

## ***Steering Committee on Media and Information Society***

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

**16/07/2015**

**8th meeting**

**16-19 June 2015**

**(Strasbourg, Palais de l'Europe Room 11)**

### **Meeting report**

#### **1. Opening of the meeting**

The Steering Committee on Media and Information Society (CDMSI) held its 8th meeting from 16 to 19 June 2015, in Strasbourg chaired by Ms Maja Raković (Serbia). The gender distribution among 69 attendants was 26 women (38%) and 43 men (62%).

The meeting was opened by Mr Patrick Penninckx, Head of Information Society Department, who warmly welcomed all participants and particularly new comers. He thanked the personalities who agreed to take part in the meeting to discuss with the Committee, namely Mr Gvozden Srećko Flego, (Croatia, SOC), author of the PACE report on Protection of media freedom in Europe, Ms Françoise Tulkens, former Judge and Vice-President of the European Court of Human Rights and Chairperson of the MSI-JO and Mr Tarlach McGonagle, Rapporteur of the MSI-JO. He shared information about developments concerning the work of the CDMSI, reported under each respective item below. He underlined that, in the light of the findings of the Secretary General's report 'State of Democracy, Human Rights, and the Rule of Law in Europe 2015', the area of work of the CDMSI has prominent priority. Furthermore, Mr Penninckx informed the CDMSI about some administrative arrangements, thanking Greece for seconding Ms Christina Lamprou.

#### **2. Adoption of the agenda**

1. The CDMSI adopted the agenda, which appears in Appendix I; the list of participants appears in Appendix II.

#### **3. Information by the Chair and the Secretariat**

##### *Adopted texts*

The CDMSI took note of and welcomed the adoption by the Committee of Ministers, on 1 April 2015, of the Recommendation CM/Rec(2015)6 on the free, trans boundary flow of information on the Internet and of the Recommendation CM/Rec(2015)5 on the processing of personal data in the context of employment.

Similarly, it welcomed the adoption, on 3 June 2015 of the Committee of Ministers' Declaration on ICANN, human rights and the rule of law and the Committee of Ministers' Declaration on the

World Summit on the Information Society (WSIS) +10 review and the extension of the mandate of the Internet Governance Forum (IGF).

*Committee of Ministers' Thematic debate on Freedom of Expression and follow-up*

The Secretariat informed the CDMSI about the Committee of Ministers' Thematic Debate on "Ensuring Freedom of Expression on the Internet" that took place on 9 December 2014 and of the decisions taken thereafter by the Secretary General. These decisions translate into a series of activities which the CDMSI took note of and discussed.

- a high level conference on 13 and 14 October 2015 "Freedom of Expression: still a precondition for democracy?" (title changed since the issuing of the draft agenda). This follows a proposal made by the TC-INF for a conference on the implication of the European Court of Human Rights case-law regarding freedom of expression on the Internet. It will comprise 6 thematic sessions and a closing session which will focus on the question of how to strengthen the protection of journalists and freedom of expression, not only in the Council of Europe but also in other organisations. Invitations will be issued to the Permanent Representations to the Council of Europe, Parliamentarians, national ombudsmen institutions, representatives of the OSCE, EU, UNESCO, CDMSI members, members of the MSI-JO and MSI-INT, Judges and Registry staff of the ECtHR, journalists, cartoonists, civil society actors, NGO partners in the Internet based Platform to promote the protection of journalism and safety of journalists, academia and students;
- a publication on the concept of "an enabling environment for the public debate", which will present a series of articles written by experts;
- a video series presenting interviews of personalities among which ECtHR Judges, on the various aspects of freedom of expression. It aims at rendering ECtHR case-law on article 10 (right to freedom of expression) accessible to a large public.

*Internet based Platform to promote the protection of journalism and safety of journalists*

The CDMSI took note of the information provided the Secretariat. A Memorandum of understanding was signed on 5 December between the Council of Europe and five partner organisations – Article 19, the Association of European Journalists, the European Federation of Journalists, the International Federation of Journalists and Reporter without Borders for the setting-up and the operation of an Internet based Platform to promote the protection of journalism and safety of journalists.

The Platform is operational since 2 April 2015 under the auspices of the Directorate of Policy Planning. It will be assessed after its first year of operation. In addition to being an alert mechanism on threats to journalists, the Platform is a tool for co-operation with other international organisations as well as for dialogue with member States.

The Secretariat informed the CDMSI that alerts submitted to the Platform are transmitted to the corresponding Permanent Representation to the Council of Europe. These alerts will not be transmitted to CDMSI members for answers. It also emphasised that the efficiency of the Platform depends on the quality of its input but also on the replies that are given by the States.

