

## *Steering Committee on Media and Information Society*



5th Meeting - 3 to 6 December 2013 (Strasbourg, Palais de l'Europe, room 7)

Abridged report  
(06/12/2013)  
CDMSI (2013)011

The Steering Committee on Media and Information Society (CDMSI) met in Strasbourg on 3-6 December 2013. The meeting was chaired by Andris Mellakauls (Latvia). The agenda is to be found in Appendix I.

During the meeting, the CDMSI took the following decisions:

### For Committee of Ministers' decision

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

- it finalised the draft text and agreed to submit it to the Committee of Ministers for adoption (appendix II);

- the Russian Federation made the following statement: "The Russian Federation has to place formally on record that while it supports the main ideas of the Declaration on the protection of journalism and the safety of journalists, the Russian Federation considers it necessary to disassociate itself from using the term "other media actors" which has no basis in binding international legal documents. The Russian Federation does not consider that the use of the term "other media actors" in the Declaration can be interpreted even in the form of recommendation, as giving any special legal status to bloggers, human rights defenders, whistle-blowers or "others who perform public watchdog functions", as well as to the so-called "new media", which is merely a tool for certain individuals to exercise their right to freedom of expression. The problems of the protection and safety of the mentioned category may be discussed and regulated separately. The Russian delegation draws the Committee's attention to the fact that the Declaration is applicable only in the measure of its compatibility with the Russian Federation's Constitution, federal legislation and international treaty obligations and has no influence on positions that the Russian Federation may take on the issue, both in the Council of Europe and in other fora."

*Draft Committee of Ministers' Recommendation to member states on a Guide on human rights for Internet users*

*Draft explanatory memorandum to the draft Committee of Ministers recommendation on a Guide on human rights for Internet users*

- it examined, amended and finalised the draft recommendation, took note of the explanatory memorandum, and invited the Secretariat to finalise it on the basis of discussions during the meeting and agreed that the appendix of the draft recommendation should include a reference to it in a footnote;
- and in the absence of a quorum for approval towards the end of the meeting, it agreed that comments on the draft recommendation and/or the explanatory memorandum could be sent by e-mail to the Secretariat by 16 January 2014. In the absence of any reactions the draft recommendation and the explanatory memorandum will be considered as approved by the Plenary and will be transmitted to the Committee of Ministers (GR-H) for consideration with a view to possible adoption (appendix III);

### For information

- it took note of the information provided by Jan Kleijssen, Director of Information Society and Action against Crime, and held an exchange of views with him on the Committee of Ministers Declaration on risks to fundamental rights stemming from digital tracking and other surveillance technologies, on the Recommendation on gender equality and media, and on the adoption of the Council of Europe budget for 2014 and 2015;
- it discussed the critical situation of resources in the Media and Information Society Department and expressed serious concern about the lack of resources in the Media Cooperation Unit and the Media Division., While recognising the growing importance of internet governance, it insisted that supporting that line of work with resources should not be carried out at the expense of media issues;
- it stressed that, under the current circumstances, it might not be possible to give meaningful follow up to the outcomes of the Ministerial Conference in Belgrade;
- responding to proposals by Jan Kleijssen, it decided that in each of its future meetings, a specific agenda item should offer member States the possibility to report on their implementation and dissemination of adopted standards at domestic level ;

### Media

- it held an exchange on the thematic debate on 12 December 2013 on the "Safety of journalists – Further steps for the better implementation of human rights standards", noted that it would be streamed via internet and met the Austrian Permanent Representative, Ambassador Rudolf Lennkh who, as chairperson of the Committee of Ministers, will moderate the debate;
- it took note of the Conference of the Council of Europe Gender Equality Commission, organised in partnership with the Ministry of Education, Culture and Science of the Netherlands on "*Media and the image of Women*" (Amsterdam, 4-5 July 2013), of a report by the members of the CDMSI who attended it, and of the Council of Europe Gender Equality Strategy 2014-2017, and agreed that the incoming Bureau of the CDMSI should consider closer co-operation with the Gender Equality Commission;

