHE

Mr Matthias Traimer
Federal Chancellery, Head of Department, Media Affairs and Information Society, Federal Chancellery, Constitutional Service

AZERBAIJAN

Ms Jeyran Amiraslanova
Senior Consultant for Public and Political Issues, Office of the President of the Republic of Azerbaijan

BELGIUM/BELGIQUE

Mr Johan Bouciqué
Media Advisor, Flemish Government, Department of Culture, Youth, Sports and Media

BOSNIA AND HERZEGOVINA/BOSNIE-HERZEGOVINE

Mr Emir Powlakic
Head of Division for Licensing, Digitalization and Coordination in Broadcasting, Communications Regulatory

BULGARIA/BULGARIE

Ms Bissera Zankova, Media Expert / Consultant
Ministry of Transport, IT and Communications

CROATIA/CROATIE

Mr Milan F. Zivkovic
Head Advisor for Communication Policy, Ministry of Culture

CYPRUS/CHYPRE

Ms Eleonora Gavrielides
Ministry of Interior

CZECH REPUBLIC/REPUBLIQUE TCHEQUE

Mr Artuš Rejent
Media and Audio-Visual Department, Ministry of Culture

DENMARK/DANEMARK

Ms Katja Just Maarbjerg
Ministry of Culture

ESTONIA/ESTONIE

Mr Indrek Ibrus
Senior specialist of audiovisual affairs, Estonian Ministry of Culture

FINLAND/FINLANDE

Ms Nina Paakkonen

Communications Policy Department, Ministry of Transport and Communications

FRANCE

Ms Joanna Chansel
Ministère de la Culture et de la Communication

Ms Catherine Souyri-Desrosier
Ministère des Affaires étrangères, Direction de la coopération culturelle, universitaire et de la recherche, Pôle de l'audiovisuel extérieur

GEORGIA/GEORGIE

Ms Irine Bartaia
Deputy Director, Department of International Law, Ministry of Foreign Affairs of Georgia

GERMANY/ALLEMAGNE

Mr Oliver Schenk (20-21 May)
Division K 31, International Media Cooperation, Federal Government Commissioner for Culture and the Media

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

GREECE/GRECE

Ms Christina Lamprou
Head of the Department of Audiovisual Affairs, Directorate of Mass Media - General Secretariat of Information and Communication, Hellenic Republic

HUNGARY/HONGRIE

Mr György Ocskó
International Legal Adviser, National Media and Infocommunications Authority

Mr János Auer
Member of the Media Council of the National Media and Infocommunications Authority

ICELAND/ISLANDE

Ms Margrét Magnúsdóttir
Legal Adviser, Ministry of Education, Science and Culture

IRELAND/IRLANDE

Mr Éanna O'Conghaile
Principal Officer, Broadcasting Policy Division, Department of Communications, Energy & Natural Resources

Mr Richard Browne, Department of Communications, Energy & Natural Resources

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

Mr Philipp Mittelberger
Data Protection Commissioner of the Principality of Liechtenstein

MONACO

M. Serge Robillard, Chef de Division, Direction des Communications Électroniques, Principauté de Monaco

MONTENEGRO

Mr Ranko Vujovic, Executive Director, UNEM

REPUBLIC OF MOLDOVA

Ms Ana Taban, Head of Information and Media Outreach Office, Ministry of Foreign Affairs and European Integration

Ms Mariana Onceanu Hadrica
Member of Coordinating Council of Audiovisual

THE NETHERLANDS/PAYS-BAS

Mr Nol Reijnders
Deputy Head of Media Policy, Ministry of Education, Culture and Science, Department for Media, Literature, Libraries

Ms Pien van den Eijnden (21-22 May)
Legal Adviser, Constitutional Affairs, Ministry of the Interior and Kingdom Relations

NORWAY/NORVEGE

Mr Olav Guntvedt
Assistant Director General, Departement of Media Policy and Copyright, Ministry of Culture

Mr Anders Huitfeldt
Ministry of Culture, Department of Media and Copyright

POLAND/POLOGNE

Mr Maciej Gron Director of the Department of Information Society, Ministry of Administration and Digitization