*Implementation of the Guide to human rights for Internet users*

The Secretariat informed the CDMSI that the Guide was translated into 12 non-Council of Europe official languages and that it was launched at a meeting in Brussels on 10 December 2014 to mark Human Rights Day. The Guide is also promoted in the framework of the co-operation activities carried out in Azerbaijan, Albania, Bosnia-Herzegovina, Georgia, Moldova,

Kosovo<sup>1</sup>, Montenegro, Serbia, the former Yugoslav Republic of Macedonia and Ukraine and it will be included in future co-operation programmes.

The CDMSI also took note of the adaptation of the Guide as a comic booklet and a drawing competition organised in schools in Spain by the Association of Internet Users and the Spanish Senate. It welcomed and congratulated the six winners of the competition who expressed, in their own words, the importance of Internet and media literacy in their lives. An exhibition of the drawings was held in the lobby of the Palais de l'Europe and was open by Ms Maria Santos Pais, UN Special Representative of the Secretary General on Violence Against Children.

#### *Co-operation activities*

The CDMSI took note of the information provided by the Secretariat on on-going and future co-operation activities that form a huge part of the work of the Media and Internet Division. Currently, there are several on-going projects corresponding to 6.6 million Euros, and implemented in ten countries, namely Armenia, Azerbaijan, Georgia, Albania, Bosnia-Herzegovina, the former Yugoslav Republic of Macedonia, Kosovo\*, Montenegro, Serbia, Moldova, and Ukraine. Project have been mostly funded by ways of joint programmes with the European Commission and by some countries such as Norway, Canada and Liechtenstein. Furthermore, in the framework of the neighbourhood policy, projects were started in Morocco and Tunisia. All activities are organised and carried out with specially set-up project offices or de-centralised Council of Europe offices.

Besides, expertise were carried out upon some countries' request, such as on the public radio and TV law in Ukraine and on concentration of media ownership and the audio-visual media law in Albania.

### **Implementation of Council of Europe adopted standards**

The Chair recalled the decisions taken by the Bureau at its 7<sup>th</sup> meeting (9-10 April 2015) to revise a questionnaire on implementation in member states of Council of Europe standards on protection of journalists and to send it to the CDMSI, for replies by 1 June 2015.

The CDMSI took note of the replies sent by member states to the questionnaire on safety of journalists and expressed the wish that all member States send their replies. It also took note of the follow-up that will be given to this exercise by the Secretariat, namely a compilation and an analysis to be presented to the Committee at its next meeting and, if the agenda permits it, a workshop on the topic.

Mr Gvozden Srećko Flego presented the PACE report on Protection of media freedom in Europe and recalled the successive work done by the Parliamentary Assembly on the topic. He also welcomed the Internet based Platform as an important tool, not only for the Council of Europe to be aware of what is happening and be able to react, but also as a basis for transversal work and co-operation activities between the different bodies of the Organisation.

The CDMSI thanked Mr Flego for his availability and his work and exchanged views with him.

## **5. Media standard setting**

*Draft recommendation on the protection of journalism and safety of journalists and other media actors.*

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

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<sup>1</sup> "All reference to Kosovo, whether to the territory, institutions or population, in the project documents shall be understood in full compliance with United Nations Security Council Resolution 1244 and without prejudice to the status of Kosovo."

Ms Françoise Tulkens, Chairperson of the MSI-JO and Mr Tarlach McGonagle, member of the MSI-JO presented the work done by the MSI-JO in preparation of the draft and the rationale behind the text. The CDMSI held an exchange of views with them discussing several CDMSI substantive points of the work of the MSI-JO.

The CDMSI congratulated the MSI-JO for its work and further discussed the draft recommendation on the protection of journalism and safety of journalists and other media actors. The majority of delegations expressed support for the text. The Chair invited delegations to provide comments to the MSI-JO by 10 July 2015 with a view to facilitating the consideration and the approval of the draft by the CDMSI at its next plenary meeting (8-11 December 2015).

### *Gender equality and the media*

The CDMSI took note of information delivered by the secretariat on activities on gender equality and the media, in particular of a Handbook on the implementation of Recommendation CM/Rec(2013)1 on gender equality and the media.

## **6. Internet standard setting**

### *Draft Recommendation CM/Rec\_\_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*

The Chairperson recalled the process of preparation of the draft recommendation in the CDMSI, which included discussions and drafting in two meetings of the CDMSI and several rounds of consultations and work on the text by electronic means. The Chair also recalled that the Bureau at its last meeting (31 March and 1 April 2015) took note of all comments provided by delegations (compilation of comments CDMSI(2014)Misc5) and considered that the draft recommendation is a balanced one and that it had reached its maturity in the CDMSI. Therefore, the Bureau had agreed to recommend to the CDMSI to approve the draft recommendation without further debate.

Several CDMSI members expressed support for the Bureau's recommendation emphasising that the draft recommendation had been extensively debated in the CDMSI. They also noted that while being fully aware of the ongoing process of developing rules on network neutrality in the EU, they consider it appropriate to support the draft recommendation as it focuses on human rights issues. The expert work in the CDMSI can be considered as accomplished and it is time to move the initiative to the political level.