- it took note of the Conference "*The hate factor in political speech – where do responsibilities lie?*" (Warsaw, 19-20 September 2013) and agreed to establish contact with ECRI, the Secretariat of the campaign "Young People Combating Hate Speech Online" and all other relevant Council of Europe bodies for a possible follow-up;

*Council of Europe Conference of Ministers responsible for Media and Information Society (Belgrade, 2013)*

- it thanked Serbia for hosting the conference and for their hospitality;
- it noted that following the Secretary General's presentation of the conference report on 10 December 2013, the Committee of Ministers would decide on actions for the CDMSI's work for the coming years which would have to be prioritised, taking due account of available resources;

*Protection of journalism and safety of journalists*

- it took note of an exchange of letters between the UNESCO and the Council of Europe on possible co-operation between both organisations on safety of journalists issues and held an exchange of views with Guy Berger, Director of the Division of Freedom of Expression and Media Development of UNESCO (FEM); it noted and supported the proposal to set up a joint steering group including the OSCE and to finalise arrangements concerning this project by exchange of letters;

*Transparency of media ownership*

- it took note of the report by the Chairperson of a conference organised by Access Info on "Transparency of Media Ownership" and discussed the issue;

*Cooperation and outreach, on-going and future activities*

- it took note of the oral information provided by the Secretariat, in particular in respect of a co-operation project in Hungary and of a joint project with the European Commission in Ukraine, and asked the Secretariat to provide complete written information on on-going projects and project proposals;

Internet governance

*Consideration of other proposals and work streams*

- it held discussions on net neutrality, Internet freedom, cross-border flow of Internet traffic and agreed that this work be pursued—Secretariat resources permitting;

*Cooperation and outreach, on-going and future activities*

*European Dialogue on Internet Governance (Lisbon, 20-21 June 2013)*

*Internet Governance Forum (IGF, Indonesia, 22-25 October 2013)*

- it took note of the information by the Secretariat on Council of Europe contributions to and participation in these events as well as of the calendar and plans for their 2014 editions, in Berlin on 12-13 June 2014 (EuroDIG) and in Istanbul in

September 2014 (IGF); it took note of the internet governance cooperation proposals included in the Action Plans for Ukraine, Moldova, Georgia, Armenia and Kosovo<sup>1</sup>;

#### Data protection

- it took note of the information by the Secretariat on the state of play of the modernisation work of Convention 108 and of two recommendations and of the work of the ad hoc Committee on data protection (CAHDATA);

#### *Terms of reference and composition of subordinate groups*

- it took note of the adoption of the Terms of Reference of the Steering Committee on Media and Information Society (CDMSI) and of its subordinate groups for 2014-2015;

- it discussed the composition of the two committees of experts and agreed to make further proposals by Friday 13 December 2013; the Bureau will finalise the compositions on the basis of proposals received by 19 December 2013;

#### *CDMSI relations with other organisations and Council of Europe bodies*

- it took note of the information and held exchanges on activities and developments with other organisations and Council of Europe bodies and agreed to consider the possibility of an up-date of the human rights guidelines for Internet service providers and for online game providers in the coming two years;

#### *Elections*

- it elected its chairperson, vice-chairperson, members of its Bureau and gender equality rapporteur with the following results: Chairperson: Maja Rakovic (Serbia), Vice-Chairperson: Thomas Schneider (Switzerland), members of the Bureau: Mark Carvell (UK); Éanna O'Conghaile (Ireland), Christina Lamprou (Greece), Emir Povelakić (BiH), Bissera Zankova (Bulgaria); Christina Lamprou, who was the previous gender equality rapporteur of the CDMSI agreed to continue carrying on this task.

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

## Appendix I

## Draft Annotated Agenda

1. Opening of the meeting
2. Adoption of the agenda
3. Information by the Chair and the Secretariat

*3.1 Declaration on risks to fundamental rights stemming from digital tracking and other surveillance technologies*

Documents	<a href="#"><u>Committee of Ministers declaration on risks to fundamental rights stemming from digital tracking and other surveillance technologies</u></a> – adopted 12/6/2013
Notes and expected action	Information provided by the Secretariat.

