COMMITTEE OF EXPERTS ON ONLINE SAFETY
AND EMPOWERMENT OF CONTENT CREATORS AND USERS
(MSI-eSEC)

COUNCIL OF EUROPE
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MSI-eSEC(2024)04
4 June 2024

1st meeting – 9-10 April 2024

MEETING REPORT

Opening, agenda, elections

1. Ms Irena Guidikova, Head of the Democratic Institutions and Freedom Department at the Council of Europe, opened the meeting. She welcomed members and participants, highlighting the broad and diverse range of potentially harmful activities online, particularly in the context of the widespread dissemination and use of artificial intelligence tools. She emphasised that the Council of Europe has already developed a significant number of standards and tools to counteract the most severe forms of harm that can occur in the digital sphere, especially those that escalate to the level of criminal offences. The Council, however, also provides examples, such as the Recommendation CM/Rec(2022)16 on combating hate speech, providing examples of a graduated approach that can be adopted towards activities with varying degrees of potential harm. At the domestic and EU levels several initiatives have been or are currently being implemented to address online risks and harms. To promote a human rights approach, which prioritises user empowerment and ensures that measures taken to protect them respect their other human rights, including freedom of expression, it is essential to examine these complex issues based on actual data and research, rather than assumptions. To achieve this, it is crucial to leverage the collective intelligence and knowledge of other Council of Europe services, bodies, and processes, utilise external expertise across various disciplines, and establish a dialogue with relevant stakeholders, including business and user representatives.

2. The MSI-eSEC members adopted the meeting agenda (Appendix 1) with amendments, to hold elections, appointments, and discussion of the timeline of work (Appendix 3). The list of participants to the meeting appears in Appendix 2.

3. Ms Artemiza Tatiana Chisca, Head of the Freedom of Expression and CDMSI Division and Secretary to the CDMSI provided information on the Council of Europe and in particular on its standard setting work. She provided information on the different type of deliverables

that a Steering Committee may be tasked to produce and the differences in terms of content and function, as well as approval procedure and legal value. She then focused on the role of the CDMSI, to which the MSI-eSEC is a subordinate body, its main work in the recent past, as well as on its activities and priorities within the current biennium and beyond. She further stressed the importance of the task before the MSI-eSEC and noted how this work will be complementary to the other subsidiary committee to the CDMSI, Committee of Experts on the Impacts of Generative Artificial Intelligence for Freedom of Expression (MSI-AI) in light of the common goals pursued. She therefore encouraged the members cooperate as appropriate with the mother Committee as well as, where necessary.

4. Mr Cesare Pitea, Secretary to the MSI-eSEC, presented the working methods and procedures of expert committees, in line with Resolution CM/Res(2021)3 on intergovernmental committees and subordinate bodies, their terms of reference and working methods. He referred also to the relevant parts Guidelines for Drafting Committee of Ministers' Recommendations. He also provided some background to the MSI-SLP's Terms of Reference and the various options on the expected deliverable, as well as a brief overview of the Council of Europe standard-setting and other documents of relevance for the MSI-SLP.

5. The members of the MSI-eSEC held a *tour de table*, they introduced themselves and briefly shared their expectations from the work of the Committee.

6. Members of the MSI-eSEC presented their initial views on the issues to be addressed in the draft Council of Europe recommendation on online safety and empowerment of content creators and users that is expected to be finalised and submitted to the CDMSI for approval by the end of its mandate in December 2025. Once approved by the CDMSI, the draft recommendation will be transmitted to the Committee of Ministers for adoption.

7. On the second day, the MSI-eSEC proceeded to elections. With only one candidate proposed for each of the functions, the MSI-eSEC unanimously elected Ms Nicole STELLOU (Greece) as its Chair and Ms Marijana GRBESA-ZENZEROVIC (Croatia) as its Vice-Chair. The meeting was further chaired by the newly elected Chair.

8. Mr Martin HUSOVEC and Mr Peter NOORLANDER were designated as drafting Rapporteurs. Ms Jennifer ADAMS was appointed as Gender Equality Rapporteur.

Conclusions and decisions

9. The Committee discussed at length the possible format and scope of the draft recommendation. It was observed that the issue of online safety is potentially all-encompassing, and there is a need for the Committee to narrow down the scope of the draft recommendation. The members generally recognised that concepts like "safety" and "harmful content/behaviour" are broad and culturally dependent and change over time. One-size-fits-all solutions are not feasible. Also, an overemphasis on safety and regulating

risks online may result in an excessive compression of the freedom of online spaces, especially for freedom of expression. This risk is particularly significant when the harmful activity concerned is not illegal per se or when it is used to legitimise proactive monitoring of users' activities online, thereby opening the door to intrusive surveillance.