Germany stated that it did not object to the transmission of the draft recommendation to the Committee of Ministers for possible adoption while noting that this is without prejudice to the current negotiations on legislative rules on network neutrality in the EU. Greece stated that it considers important to include equal treatment of traffic in section 5 of the draft recommendation.

The Russian Federation stated that it does not consider appropriate to submit at this stage the draft recommendation to the Committee of Ministers and asked for its statement to be reproduced in full in the meeting report. Therefore, the statement appears in appendix III of the report.

Taking into account all views expressed, the CDMSI decided to approve the draft recommendation, as it appears in Appendix IV, and to transmit it to the Committee of Ministers for possible adoption.

### *Draft Recommendation CM/Rec\_\_of the Committee of Ministers to member States on Internet freedom*

The Secretariat presented the progress of work on the draft recommendation on Internet freedom. It also provided information about a multi-stakeholder consultation process on the draft recommendation. The CDMSI took note of the comments provided by members of the Steering Committee for Human Rights (CDDH), the European Committee on Legal Cooperation (CDCJ), the Cybercrime Convention Committee (T-CY) the Consultative Committee for the Convention for the Protection of Individuals with regards to Automatic Processing of Personal Data (T-PD) (document CDMSI(2015)Misc4). The Secretariat also summarised the feedback received from civil society and the private sector following a public consultation on-line, in particular as regards the title, the scope and specific topics to be covered by the draft recommendation.

The CDMSI took note of the information provided and while supporting the overall strategic approach of the draft recommendation to promote implementation of existing human rights standards on the Internet, it offered some suggestions for further developing the draft recommendation. It agreed to invite delegations to provide comments to the MSI-INT by 31 July 2015. The draft recommendation will be considered for approval at its next plenary meeting (8-11 December 2015).

#### *Committee of experts on cross-border flow of Internet traffic and internet freedom (MSI-INT)*

The CDMSI took note of the information provided by the Secretariat on the last meeting of the MSI-INT (5-6 March 2015). The CDMSI congratulated the MSI-INT for the work done.

#### *Draft report on freedom of assembly and association on the Internet*

The CDMSI took note of the progress made regarding the draft report on freedom of assembly and association on the Internet, and discussed it. Delegations were invited to provide comments on the draft report by 31 July. The draft report will be finalised by the MSI-INT at its next meeting (7-8 September 2015) and will be transmitted to the CDMSI to be taken note of at its next plenary meeting (8-11 December 2015).

## **7. Internet governance**

#### *Oversight of the implementation of the Council of Europe Internet Governance Strategy 2012-2015*

The CDMSI took note of the state of implementation of the Internet Governance Strategy 2012-2015 and had a discussion on this. In particular, in view of the preparation of the next Strategy, it proposed for future evaluation a more synthetic presentation of activities, classified by completed, started and not started activities and, in that later case, with a justification.

#### *Draft Council of Europe Internet Governance Strategy 2016-2019*

The CDMSI took note of the state of development of the draft Internet Governance Strategy 2016-2019, discussed it and reiterated that human rights, democracy and rule of law aspects of Internet governance are priorities of the CDMSI. CDMSI delegates also agreed to send their comments to the Secretariat by 31 July 2015.

#### *EuroDIG 2015 and Internet Governance Forum 2015*

The CDMSI took note of information provided by the Secretariat and members who participated in the 2015 European Dialogue on Internet Governance (EuroDIG) which took place on 4-5 June 2015 in Sofia. It warmly thanked Ms Bissera Zankova, who has been instrumental in its success on the Bulgarian side.

It also took note of the next EuroDIG edition which will take place in Brussels in June 2016.

In respect of the Internet Governance Forum 2015 that will take place in Joao Pessoa, Brazil, on 10-13 November 2015, the CDMSI noted the Council of Europe's planned activities and encouraged member states to participate in it.

## **8. Data protection**

In respect of data protection, the CDMSI took note of information provided by the Secretariat on the state of play of the modernisation of Convention 108. The draft amending protocol for the modernisation of the Convention was adopted by the CAHDATA in December 2014 but could not be adopted by the Committee of Ministers following reservations by the European Union and the Russian Federation. The reservations made by the European Union aimed at ensuring consistency in relation to the revision of the European Union legislation on the matter, which was in progress at that time. The draft amending protocol will be examined by the Committee of Ministers at a later date.

The promotion of Convention 108 continued in 2015 and led to the ratification of the Additional Protocol to the Convention by Denmark, to the ratification of the Convention by San Marino, the invitation to Mauritius to accede to the Convention and its additional protocol, as well as to the request of Senegal to be invited to accede.