*3.2 Recommendation on gender equality and media*

Documents	<ul style="list-style-type: none"> <li>-<a href="#"><u>Recommendation on gender equality and the media</u></a>, adopted on 10/07/2013</li> <li>-“Media and the image of Women” – Conference of the Council of Europe Gender Equality Commission, organised in partnership with the Ministry of Education, Culture and Science of the Netherlands – Amsterdam, 4-5 July 2013</li> <li>-Draft report of the conference</li> <li>-Gender Equality Strategy 2014-2017</li> <li>-European Institute for Gender Equality report</li> <li>-Programme Media against racism in Sports (MARS) - guide for journalists on Equality in the media</li> </ul>
Notes and expected action	<p>Take note of the adoption of the Recommendation</p> <p>Take note of information by the Secretariat</p> <p>Discuss follow up</p>

*3.3 Committee of Ministers thematic debate*

Documents	<i>DRAFT Discussion paper to be presented by Secretary General: Thematic debate on “Safety of journalists - further steps for the better implementation of human rights standards”</i>
Notes and expected action	Take note of the information by the Secretariat and discuss

*3.4 Chairmanship of the Committee of Ministers*

Notes and expected action	Take note of the information by <a href="#"><u>Austria on priorities</u></a> that will have a bearing on CDMSI work
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action	
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3.5 [Conference "The hate factor in political speech – where do responsibilities lie?", Warsaw, 19-20 September 2013](#)

Documents	- <a href="#">Report of the Conference</a> - <a href="#">"The Council of Europe against online hate speech: Conundrums and challenges", background paper by Dr Tarlach McGonagle</a>
Notes and expected action	Take note of the information by the Secretariat

4. Council of Europe Conference of Ministers responsible for Media and Information Society (Belgrade, 7-8 November 2013)

Documents	- <a href="#">Political declaration and Resolutions</a> - <a href="#">Secretary General's opening speech</a> - <a href="#">The road ahead – speech by Andris Mellakauls</a> - <a href="#">Director general's closing speech</a>
Notes and expected action	The Ministerial conference texts and report will be considered by the Committee of Ministers on 10 December.  Discuss the outcome of the Ministerial Conference and the way forward

5. Media

*Standard setting activities*

5.1 *Protection of journalism and safety of journalists*

Documents	- <a href="#">"Thematic debate: Media Freedom" CM decision – SG/Inf(2011)27</a> - <a href="#">"Thematic debate on the safety of journalists" - Discussion paper presented by the Secretary General – SG/Inf(2012)6</a> - <a href="#">UN plan of action on the safety of journalists and the issue of impunity</a> - <a href="#">Resolution on Safety of Journalists – Human Rights Council, 21st session</a> - <a href="#">ECHR report on positive obligations under Article 10</a> - <a href="#">Report on defamation, CDMSI (2012)Misc11Rev2</a> - <a href="#">Secretariat paper on the Protection of Journalists /Journalism, agreed by the CDMSI – CDMSI(2012)011Rev2</a> - <a href="#">How to address current threats to journalism?: The role of the Council of Europe in protecting journalists and other media actors, Expert paper by Dr. Tarlach McGonagle</a> - <a href="#">The principles which can be drawn from the case-law of the European Court of Human Rights relating to the protection and safety of journalists and journalism, expert paper by Philip</a>
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	<p><i>Leach</i></p> <p><a href="#">-Draft Declaration of the Committee of Ministers on the protection of journalism and safety of journalists-CDMSI(2013)007rev2</a></p> <p><a href="#">-UNESCO letter to CoE + Director general's reply</a></p>
Notes and expected action	<p>Take note of the work of the informal working group</p> <p>Examine and finalise the Draft CM Declaration on the protection of journalism and safety of journalists and transmit it to the CM for possible adoption.</p> <p>Hold an exchange of views with Jānis Kārklīņš, UNESCO Assistant Director-General for Communication and Information (tbc)</p>