Ms Małgorzata Pek
Deputy Director of Strategy Department, Office of The National Broadcasting Council

PORTUGAL

Mr Pedro Ruivo (GMCS, Portugal, Cabinet pour les Medias ("Gabinete para os Meios de Comunicação Social"))

ROMANIA / ROUMANIE

Ms Delia Mucica, Ministry of Culture and National Heritage

RUSSIAN FEDERATION / FEDERATION RUSSIE

Mr Alexander Surikov
Deputy Director, Department of Information and Press, Ministry of Communication

SERBIA/SERBIE

Ms Maja Rakovic, 1st Adviser, Serbian Embassy in France

SLOVENIA/SLOVENIE

Mr Skender Adem
Undersecretary, Ministry of Culture of Republic of Slovenia

SWEDEN

Mr Christoffer Lärkner
Department of Culture

SWITZERLAND

Mr Thomas Schneider

International Affairs, Federal Office of Communication, Federal Department for the environment, transport, energy and communication

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„Former Yugoslav Republic of Macedonia“/ „Ex république yougoslave de Macédoine“

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Mr. Esat Çiplak
Member, Radio and Television Supreme Council of Turkey

Mr Ali Öztunç
Member of the Supreme Council, Radio and Television Supreme Council of the Republic of Turkey

Mr Özgür Fatih Akpınar, Head of Department, Information and Communications Technologies Authority (ICTA)

Mr Mustafa Özdemir, ICT Expert, Information and Communications Technologies Authority (ICTA)

UKRAINE

Mrs Larysa Mudrak
Deputy Chairman of the National Television and Radio Broadcasting Council

Ms Larysa Vasylenko
Head of International Relations Division of the National Television and Radio Broadcasting Council

UNITED KINGDOM/ROYAUME-UNI

Ms Katharina Ribbe (20-21 May)
Head of Broadcasting Content Regulation

Mr Mark Carvell (22-23 May)
Media Team, Department for Culture, Media and Sport

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OBSERVERS/PARTICIPANTS

BELARUS

Mr German Puzyrny
First secretary of Information Directorate, Press Office, Ministry of Foreign Affairs of the Republic of Belarus

EUROPEAN UNION/UNION EUROPEENNE

Ms Lorena Boix Alonso
Head of Converging Media and Content Unit, European Commission

Mr Giovanni Carlo Bruno

Deputy Head of Delegation, EU Delegation to the Council of Europe

EUROPEAN BROADCASTING UNION (EBU) / UNION EUROPEENNE DE RADIO-TELEVISION (UER)

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

Ms Anne-Catherine Berg, Legal Adviser, Legal Department

Mr Giacomo Mazzone, Head of Institutional Relations, Public Affairs & Communications

EuroISPA

Mr Michael Rotert

Honorary Spokesman

ASSOCIATION OF EUROPEAN JOURNALISTS (AEJ) / MEDIA FREEDOM REPRESENTATIVE

Mr William Horsley

EUROPEAN DIGITAL RIGHTS (EDRI)

Mr Joseph McNamee, Executive Director

EUROPEAN NEWSPAPER PUBLISHERS ASSOCIATION (ENPA) / ASSOCIATION EUROPEENNE DES EDITEURS DE JOURNAUX

Mr Holger Rosedal, Head of Legal Department

COPEAM

Mr Nicola Caligiore

Deputy Secretary General

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Mr Gabriel Nissim

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Mr Kristof Claesen, Press and Public Affairs Manager

MEXICO / MEXIQUE

Deputy Juan Pablo Adame Alemán

President of the Commission of Digital Agenda and Information Technologies

Chamber of Deputies of Mexico

Amb. Santiago Oñate Laborde, Permanent Observer of Mexico.