The CDMSI took also note of other on-going work of the T-PD on big data, police, medical data and Passenger Name Records (PNR). Experts' reports were commissioned on all previous topics and the T-PD will decide at its forthcoming plenary meeting (1-3 July 2015) on the follow-up to be given on each matter. The T-PD will further adopt an opinion on the Recommendation 2067 (2015) of the PACE on mass surveillance, which will be submitted to the Committee of Ministers before 12 July 2015.

## **9. CDMSI working methods**

The CDMSI took note of a stocktaking report prepared by the Secretariat on areas of work within its remit. On this basis, it discussed further priorities, activities and working methods for the next biennium 2016-2017. In this context the CDMSI had an exchange of views with Mr Jan Kleijssen, Director of Information Society and Action against Crime, who emphasized the need for it to remain as focused as possible in its work plans and within expected results that can be effectively achieved, taking duly into account the existing resources.

The CDMSI discussed and identified priority themes for the next biennium building on the current Terms of Reference of the CDMSI, the Belgrade Ministerial conference and the subsequent decisions adopted by the Committee of Ministers as well as the conclusions and recommendations concerning freedom of expression and freedom of the media included in the Secretary General's report 'State of Democracy, Human Rights and the Rule of Law in Europe 2015'. A proper balance should be struck between the number of media and Internet standard-setting activities.

On the basis of these considerations, the CDMSI agreed to give priority to standard-setting in the fields of media pluralism and transparency of media ownership as well as the roles and responsibilities of Internet intermediaries, notably in the light of the recent Grand Chamber judgement of the European Court of Human Rights in the case of *Delfi AS v. Estonia*. It supported the idea of feasibility studies for possible standard-setting instruments on issues of media coverage of elections (including the gender equality dimension) and the human rights implications of new Internet developments (i.e. the Internet of things and algorithms). Based on the positive experience with its current two subordinate committees of experts, the CDMSI agreed to propose to the Committee of Ministers to continue with this approach in future standard-setting activities.

Furthermore, the CDMSI underlined the need to balance standard-setting activities with other actions which enable the committee to promote the implementation of existing Council of Europe standards through sharing information, exchanging experiences and best practices. It

agreed do so in relation to issues on the protection of journalists, decriminalisation of defamation, public service media and media independence.

Exchange of views with experts, thematic hearings and reports will enable the CDMSI to keep abreast of emerging developments, technological issues and challenges to freedom of expression and freedom of the media, such as those related to connected TV, protection of journalism (in particular in light of economic pressure), the right to be forgotten on the Internet etc.

The CDMSI will continue to play an oversight role with regard to the implementation of the Internet governance strategy.

The CDMSI agreed also that delegates would send possible further proposals for working priorities to the Secretariat.

## **10. Information about the work of other organisations and other Council of Europe bodies**

### 10.1 Council of Europe bodies and institutions

#### *Secretary General*

The Secretariat gave a presentation of the Report by the Council of Europe's Secretary General 'State of Democracy, Human Rights and the Rule of Law in Europe 2015'. The findings and recommendations of this report with regard to freedom of expression were presented. The CDMSI expressed support for the recommendations by the Secretary General and discussed ways to give follow-up to these recommendations as appropriate in view of the CDMSI remit. In particular, CDMSI members supported the idea of sharing and exchanging information and good practices on issues covered by the report in order to promote the implementation of existing Council of Europe standards.

#### *Parliamentary Assembly of the Council of Europe (PACE)*

The CDMSI took note of the information provided by the Secretary of the PACE Committee on Culture, Science, Education and Media on PACE work in the areas of media, in particular on texts that will be discussed at the next PACE session (22-26 June 2015).

It also noted that the comments it made to PACE Recommendation 2061(2015) "Terrorist attacks in Paris: together for a democratic response" and on PACE Recommendation 2062(2015) "Protection of the safety of journalists and of media freedom in Europe" were sent to the Committee of Ministers within deadline and taken into account by the CM's reply to PACE.

#### *Pace Recommendation 2067(2015) on Mass surveillance*

The CDMSI discussed a draft text of comments on the Parliamentary Assembly Recommendation 2067(2015) on mass surveillance which was prepared on the basis of contributions sent by CDMSI members prior to the meeting. In particular, the CDMSI debated proposals related to the PACE recommendation to launch an initiative aimed at negotiating an "intelligence codex" addressed to the intelligence services of all participating States. The CDMSI agreed that these issues do not fall within its remit. The CDMSI adopted the comments that appear in Appendix V for transmission to the Committee of Ministers. The Estonian delegate regretted that the amendment he had sent to the draft text has not been approved by other delegations.

#### *Commissioner for Human Rights*

The CDMSI took note of two issue papers published by the Commissioner for Human Rights of the Council of Europe, respectively "The Rule of Law on the Internet and in the wider digital world" and "Democratic and effective oversight of national security services".