## 5.2 Transparency of media ownership

<i>Documents</i>	<p><a href="#">-Presentation by Fiona Harrison(Access Info)</a></p> <p><a href="#">-CM Recommendation No. R(94)13 on measures to promote media transparency</a></p> <p><a href="#">-CM Declaration (2007) on protecting the role of the media in democracy in the context of media concentration</a></p> <p><a href="#">-PACE motion of 30/01/2013 on "Increasing transparency of media ownership"</a></p> <p><a href="#">- Access Info Conference – Transparency of Media Ownership (Brussels, 24/09/2013)</a></p> <p><a href="#">-Ten recommendations on transparency of media ownership, paper by Access Info</a></p> <p><a href="#">- Statement by Mark Thompson, OSF Policy Editor, in Belgrade on Transparency of media ownership</a></p>
Notes and expected action	<p>Take note of the information by the Chairperson, who attended a conference organised by AccessInfo.</p> <p>Discuss follow up</p>

### *Cooperation and outreach*

## 5.3 On-going and future activities

<i>Documents</i>	<p><a href="#">-Presentation of activities MEDIA.COOP(2012)001</a></p> <p><a href="#">- General information sheet</a></p>
Notes and expected action	<p>Take note of on-going and planned activities</p> <p>Discuss</p>

## 6. Information Society and Internet Governance

### *Standard setting activities*

#### 6.1 *Compilation of existing rights of Internet users (MSI-DUI)*

Documents	<p><a href="#">-Draft Committee of Ministers' Recommendation to member states on a Guide on human rights for Internet users (MSI-DUI(2013)07Rev4)</a></p> <p><a href="#">-Draft explanatory memorandum to the draft Committee of Ministers recommendation on a Guide on human rights for Internet users (MSI-DUI(2013)10rev3)</a></p> <p>-MSI-DUI multi-stakeholder consultations – compilation of comments from steering and other committees and stakeholders - <a href="#">MSI-DUI (2013)15</a></p> <p>-Report of the working meeting of the MSI-DUI, 10 September 2013 - <a href="#">MSI-DUI(2013)13</a></p> <p>-Report of the 4th meeting of the MSI-DUI, 1 and 2 October 2013 – <a href="#">MSI-DUI(2013)14</a></p> <p><a href="#">-Terms of reference of the Committee of Experts on Rights of Internet Users (MSI-DUI) adopted on 6 July 2012</a></p>
Notes and expected action	<p>Exchange of views with Dr Michael Kögler, Chair of the MSI-DUI.</p> <p>Take note of the information provided by the Secretariat on the draft CM Recommendation on the Guide on human rights for Internet users. Consider the results of the multi-stakeholder consultations.</p> <p>Examine and finalise the draft and transmit it to CM for possible adoption.</p> <p>Take note of the draft Explanatory Memorandum.</p>

## 6.2 Follow-up to specific instruments on the Internet adopted by the Committee of Ministers

Documents	<p><a href="#">-Declaration on Internet Governance principles</a></p> <p><a href="#">-Recommendation on the protection and promotion of the universality, integrity and openness of the Internet</a></p> <p><a href="#">-Declaration on network neutrality</a></p> <p>-Proposed action agreed by the CDMSI – <a href="#">CDMSI(2012)014</a></p> <p><a href="#">-Outcome paper (+ background input paper) from the Council of Europe Multi-Stakeholder Dialogue on Network Neutrality and Human Rights (Strasbourg, 29-30 May 2013) – CDMSI(2013)Misc18</a></p> <p><a href="#">-"Protecting Human Rights through Network Neutrality: Furthering Internet Users' Interest, Modernising Human Rights and Safeguarding the Open Internet" - report prepared by Luca Belli and Matthijs Van Bergen- CDMSI(2013)misc19_en</a></p> <p><a href="#">-Report of the General Rapporteur, Ian Brown, on the Council of Europe Conference "Internet freedom – a shared commitment" Strasbourg, 24-25 September 2013 – CDMSI(2013)Misc21</a></p>
Notes and expected action	<p>Presentation and exchange of views with Luca bellini and Matthijs Van Bergen, authors of the report, on network neutrality</p> <p>Discuss possible follow-up.</p>