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INTERPRETERS / INTERPRETES

Ms Amanda Beddows
Ms Angela Brewer
Ms Monique Palmier
Ms Christine Trapp

* * *

SECRETARIAT

Mr Jan Kleijssen, Director of Information Society and Action against Crime, Directorate General Human Rights and Rule of Law
Mr Jan Malinowski, Head of Information Society Department, Directorate General Human Rights and Rule of Law
Ms Silvia Grundmann, Head of Media Division, Directorate General of Human Rights and Rule of Law, Secretary to the Steering Committee on Media and Information Society
Ms Onur Andreotti, Administrator, Media Division, Directorate General Human Rights and Rule of Law
Ms Elvana Thaçi, Administrator, Media Division, Directorate General Human Rights and Rule of Law
Ms Anne Boyer-Donnard, Principal Administrative Assistant, Media Division, Directorate General Human Rights and Rule of Law
Mr Lee Hibbard, Administrator, Information Society Unit, Directorate General Human Rights and Rule of Law
Ms Loreta Vioiu, Administrator, Information Society Unit, Directorate General Human Rights and Rule of Law
Ms Sophie Kwasny, Administrator, Data Protection Unit, Directorate General Human Rights and Rule of Law
Ms Maria Michaelidou, Programme Advisor, Data Protection Unit, Directorate General Human Rights and Rule of Law
Ms Julia Whitham, Assistant, Directorate General Human Rights and Rule of Law
Ms Sonya Folca, Assistant, Directorate General Human Rights and Rule of Law
Ms Elisabeth Maetz, Assistant, Directorate General Human Rights and Rule of Law

APPENDIX II

AGENDA

1. Opening of the meeting

2. Adoption of the agenda

3. Information by the Chair and the Secretariat

3.1 Committee of Ministers Declaration on the protection of journalism and safety of journalists and other media actors

3.2 Recommendation CM/Rec(2014)6 of the Committee of Ministers to member states on a Guide to human rights for Internet users

3.3 Committee of Ministers Thematic debate on "Safety of journalists - further steps for the better implementation of human rights standards" (12/12/2013)

3.4 EU Human Rights Guidelines on Freedom of Expression Online and Offline

4. Implementation of Council of Europe adopted standards in member states

5. Media

5.1. Standard setting activities

5.1.1 Committee of experts on protection of journalism and safety of journalists (MSI-JO)

5.1.2. Round Table on safety of journalists (19 May 2014)

5.1.3 Report of the Secretary General of the Council of Europe on the State of Democracy, Human Rights and the Rule of Law in Europe

5.1.4. Gender equality and the media

5.1.5 Hate speech

5.1.6 Transparency of media ownership

5.2 Cooperation and outreach

5.2.1 On-going and future activities

6. Information Society

6.1. Standard setting activities

6.1.1 Committee of Experts on cross-border flow of Internet traffic and Internet freedom (MSI-INT)

6.1.2 Draft Recommendation of the Committee of Ministers on network neutrality

6.1.3 Council of Europe Internet Governance Strategy 2012-2015 and new Internet Governance Strategy 2015-2019

6.2. Other Internet Governance activities

6.2.1 European Dialogue on Internet Governance (EuroDIG – 12-13 June 2014, Berlin)

6.2.2 Internet Governance Forum (IGF, Istanbul, 25 September 2014)

6.2.3 ICANN

6.2.4 On-going and future activities

7. Data protection - Standard setting activities

8. Information about work of other organisations and other CoE bodies

8.1 Participation of CDMSI in events and meetings

8.2 Parliamentary Assembly of the Council of Europe (PACE)

8.3 European Committee on Legal Co-operation (CDCJ)

8.4 Consultative Council of European Prosecutors (CCPE)

8.5 Steering Committee for Human Rights (CDDH)

8.6 European Broadcasting Union (EBU)

9. Budget and administrative matters

10. Priorities of CDMSI work and working methods

11. Other questions

Internet Watch Foundation – application to observer statutes

12. Adoption of the abridged report of the meeting

APPENDIX III**Draft Recommendation CM/Rec(2014)___of the Committee of Ministers to member States on protecting and promoting the right to freedom of expression and the right to private life with regard to network neutrality**

1. The European Convention on Human Rights (ETS No. 5, hereinafter the Convention), the International Covenant on Civil and Political Rights as well relevant international instruments apply equally to the Internet as they do to offline activities. Council of Europe member states have an obligation to secure to everyone within their jurisdiction the rights and freedoms defined in the Convention and interpreted by the European Court of Human Rights.