#### Other steering and conventional committees

##### *Committee on Foreign Terrorist Fighters and related Issues (COD-CTE) and CODEXTER*

The CDMSI took note of information delivered by the Co-Secretary of CODEXTER, Mr Kristian Bartolin, on its work and had an exchange of views with him on the Additional Protocol to the Council of Europe Convention on the Prevention of Terrorism.

##### *Steering Committee for Culture, Heritage and Landscape*

The CDMSI took note of the up-date by the Secretariat on the preparation of a draft recommendation on the Internet of Citizens to which it had send comments. It will be kept informed of further developments.

##### *European Audiovisual Observatory*

The CDMSI had an exchange of views with representatives of the European Audiovisual Observatory, namely Ms Suzane Nikoltchev, Executive Secretary, Mr Gilles Fontaine, Head of the Department for Information on Markets and Financing and Ms Maja Capello, Head of the Department for Legal Information on their work and recent activities. The relevance of work products of the Observatory, as for example the Mavise Database, for the work of the CDMSI on media pluralism and diversity was discussed.

#### 10.2 Other international organisations

##### *UNESCO*

The CDMSI took note of the information provided by the Secretariat on participation in the Conference organised by UNESCO on "Connecting the dots: Options for Future Action" on 3-4 March in Paris. The conference was based on a previous Internet Study and was focused on access, free expression, privacy and ethics.

#### 10.3 Participation of CDMSI members and members of other committees to meetings and events

The CDMSI took note of information provided by the Secretariat and the Chair on a High level Conference: Tolerance Trumps Hate (Brussels, 08/05/2015) and on the Campaign and Evaluation Conference of the No Hate Speech Movement (Strasbourg, 29 May 2015).

### **11 Application for observer status**

#### *11.1 Internet Rights and Principles Coalition*

The CDMSI had an exchange of views with Ms Marianne Franklin, Co-chairperson of the Internet Rights and Principles Coalition, who presented the application of the NGO for observer status with the Committee.

Taking due consideration of the presentation and of criteria applied for observers, it decided to admit the Coalition as an observer in the CDMSI.

#### *11.2 European Media Platform*

The CDMSI had an exchange of views with Ms Oksana Prykhodko, Director of the European Media Platform, who presented the application of the NGO for observer status with the Committee.



Noting the criteria it has applied in the past, in particular with regard to representativeness of applicants at the European level; it agreed that the conditions for admission of the European Media Platform as an observer in the CDMSI were not met.

## **12. Elections to the Bureau of the CDMSI**

Due to the departure from the Bureau of two of its members, Ms. Bissera Zankova (Bulgaria) and Ms. Christina Lamprou (Greece), the CDMSI held elections and elected Ms. Małgorzata Pek (Poland) and Mr. Andris Mellakauls (Latvia) as members of the Bureau for a term of office expiring on 31 December 2015. It also designated Ms Maja Zarić (Serbia) as Gender equality rapporteur.

## **13. Any other business**

The CDMSI designated Ms Małgorzata Pek (Poland) as its representative for the Ad hoc Committee of Experts on Legal, Operational and Technical Standards for e-voting

## **14. Adoption of the abridged report**

The CDMSI discussed the abridged report of its 8<sup>th</sup> meeting and adopted it with some amendments.

## **Appendix I**

### **Meeting agenda**

- 1. Opening of the meeting by Mr Jan Kleijssen, Director of Information Society and Action against Crime, Directorate General Human Rights and Rule of Law**
- 2. Adoption of the agenda**
- 3. Information by the Chair and the Secretariat**
  - 3.1 Adopted texts
  - 3.2 Committee of Ministers' Thematic Debate on Freedom of Expression and follow-up
  - 3.3 Internet based Platform to promote the protection of journalism and safety of journalists
  - 3.4 Implementation of the Guide to human rights for Internet users.
  - 3.5. Cooperation activities
- 4. Implementation of Council of Europe adopted standards**
- 5. Media standard setting**
  - 5.1 Draft Recommendation on the protection of journalism safety of journalists and other media actors
  - 5.2 Gender equality and the media
- 6. Internet standard setting**
  - 6.1 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
  - 6.2 Draft Recommendation CM/Rec(2014)\_\_\_of the Committee of Ministers to member States on Internet Freedom
  - 6.3 Committee of Experts on cross-border flow of Internet traffic and Internet freedom (MSI-INT)
  - 6.4 Draft report on freedom of assembly and association on the Internet
  - 6.5 (Draft) Declaration of the Committee of Ministers on WSIS+10 review and IGF extension
  - 6.6 (Draft) Declaration of the Committee of Ministers on ICANN, human rights and the rule of law
- 7. Internet governance**
  - 7.1 Council of Europe Internet Governance Strategy 2012-2015
  - 7.2 Council of Europe Internet Governance Strategy 2016-2019
  - 7.3 European Dialogue on Internet Governance (4-5 June 2015, Sofia) and Internet Governance Forum (João Pessoa, Brazil, on 10-13 November 2015)
- 8. Data protection**
  - 8.1 Modernisation of Convention 108
  - 8.2 On-going work: police, big data, medical data
- 9. CDMSI working methods**
- 10. Information about the work of other organisations and other Council of Europe bodies**
  - 10.1 Council of Europe bodies and institutions