	<p>Information provided by the Secretariat on the results of the CoE Conference on "Internet freedom – a shared commitment", held in Strasbourg 24-25 September 2013.</p> <p>Discuss possible follow-up on transparency in Internet governance</p>
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### 6.3 Drafting of an instrument on cross-border flow of Internet traffic

Documents	<p>-Experts' findings report on interferences with cross-border flow of Internet traffic – <a href="#">CDMSI(2013)Misc20</a></p> <p>-Preliminary report on scenarios of interference with Internet traffic which may have an impact on access to information across borders - <a href="#">CDMSI(2012)015</a></p>
Notes and expected action	<p>Presentation and exchange with Dr Monica Horten, Visiting Fellow at the London School of Economics &amp; Political Science, and Secretariat on cross-border flow of Internet traffic.</p> <p>Consider possible follow up.</p>

### 6.4 Council of Europe Internet Governance Strategy 2012-2015

Documents	<p><i>Synthesis and follow-up chart to the Council of Europe Internet Governance Strategy 2012-2015 – up-date by the Secretariat</i></p>
Notes and expected action	<p>Presentation and exchange with the Secretariat on CDMSI oversight of the CoE Internet Governance Strategy 2012-2015</p> <p>Take note of the information by the Secretariat</p>

### Cooperation and outreach activities

#### 6.5 European Dialogue on Internet Governance (EuroDIG – Lisbon 20-21 June 2013)

Documents	<p>- <a href="#">EuroDIG 2013 Messages from Lisbon</a> and planning for EuroDIG 2014 (12-13 June, Berlin)</p>
Notes and expected action	<p>Information by CDMSI members who participated in the 6th edition of EuroDIG and by the Secretariat and (Lisbon 20-21 June 2013)</p>

#### 6.6 Internet Governance Forum (IGF, Indonesia, 22-25 October 2013)

Notes and expected action	<p>Information by CDMSI members who participated in the IGF and by the Secretariat on IGF 2013 and planning for IGF 2014</p>
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#### 6.7 On-going and future activities

Documents	-
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Notes and expected action	Take note of information by the Secretariat on planned activities
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## 7. Data protection

### *Standard setting activities*

Documents	<ul style="list-style-type: none"> <li>-<a href="#">Abridged Report of the 30th Plenary meeting of the T-PD (15-18 October 2012)</a></li> <li>-<a href="#">Abridged Report of the 29th meeting of the Bureau of the T-PD (5-7 February 2013)</a></li> <li>- <a href="#">Abridged Report of the 30th meeting of the Bureau (28-30 May 2013)</a></li> <li>-<a href="#">Terms of reference</a> of the ad hoc Committee on data protection (CAHDATA) and <a href="#">list of decisions</a> of the 1st meeting (12-14 November 2013)</li> <li>-<a href="#">Work programme of the T-PD</a> for 2014-2015</li> </ul>
Notes and expected action	Take note of the state of play and of information by the Secretariat.

## 8. Terms of reference

Documents	<ul style="list-style-type: none"> <li>-<a href="#">Draft Terms of reference for the Steering Committee on Media and Information Society – CDMSI for 2014-2015</a></li> <li>-<a href="#">Draft terms of reference for the Committee of experts on protection of journalism and safety of journalists (MSI-JO)</a></li> <li>-<a href="#">Draft terms of reference for the Committee of experts on cross-border flow of Internet traffic and Internet freedom (MSI-INT)</a></li> </ul>
Notes and expected action	<p>Take note of the decisions taken by the Committee of Ministers</p> <p>Discuss and decide the composition of the committees of experts</p>