10. The work of the Committee should not duplicate existing efforts within the Council of Europe in the fields of cybercrime, hate speech and hate crime, protection of children from violence, and violence against women. Existing instruments, including those by the Council of Europe, address the most serious forms of online harmful behaviours, often requiring the imposition of criminal sanctions and providing mechanisms for cooperation in criminal matters. The added value of the draft recommendation would thus be to provide lawmakers and policymakers with a blueprint on the limits and opportunities in introducing human rights-compliant measures to support and promote online safety and the empowerment of users and content creators. To this effect, a mapping exercise of the current standards and initiatives within the Council of Europe will be undertaken, with the support of the secretariat.

11. The draft recommendation will not aim to identify what constitutes illegal or harmful content/behaviour but rather to define states' and intermediaries'/platforms' responsibilities and responses in relation to online safety risks. However, the Committee agreed on the need for the draft recommendation to produce a taxonomy/categorisation of online harmful activities to provide guidance on different types of associated risks and harms, possibly filling gaps in the current fragmented approach. Given the remit of CDMSI, the recommendation should focus on risks and harms associated with the exercise of the right to freedom of expression, including the right to receive and impart information.

12. The Committee discussed whether and how the draft recommendation should address platforms, in addition to states. The general agreement was that both states and platforms should be addressed, within the framework of the existing obligations/principles on respective responsibilities. The way the draft recommendation will deal with platforms' responsibilities should however reflect the shift from self-regulation to co-regulatory frameworks. The members also discussed the type of digital services that should be covered. While the range of digital services to be covered needs to be further discussed, it was in principle agreed that this should be done through abstract definitions and essentially cover "media-type" services, i.e., those that contribute to providing content to an indefinite number of recipients unknown in advance by the content creator. Subject to further discussion, this concept would, however, exclude private messaging services, while including certain broadcasting-type functionalities that messaging apps are currently offering (channels). This should not imply, however, any measure weakening encryption of communications on those services.

13. While the recommendation will necessarily cover risks of harm deriving from artificial intelligence, machine-created content and behaviours, as well as algorithmic curation and moderation tools, it should do so by taking into due account the principles of the soon-to-

be-adopted Council of Europe Framework Convention on Artificial Intelligence and Human Rights, Democracy and the Rule of Law and the parallel work of the Committee of Experts on generative AI and freedom of expression (MSI-AI), to avoid duplication and ensure a coherent approach.

14. Given the complexity of the topic and the need to address both states and non-state actors, it was decided that the appropriate format of the draft recommendation would be a short operative part, addressed to member states, with an appendix in which other actors may also be covered. The guidance provided in the appendix should adopt a principled and technology-neutral approach. The option of having an explanatory report was also discussed and received favourably.

15. The Committee agreed on the proposal to focus its work on how promoting the effective empowerment of users and content creators can improve online safety in accordance with human rights and within the framework of existing responsibilities of States and platforms. The members of the Committee underlined that the emphasis on user empowerment should not be misunderstood as shifting the responsibility for online safety onto individuals. It should be rather intended as a methodology for safety and as a complement to the responsibilities of states and intermediaries.

16. As a working definition, empowerment should be understood as the set of measures aiming at expanding users' and content creators' understanding, informed choice, and control to cope with risks for their safety online, by offering tools, information, appropriate design, and control of their online experience. Users' rights must therefore be understood as rights to be protected against harm, but also against excessive restrictions to their freedom of expression aimed at protecting others from harm.

17. It was discussed to what extent, within the framework of empowerment of content creators, the draft recommendation should also address their responsibilities. It was emphasised that empowerment also means enabling users and content creators to make responsible choices to ensure online safety. Therefore, the full meaning of user empowerment encompasses both autonomy and responsibility in making choices that impact on the safety of online spaces when they are active in cotent creation and distribution. It was noted that the category of "content creators" is very broad and comprises very different types of processes (machine-originated content) and users (including professional media, researchers, other public watchdogs, other professional content creators, simple users). Among the latter, some categories are gaining prominence in the online environment but may fall outside existing regulatory, co-regulatory, and self-regulatory frameworks. It was underlined that any reference to responsibilities of content creators should be accompanied by strong safeguards for freedom of expression and against misuse of content creators' responsibilities to curb public debate.

18. Building on existing standards, the draft recommendation may also address issues of governance. The importance of inclusive governance, whereby states would involve

intermediaries and other stakeholders, including vulnerable groups, was underscored. The role of independent regulators should be addressed, by providing guarantees for their independence and financial viability along the lines of existing standards for the regulatory authorities of traditional broadcast media.

Roadmap and next steps

19. The MSI-eSEC entrusted the drafting rapporteurs to provide a first outline by early June and an expanded outline with drafting elements of the *draft recommendation* by mid-July.

20. The Expert Committee agreed to hold its next meeting on 24-25 September 2024. The meeting will be held in person in Strasbourg, in the Palais de l'Europe. A roadmap as presented to the MSI-eSEC during the first meeting is available in Appendix 3.