*Secretary General  
Parliamentary Assembly of the Council of Europe (PACE)  
PACE Recommendation 2067 (2015) on Mass surveillance  
Commissioner for Human Rights*

- Other steering and conventional committees

*Committee on Foreign Terrorist Fighters and Related Issues (COD-CTE) and  
CODExTER  
Steering Committee for Culture, Heritage and Landscape (CDCPP)  
European Audiovisual Observatory*

10.2 Other international organisations

*UNESCO*

10.3 Participation of CDMSI members and members of other committees to meetings and events

**11. Applications for observer status**

**12. Elections to the Bureau**

**13. Any other business**

**14. Adoption of abridged report**

**GENERAL REFERENCE DOCUMENTS**

**RECENT MEETING REPORTS**

## **Appendix II**

### **LIST OF PARTICIPANTS / LISTE DES PARTICIPANTS DRAFT LIST OF PARTICIPANTS / PROJET DE LISTE DES PARTICIPANTS**

Total number of participants:

Gender distribution – 47 men (62%) / 26 women (38%)

Parité entre hommes / femmes - 47 hommes (62%) / 26 femmes (38%)

#### **AUSTRIA/AUTRICHE**

Mr Andreas Ulrich

Federal Chancellery, Media Affairs and Information Society, Federal Chancellery, Constitutional Service

#### **BOSNIA AND HERZEGOVINA/BOSNIE-HERZEGOVINE**

Mr Emir Povelakić

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

#### **CROATIA/CROATIE**

Mr Milan F. Zivković

Head Advisor for Communication Policy, Ministry of Culture

#### **CYPRUS/CHYPRE**

Mrs Sofia (Sunny) Papadimitriou Tofa

Press and Information Officer, Ministry of Interior

#### **CZECH REPUBLIC/REPUBLIQUE TCHEQUE**

Mr Jan Drdla

Media and Audio-Visual Department, Ministry of Culture

#### **DENMARK/DANEMARK**

Ms Katja Just Maarbjerg

Ministry of Culture

#### **ESTONIA/ESTONIE**

Mr Tanel Tang

Permanent Representation of Estonia to Council of Europe

#### **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

M. Julien Plubel

Rédacteur

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 Gajus Köhr

Division K 31, International Media Cooperation

Federal Government Commissioner for Culture and the Media

Ms Carolin Schumacher  
Representation of the Free State of Bavaria to the EU

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

**GREECE/GRECE**

Mr Evgenios A Nastos  
Head of Department for New Media, Directorate for Mass Media, Secretary General for Mass Media

**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 Elfa Ýr Gylfadóttir  
Media Commission, Ministry of Education, Science and Education

**IRELAND/IRLANDE**

Mr Éanna O’Conghaile  
Principal Officer, Broadcasting Policy Division, 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/LETONIE**

Mr Andris Mellakauls  
Information Space Integration, Ministry of Culture

**LIECHTENSTEIN**

Mr. Claudio Nardi  
Officer for Foreign Affairs

**LUXEMBOURG**

Mr Benjamin Bollendorff  
Adjoint au Représentant Permanent du Luxembourg  
auprès du Conseil de l'Europe

Ms Anne Klensch  
Intern at the permanent representation of Luxembourg to the Council of Europe

**MALTA/ MALTE**

Ms. Maria Mifsud  
Executive, Ministry for the Economy, Investment and Small Business, Office of the Permanent Secretary

**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**

Mr Nol Reijnders  
Senior Adviser for Media Policy  
Ministry of Culture, Education and Science

Ms Pien van den Eijnden  
Legal Adviser, Constitutional Affairs, Ministry of the Interior and Kingdom Relations

**NORWAY/NORVEGE**

Mr Anders Huitfeldt  
Senior Adviser, Department of Media Policy and Culture

**POLAND/POLOGNE**

Mr Jarosław Sekuła  
Senior expert, Department of Information Society, Ministry of Administration and Digitalization

Ms Małgorzata Pek  
Director of Legal Department  
National Broadcasting Council of Poland

**PORTUGAL**

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

**RUSSIAN FEDERATION / FEDERATION RUSSIE**

Mr Alexander Surikov  
Deputy Director Department of Information and Press  
Ministry of Foreign Affairs

**SAN MARINO / SAINT MARIN**

Mme Chiara Cardogna  
Agent de presse - Département des Affaires Etrangères

**SERBIA/SERBIE**

Ms Maja Raković  
First Counselor  
Serbian Embassy, France

Ms Maja Zarić  
Adviser, Sector for International Relations, EU integration and projects, Ministry of Culture and Information