2. Article 10 of the Convention guarantees the right to freedom of expression to everyone. It applies not only to the content of the information but also to the means of dissemination, since any restriction imposed on the means necessarily interferes with the right to receive and impart information. Any interference must meet the requirements of legality, necessity in a democratic society which includes proportionality, in compliance with Article 10 of the Convention in order to be justified. The right to freedom of expression is both a right on its own and an enabler of other fundamental rights and freedoms, including the right to freedom of association and the right to private life.

3. The right to private life, which is protected by Article 8 of the Convention, is not only an individual right but also an essential condition for democratic societies. The protection of personal data is intrinsic to the right to private life and it should be guaranteed in full compliance with the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (ETS No. 108).

4. The Internet offers an unprecedented opportunity for the realisation of freedom of expression and the right to receive and impart information of people's choice. This should not depend on the ownership or exploitation of means of mass communication or channels of distribution. The Committee of Ministers in its Declaration on Network Neutrality has stated that individuals should have the greatest possible access to Internet-based content, applications and services of their choice, whether or not they are offered free of charge, using suitable devices of their choice. This is also reinforced by Recommendation CM/Rec(2014)6 to member States on a Guide to human rights for Internet users. The open network principle is also important for the overall governance of the Internet as set out in the Committee of Ministers Declaration on Internet governance principles.

5. The Internet has public service value as it provides people with an essential tool for their everyday activities, including communication, information, knowledge, access to culture, and commercial transactions as well as a space for engagement in and contribution to political processes and democratic governance. Recommendation CM/Rec(2007)16 of the Committee of Ministers to member states on measures to promote the public service value of the Internet proposes policy and regulatory measures and offers guidelines on how to ensure the protection and promotion of human rights and fundamental freedoms on the Internet, promote Internet access, diversity, openness and security.

6. The growth and success of the Internet as a global public resource is based on its distributed nature and management by multiple stakeholders. Its creative and innovative power is the result of the openness that the Internet technical standards and architecture have offered to specialists and network end-users at large. The Committee of Ministers Declaration on Internet Governance Principles has emphasised that the preservation of open standards, the interoperability of the Internet, its end-to-end nature and the Internet's potential for innovation are founding principles for the governance of the Internet.

7. Providers of Internet access services have the ability to manage information and data flows (traffic) transiting through the Internet networks that they operate. They may engage in practices of traffic management for different legitimate purposes such as to preserve the integrity and security of the network. However, they also have the ability to block, downgrade or prioritise specific types of content, applications or services. Some of the techniques used in this context permit inspection or monitoring of the content of end-users' communications,

which in turn may have implications for the fundamental right to respect for private life, respect for correspondence as well as for personal data protection.

8. Measures that block and filter Internet content and services are bound to have an impact on Internet accessibility and accordingly engage the responsibility of a state under Article 10 of the Convention. Recommendation CM/Rec(2008)6 of the Committee of Ministers to member states on measures to promote the respect for freedom of expression and information with regard to Internet filters provides relevant guidelines in connection with the full exercise and enjoyment of the right to freedom of expression and the right to private life.

9. In the modern information society, the ability to freely receive and impart information and ideas and to fully participate in democratic life is increasingly reliant upon the quality of one's Internet connection. The users' experience on the Internet will determine which information they will ultimately have access to. Slow connections or prioritised services affect users' experience. Moreover, fear about inspection or monitoring of individuals' communications over the Internet can fundamentally undermine the trust of people in the Internet. Surveillance which does not meet the requirements of Article 8 of the Convention is incompatible with a free Internet.

10. Access to diverse and pluralistic information and public service media content on the Internet is important for the general interest, media pluralism and cultural diversity as set out in Recommendation CM/Rec (2007)3 of the Committee of Ministers to member states on the remit of public service media in the information society. Discriminatory and/or preferential treatment of traffic, especially in terms of favouring specific content, has a negative impact on users' right to freedom of expression and to receive and impart information as well as on accessibility of diverse and pluralistic information.

11. The principle of network neutrality reinforces the full exercise and enjoyment of the right to freedom of expression, the right to private life and supports technological innovation and economic growth. The implementation of this principle should be put in place through an appropriate policy framework which guarantees the right to have access to diverse and pluralistic information. It should also provide guidelines with regard to the evaluation of the legality, necessity and proportionality of limitations to access as well as the implementation of the principle by public authorities.