## 9. CDMSI exchanges of views with other organisations and with other CoE bodies

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

Documents	<ul style="list-style-type: none"> <li><a href="#">Resolution 1954(2013) National security and access to information</a></li> <li><a href="#">Recommendation 2420(2013) National security and access to information</a></li> <li><a href="#">Motion for a resolution on “Coordinated strategies for effective Internet governance”</a></li> <li><a href="#">Motion for a resolution on “Increasing co-operation against cyber terrorism and other large scale attacks on the Internet”</a></li> <li><a href="#">Motion for a resolution “Massive eavesdropping in Europe”</a></li> </ul>
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Notes and expected action	Take note of information on recent PACE texts and future action

### 9.2 Committee of Ministers Thematic Coordinator on Information Policy (TC/Inf)

Notes and expected action	Information from and exchange with TC-INF, Ambassador Gea Rennel
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### 9.3 [Council of Europe NO HATE movement](#)

Notes and expected action	Hold an exchange of views with the Secretariat of the No Hate campaign
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### 9.4 European Commission against Racism and Intolerance (ECRI)

Notes and expected action	Hold an exchange of views with the Secretariat of ECRI on their work on new guidelines on hate speech on Internet
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### 9.5 [World Forum for Democracy 2013](#)

Notes and expected action	Hold an exchange of views with the Secretariat, take note of the information
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### 9.6 School of Political Studies

Notes and expected action	Hold an exchange of views with the Secretariat, take note of the information
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### 9.7 European Committee on Legal Co-operation

Notes and expected action	Hold an exchange of views with the Secretariat on a draft recommendation on protection whistle blowers
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### 9.8 Internet Corporation for Assigned names and Numbers (ICANN)

Documents	"High-Level Panel Organizes to Address Future of Internet Governance" (London, 12-13/12/2013) – <a href="#">ICANN press release</a>
Notes and expected action	Information by Secretariat on CoE work with ICANN

### 9.9 European Broadcasting Union (EBU)

Documents	"Public Service Media under Art. 10 of the European Court of Human Rights", <a href="#">expert report</a> commissioned by EBU
Notes and expected action	Hold an exchange of views with representatives of EBU and Dr Tretter, one of the experts authors of the report

## 10. Elections

Documents	<a href="#">CDMSI(2013)010</a> – Information document on the election within the CDMSI
Notes and expected action	Proceed to the election of the Chair, Vice-Chair of the CDMSI, the members of the Bureau and the gender rapporteur

## 11. Other questions

Documents	<p>1. <a href="#">-Mr. Jobst Plog's (Chairman of Eurimages) letter to CoE Secretary General</a>  <a href="#">-CoE Secretary General's reply</a></p> <p>2. <a href="#">Community Media Conference, Brno, 4-6 October 2013</a>  <a href="#">The New Council of Europe Recommendation on Gender Equality and the Media – Towards better Implementation of Gender Equality Standards</a>, PowerPoint presentation</p>
Notes and expected action	<p>1. Take note of exchange of letters regarding the shutdown of Greek public broadcaster ERT. Discuss.</p> <p>2. Take note of the report from Bissera Zankova (Bulgaria) who attended the conference on behalf of the CDMSI</p>

## 12. Adoption of the abridged report

Documents	<a href="#">Abridged report of the 5<sup>th</sup> CDMSI meeting – CDMSI(2013)011</a>
Notes and expected action	Adopt the abridged report.

General reference documents:

- [CDMSI terms of reference 2012-2013](#)

- [Resolution CM/Res\(2011\)24](#) on intergovernmental committees and subordinate bodies, their terms of reference and working methods

- [Resolution CM/Res\(2011\)7](#) on Council of Europe conferences of specialised ministers

Recent meeting reports:

- [CDMSI\(2012\)021](#) - report of the 2nd meeting of the CDMSI
- [CDMSI-BU\(2013\)001](#) – report of the 3<sup>rd</sup> meeting of the Bureau of the CDMSI
- [CDMSI\(2013\)006](#) – report of the 3rd meeting of the CDMSI
- [CDMSI-BU\(2013\)003](#) - Report of the 4<sup>th</sup> meeting of the Bureau of the CDMSI
  