**SLOVENIA/SLOVENIE**

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

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**Appendix III****Statement of the Representative of the Russian Federation on 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**

Recalling the statements of the Representative of the Russian Federation at the Steering Committee on Media and Information Society (June, 2014; December, 2014; February, 2015), and reaffirming the stated position, the Russian Federation observe with regret that its main observations and proposals to the elaborated Draft Recommendation were not taken into account. We still consider that the Draft Recommendation contradicts the European Convention on human rights by creating an area, subjects and conditions out of the domain of the Convention. The approval of the proposed draft Recommendation at its present form could only trigger an erroneous trend of the development of the human rights regulation in Internet. Due to this reason we do not consider it possible to submit the draft Recommendation CM/Rec(2014)\_\_\_ on protecting and promoting the right to freedom of expression and the right to private life with regard to network neutrality to the Committee of Ministers.

17.06.2015  
A. S. S. S.

## Appendix IV

**CDMSI(2014)005Rev10**

29 January 2015

**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. In information society, the exercise and enjoyment of the right to freedom of expression by individuals, including the right to receive and impart information and ideas as well as their participation in democratic life is increasingly reliant upon accessibility and quality of an Internet connection.

2. Providers of Internet access services have the technical ability to manage information and data flows (Internet traffic) transiting through the networks that they operate. They may engage in Internet traffic management for specific legitimate purposes such as to preserve the integrity and security of the network. They may also take action to prevent access to, or the dissemination of, unlawful or harmful content, for example through self-regulatory systems in co-operation with public authorities. However, other interferences with Internet traffic may affect the quality of the Internet service delivered to users and may result in blocking, discrimination or prioritisation of specific types of content, applications or services. Moreover, some of the techniques used in this context permit inspection or monitoring of communications, which can undermine users' trust in the Internet.

3. These matters raise concerns in respect of the protection and promotion of the right to private life and the right to freedom of expression, which are guaranteed respectively by articles 8 and 10 of the European Convention on Human Rights (ETS No. 5, hereinafter the ECHR), as well as in the light of the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (ETS No.108). In addition, there are implications for access to diverse and pluralistic information and public service media content on the Internet, which are fundamental for democracy and cultural diversity. The right to freedom of expression, including the right to receive and impart information is not an absolute right. However, any restrictions to this right must meet the requirements of Article 10, paragraph 2 of the ECHR.

4. The principle of network neutrality underpins non-discriminatory treatment of Internet traffic and users' right to receive and impart information and to use services of their choice. It reinforces the full exercise and enjoyment of the right to freedom of expression since Article 10 of the ECHR applies not only to the content of information but also to the means of its dissemination. Also, the principle of network neutrality supports technological innovation and economic growth.

5. The Committee of Ministers recalls Article 1 of the Statute of the Council of Europe and relevant Council of Europe standard-setting instruments<sup>2</sup>. With a view to protecting and promoting the right to private life and the right to freedom of expression in full compliance with Articles 8 and 10 of the ECHR as well as to promoting the full delivery of the public service value of the Internet, the Committee of Ministers recommends that member states:

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<sup>2</sup> Declaration of the Committee of Ministers on protecting the role of the media in democracy in the context of media concentration (31 January 2007); Recommendation Rec(2007)3 on the remit of public service media in the information society; Recommendation CM/Rec(2007)16 on measures to promote the public service value of the Internet; Recommendation CM/Rec(2008)6 on measures to promote the respect for freedom of expression and information with regard to Internet filters; Declaration of Committee of Ministers on network neutrality (29 September 2010); Declaration by the Committee of Ministers on Internet governance principles (21 September 2011); Recommendation CM/Rec (2014)6 to member States on a Guide to human rights for Internet users.

- take all the necessary measures, in co-operation with all relevant stakeholders, to safeguard the principle of network neutrality in their policy frameworks having due regard to the guidelines set out in this recommendation;
- promote these guidelines in other international and regional fora that deal with the issue of network neutrality.

## **Guidelines on network neutrality**

### **1. General principles**

1.1. Internet users have the right to freedom of expression, including the right to receive and impart information, by using services, applications and devices of their choice, in full compliance with Article 10 of the ECHR. These rights must be enjoyed without discrimination on any ground such as gender, sexual orientation, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

1.2. Internet users' right to receive and impart information on the Internet should not be restricted by means of blocking, slowing down, degrading or discriminating Internet traffic associated with particular content, services, applications or devices or traffic associated with services provided on the basis of exclusive arrangements or tariffs.

1.3. Internet users are entitled to an Internet connection with the characteristics defined in contractual agreements that they have concluded with Internet access service providers on the basis of specific and adequate information provided to users with regard to all aspects which might affect their Internet access capacity and their right to receive and impart information.