12. Therefore, with a view to protecting and promoting the right to freedom of expression in compliance with Article 10 of the Convention, the right to private life in compliance with Article 8 of the Convention and to promote full delivery of the public service value of the Internet, the Committee of Ministers recommends that, member states in co-operation with all relevant stakeholders, take all the necessary measures to safeguard the principle of network neutrality having regard to the guidelines on network neutrality as set out in the appendix to this recommendation. The Committee of Ministers invites Member States to promote these guidelines in other international and regional fora that deal with the issue of network neutrality.

Appendix to Recommendation CM/Rec(2014)____

Guidelines on network neutrality

General principles

1. In the exercise of their right to freedom of expression, in compliance with Article 10 of the Convention, Internet end-users have the right to access and distribute information, applications, services and to use devices of their choice. This right must be enjoyed without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.
2. Internet traffic should be treated equally, without discrimination, restriction or interference irrespective of the sender, receiver, content, application, service or device. This is understood as the network neutrality principle.
3. Internet users' freedom of choice should not be restricted by favouring or hindering the transmission of Internet traffic associated with particular content, services, applications or devices or traffic associated with services provided on the basis of exclusive arrangements.
4. The network neutrality principle should be applied to all services that provide Internet connectivity to Internet users (Internet access services) irrespective of the infrastructure or the network used for Internet connectivity and regardless of the underlying technology used to transmit signals.

Traffic management

1. Providers of Internet access services should not restrict Internet users' freedom of choice by blocking, slowing down, altering, degrading or discriminating against specific content, applications or services.
2. Internet traffic management measures, if necessary, should be non-discriminatory, transparent and proportionate to:
 - give effect to a court order;
 - preserve the integrity and security of the network, services provided via the network and end-users' terminal equipment;
 - minimise the effects of temporary or exceptional network congestion, provided that equivalent types of traffic are treated equally.
3. Internet traffic management measures should not be maintained longer than strictly necessary and traffic management policies should be subject to periodic review by competent authorities within each member state.

Pluralism and diversity of information

1. Internet service providers should not discriminate against traffic from other providers of content, applications and services which compete with their own content, applications and services. This requires that traffic management decisions be strictly dissociated from content-related decision-making processes of the operator [in the spirit of the 2007 Committee of Ministers Declaration on protecting the role of the media in democracy in the context of media concentration].

2. Preferential treatment of traffic on the basis of arrangements between Internet service providers and providers of content, applications and services should not have a negative impact on users' ability to access and use information, applications and services of their choice.
3. In order to enable end-users to receive radio and audiovisual media services of their choice through the Internet, states may consider imposing reasonable, transparent and proportionate obligations to carry content which meets general interest objectives.

Privacy

1. Traffic management measures should involve processing of personal data only to the extent that is necessary and proportionate to achieve the purposes set out in the second section and should be in accordance with applicable legislation the right private life and personal data protection.
2. The use of techniques for the purpose of Internet traffic management, which are capable of assessing the content of communications, is an interference with the right to private life. Therefore, such use must be fully in line with Article 8 of the Convention, be tested against applicable legislation on the right to private life and personal data protection and reviewed by a competent authority within each member state in order to assess compliance with legislation.

Transparency

1. Internet service providers should provide users with clear, complete and publicly available information with regard to any traffic management practices that they have applied which might affect users' access to and distribution of content, applications or services. Internet users should be enabled to obtain information from Internet service providers about Internet traffic management and Internet speeds.
2. Competent authorities within each member state should monitor and report on Internet traffic management practices. Reports should be prepared in an open and transparent manner and made available to the public for free.

Accountability

1. Internet service providers should put in place appropriate, clear, open and efficient procedures to respond within reasonable time limits to complaints of Internet users alleging breaches of the principles included in the foregoing provisions. Internet users should be enabled to refer the matter to competent authorities within each member state.
2. States should ensure in their policy frameworks the accountability of Internet service providers with regard to respect for the principle of network neutrality. Accountability also includes that appropriate mechanisms are in place to respond to network neutrality complaints.