- [CDMSI\(2012\)013rev4](#) - Follow-up chart to the meetings of the CDMSI – up-date as of 09/09/2013
- [CDMSI\(2012\)009rev6](#) – Calendar of meetings and events in 2013 – up date as of 06 August 2013

## Appendix II

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

5 December 2013

Draft Declaration of the Committee of Ministers on the protection of journalism and safety of journalists and other media actors<sup>2</sup>

*(Adopted by the Committee of Ministers at the \*\*the meeting of the Ministers' Deputies)*

1. Journalists and other media actors in Europe are increasingly being harassed, intimidated, deprived of their liberty, physically attacked and even killed because of their investigative work, opinion or reporting. These abuses and crimes are often met with insufficient efforts by relevant state authorities to bring the perpetrators to justice, which leads to a culture of impunity.
2. This alarming situation is not exclusively limited to professional journalists and other traditional media actors. As the United Nations Human Rights Committee in its General Comment No. 34<sup>3</sup>, and other intergovernmental bodies have recognised, the scope of media actors has enlarged as a result of new forms of media in the digital age.<sup>4</sup> Those at risk also include others who contribute to shaping public debate and persons performing journalistic activity or public watchdog functions.
3. The right to freedom of expression, to receive and impart information, ideas and opinions without interference is guaranteed by the European Convention of Human Rights (article 10) and constitutes one of the fundamental principles upon which a democratic society is based. The public watchdog functions of the media are crucial for upholding these rights and for the protection of all other human rights. Misuse of power, corruption, discrimination, criminal activity and human rights violations have come to light as a direct result of the work of investigative journalists and other media actors. Making the facts known to the public is essential for redressing such situations and holding to account those responsible.
4. Journalists and others who perform public watchdog functions through the media are often in a vulnerable position vis-à-vis the public authorities or powerful interests groups because of their role in informing the public and provoking debate on issues of public interest. Obstacles created in order to hinder access to information of public interest may not only discourage journalists and other media actors from fulfilling their public watchdog role,<sup>5</sup> but may also have negative effects on their safety and security.
5. Attacks against journalists and other media actors constitute particularly serious violations of human rights because they do not only target individuals but deprive others of their right to receive information, thus restricting public debate, which is at the heart of pluralist democracy.

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<sup>2</sup> The Russian Federation made a reservation concerning the CM draft Declaration specifically denying its application to "other media actors" as the Russian Federation considers this term to be unspecific and without any basis in binding international legal documents.

<sup>3</sup> Journalism is a function shared by a wide range of actors, including professional full-time reporters and analysts, as well as bloggers and others who engage in forms of self-publication in print, on the internet or elsewhere, and general State systems of registration or licensing of journalists are incompatible with paragraph 3. Limited accreditation schemes are permissible only where necessary to provide journalists with privileged access to certain places and/or events. Such schemes should be applied in a manner that is non-discriminatory and compatible with article 19 and other provisions of the Covenant, based on objective criteria and taking into account that journalism is a function shared by a wide range of actors.

<sup>4</sup> See CM/Rec (2011)7 on a new notion of media.

<sup>5</sup> See in this regard *Társaság A Szabadságjogokért v. Hungary* no. 37374/05, 14.04.2009, para 38.