### **2. Equal treatment of Internet traffic**

2.1. 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 for the purpose of this recommendation. The network neutrality principle applies to all Internet access services irrespective of the infrastructure or the network used for Internet connectivity and regardless of the underlying technology used to transmit signals.

2.2. This does not preclude Internet traffic management measures which are necessary and proportionate to:

- give effect to a court order or an order of a regulatory authority
- preserve the integrity and security of the network, services provided via the network and end-users' terminal equipment;
- prevent network congestion and optimise traffic management when congestion occurs.

2.3. Internet traffic management measures should be non-discriminatory, transparent and maintained no longer than strictly necessary. Traffic management policies should be subject to periodic review by competent authorities within each member state.

### **3. Pluralism and diversity of information**

3.1. 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.

3.2. As an exemption to the network neutrality principle, preferential treatment of traffic on the basis of arrangements between Internet service providers and providers of content, applications and services should be allowed only if sufficient safeguards for users' ability to access, use and impart information are in place. In particular, preferential treatment of traffic should not diminish or affect the affordability, performance or quality of users' access to the Internet. Internet users should have a real opportunity to choose an Internet connection without preferential treatment of traffic and must be informed about the impact that such treatment might have on their ability to access, use and impart information, diverse and pluralistic content that is publicly available, applications and services of their choice.

3.3. If the physical Internet connection is shared between Internet traffic and other services, states may consider imposing reasonable, transparent and proportionate obligations on Internet service providers to carry content which meets general interest objectives.

#### 4. Privacy

4.1. Internet 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 of this recommendation. Such measures should be in accordance with Article 8, paragraph 2 of the ECHR, the Convention 108 and applicable legislation on the right to private life and personal data protection.

4.2. 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 respect for private and family life. Therefore, such use must be fully in line with Article 8 of the ECHR, 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.

#### 5. Transparency

5.1. Internet service providers should provide users with clear, complete and publicly available information with regard to any traffic management practices 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.

5.2. 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.

#### 6. Accountability

6.1. 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 directly to competent authorities within each member state and be entitled to timely redress.

6.2. 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.

**Appendix V**

Strasbourg, 18 June 2015

CDMSI(2015)008REV

**Draft CDMSI comments on  
PACE Recommendation 2067 (2015) on Mass surveillance**

1. The CDMSI examined with interest the PACE Recommendation 2067 (2015) on Mass surveillance. The CDMSI notes with interest that cases are pending before the European Court of Human Rights on mass surveillance with regard to Article 8 of the European Convention on Human Rights. It also notes with interest the work under way at the EU Fundamental Rights Agency on the protection of fundamental rights in the context of large-scale surveillance.
2. The CDMSI recalls the Declaration of the Committee of Ministers on Risks to Fundamental Rights stemming from Digital Tracking and other Surveillance Technologies (2013), in particular that mass surveillance "capabilities and practices can have a chilling effect on citizen participation in social, cultural and political life and, in the longer term, could have damaging effects on democracy. They can also undermine the confidentiality rights associated to certain professions, such as the protection of journalists' sources, and even threaten the safety of the persons concerned".
3. The CDMSI also recalls the Conference of Ministers responsible for media and information society on freedom of expression and democracy in the digital age (Belgrade, 7-8 November 2013), in particular the Political Declaration stating that "growing technological capabilities for electronic mass surveillance and the resulting concerns, (...) emphasise that there must be adequate and effective guarantees against abuse which may undermine or even destroy democracy."
4. Building on Resolution No.1 on Internet freedom adopted at the Conference of Ministers responsible for media and information society on freedom of expression and democracy in the digital age in Belgrade, the CDMSI is developing a draft recommendation on Internet freedom, which addresses also issues of mass surveillance. The draft recommendation is expected to be finalised by the CDMSI pursuant to its mandate at the end of 2015. Any measures taken in the interest of national security should rigorously meet the requirements set out in the European Convention on Human Rights and its interpretation through the case law of the European Court of Human Rights, in particular regarding the right to freedom of expression and access to information (Article 10), freedom of assembly and association (Article 11), and the right to private and family life (Article 8). It should be underlined that these requirements constitute effective guarantees against abuse. In this context, it is important to stress that member States have negative obligations, that is, to refrain from interference with fundamental rights, and positive obligations, that is, to actively protect these rights. This includes the protection of individuals from arbitrary restrictions by non-state actors such as online intermediaries.
5. The CDMSI welcomes the PACE recommendation to explore Internet security issues related to mass surveillance and intrusion practices with regard to human rights and fundamental freedoms. It highlights the Council of Europe Guide to Human Rights for Internet Users, and its implementation through capacity building and cooperation assistance activities. The Guide states that Internet users must not be subjected to general surveillance or interception measures but may only be subject to legitimate interference which is prescribed by law, such as a criminal investigation. In particular, users should have access to clear and precise information about the relevant law or policy and rights in this regard.