6. The European Court of Human Rights has held that the role played by journalists in a democratic society confers upon them certain increased protections under Article 10 of the Convention. The exercise of media freedom, including in relation to matters of serious public concern, also involves duties and responsibilities. The safeguard afforded by Article 10 to journalists in relation to reporting on issues of general interest is subject to the proviso that they are acting in good faith in order to provide accurate and reliable information in accordance with the ethics of journalism'.<sup>6</sup>
7. The European Court of Human Rights has established that states are required to create a favourable environment for participation in public debate by all persons, enabling them to express their opinions and ideas without fear.<sup>7</sup> To do this, States must not only refrain from interference with the individual's freedom of expression, but are also under a positive obligation to protect their right to freedom of expression against the threat of attack, including from private individuals, by putting in place an effective system of protection.
8. Eradicating impunity is a crucial obligation upon States, as a matter of justice for the victims, as a deterrent with respect to future human rights violations and in order to uphold the rule of law and public trust in the justice system.<sup>8</sup> All attacks on journalists and other media actors should be vigorously investigated in a timely fashion and the perpetrators prosecuted. The effective investigation of such attacks requires that any possible link to journalistic activities is duly taken into account in a transparent manner.
9. A favourable environment for public debate requires States to refrain from judicial intimidation by restricting the right of individuals to disclose information of public interest through arbitrary or disproportionate application of the law, in particular the criminal law provisions relating to defamation, national security or terrorism. The arbitrary use of laws creates a chilling effect on the exercise of the right to impart information and ideas, and leads to self-censorship. Furthermore, prompt and free access to information as the general rule and strong protection of journalists' sources are essential for the proper exercise of journalism, in particular in respect of investigative journalism.<sup>9</sup>
10. Surveillance of journalists and other media actors and tracking of their online activities can endanger the legitimate exercise of freedom of expression if carried out without the necessary safeguards and can even threaten the safety of the persons concerned. It can also undermine the protection of journalists' sources.
11. In view of the foregoing, the Committee of Ministers
  - alerts member states to the increasing number of reports of attacks on journalists and other media actors in several parts of Europe, including specific dangers female journalists are faced with. These constitute attacks on the right to freedom of expression, to hold opinions and to receive and impart information and ideas and to other fundamental rights provided for in the European Convention on Human Rights;
  - commits itself to facilitating the development of internet-based platform drawing on information supplied by interested media freedom organisations to record and publicise possible infringements of the rights guaranteed by Article 10 of the European Convention on Human Rights
  - urges member States to fulfil their positive obligations to protect journalists and other media actors from any form of attack and to end impunity in compliance with the European Convention on Human Rights and the case-law of the European Court of Human Rights; and to review at least once every two years the conformity with these obligations on the part of member States;

<sup>6</sup> E.g. Standard Verlagsgesellschaft mbH (No 2) v. Austria no. 37464/02, 22.2.2007, para. 38.

<sup>7</sup> Dink v. Turkey nos. 2668/07, 6102/08, 30079/08, 7072/09, 7124/09, 14.09.2010, para 137.

<sup>8</sup> See Guidelines of the Committee of Minister of the Council of Europe eradicating impunity for serious human rights violations adopted on 30 March 2011.

<sup>9</sup> E.G. Council of Europe Convention on Access to Official Documents (CM Recommendation no. R(2000) 7 on the right of journalists not to disclose their sources of information.

- encourages member States to contribute to the concerted international efforts to enhance the protection of journalists and other media actors, by ensuring that legal frameworks and law enforcement practices are fully in accord with international human rights standards. The implementation of the UN Plan of Action on the Safety of Journalists and the Issue of Impunity is an urgent and vital necessity;
- will intensify its standard setting and co-operation activities for the protection of journalism and the safety of journalists and other media actors as a priority and contribute expertise to other international organisations with regard to the particular competence of the Council of Europe;
- will consider further measures to ensure the protection of journalists from threats and acts of violence as well as measures to eradicate impunity; and alignment with the European Convention on Human Rights of laws and practices concerning defamation, anti-terrorism and protection of journalists' sources;
- will address the specific challenges and threats that women journalists are confronted with in the course of their work.

APPENDIX III

Draft Committee of Ministers' Recommendation to member states on a Guide on human rights for Internet users

Draft explanatory memorandum to the draft Committee of Ministers recommendation on a Guide on human rights for Internet users

[Being finalised and subject to further consultation with CDMSI]

## APPENDIX IV

## List of participants

Total number of participants : 72

Gender distribution – 47 men (65%) / 25 women (35%)

Parité entre hommes / femmes - 47 hommes (65%) / 25 femmes (35%)

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