Any other business

21. In line with established practice, the Secretariat will share the draft meeting report with the MSI-eSEC, allowing for comments within five full working days. In the absence of comments, the report will be deemed agreed, uploaded on the website of the MSI-eSEC and transmitted to the CDMSI for information.

Agenda

9-10 April 2024, 09:30-12:30 CET / 14:00-17:00 CET

Hybrid
Room GO4, Agora, Strasbourg
Online via Zoom

Day 1 - 9 April 2024

09:30 CET

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1.   Welcoming and opening of the meeting

Irena GUIDIKOVA,   Head of the Democratic Institutions and Freedoms
Department of the Council of Europe

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2.   Adoption of the agenda

MSI-eSEC(2024)1

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3.   Information by the Secretariat

CM/Res(2021)3

- Introduction to the working methods and procedures of intergovernmental committees and subordinate bodies

- Information on the aims and working methods of the Committee

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10:45-11:15 CET – Coffee Break

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4.   Tour de table

- Brief introduction by the Committee Members

12:30-14:00 CET – Lunch Break

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6.   Discussion of the Terms of Reference for the MSI-eSEC

MSI-eSEC ToRs

The Expert Committee will discuss the structure and scope of the text that it is expected to deliver during its mandate, notably a Draft Recommendation of the Committee of Ministers to member States on online safety and empowerment of content creators and users

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15:15-15:45 CET – Coffee Break

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6.   Discussion of the Terms of Reference for the MSI-eSEC *(continued)*

17:00 CET – End of Session

Day 2 – 10 April 2024, 09:30

6. **Discussion of the Terms of Reference for the MSI-eSEC** *(continued)*

10:45-11:15 CET – Coffee Break

5. **Elections (postponed)**

- Election of the Chair and the Vice-Chair

7. **Appointment of rapporteurs** *(anticipated)*

8. **Discussion of the timeline for the MSI-eSEC (2024-2025)** *(anticipated)*

10. **Date and place of next meeting** *(anticipated)*

12:30-14:00 CET – Lunch Break

6. **Discussion of the Terms of Reference for the MSI-eSEC** *(continued)*

15:15-15:45 CET – Coffee Break

6. **Discussion of the Terms of Reference for the MSI-eSEC** *(continued)*

9. **Any other business**

17:00 CET – End of the Meeting

List of participants **/** *Liste de participant.e.s*

COMMITTEE MEMBERS / *MEMBRES DU COMITÉ*

Ms/Mme Jennifer ADAMS

Researcher, community safety in digital public space and gendered disinformation, University of Vienna / *Chercheuse dans les domaines de la sécurité communautaire dans l'espace public numérique et de la désinformation genrée, Université de Vienne*

Mr/M. Jonathan BRIGHT

Head of AI for Public Services and Head of Online Safety, Alan Turing Institute / *Responsable de l'IA pour les services publics et de la sécurité en ligne à l'Alan Turing Institute*

Ms/Mme Maida CULAHOVIC

Head of Department for Complaints and Analyses, Communication Regulatory Agency, Bosnia and Herzegovina **/** *Cheffe du département des plaintes et des analyses, Agence de régulation des communications de la Bosnie-Herzégovine*

Ms/Mme Yaroslava DYO

Chief specialist of the Digital Skills Development and Digital Education Department of the Ministry of Digital Transformation of Ukraine **/** *Spécialiste en chef du service du développement des compétences numériques et de l'éducation numérique du ministère ukrainien de la Transformation numérique*

Ms/Mme Marijana GRBESA-ZENZEROVIC

Professor, Faculty of Political Science, Department of Strategic Communication, University of Zagreb / *professeur, Faculté des sciences politiques, Département de la communication stratégique, Université de Zagreb*

Ms/Mme Monica HORTEN

Independent policy advisor with expertise in online safety, technology and human rights / *Conseillère politique indépendante, spécialisée dans la sécurité en ligne, la technologie et les droits de l'homme*

Mr/M. Martin HUSOVEC

Associate Professor of Law, Law School, London School of Economics / *Professeur associé de droit, école de droit, London School of Economics*

Ms/Mme Stéphanie LUKASIK

Researcher in Information and Communication Sciences and Media Studies, Coordinator of the Medialux research project, University of Luxembourg**/** *Chercheuse en sciences de l'information et de la communication et en études des médias, coordinatrice du projet de recherche Medialux. Université du Luxembourg*

Mr/M. Levan MAISURADZE

Head of the Legal Support Group, Legal Department of the Georgian National Communications Commission / *Chef du groupe de soutien juridique, département juridique de la Commission nationale des communications de Géorgie*

Mr/M. Peter NOORLANDER
Independent Consultant and Startup Director, Reporters Shield / *Consultant independent et directeur du startup Reporters Shield*

Ms/Mme Elisabeth STAKSRUD
Professor, Department of Media and Communication, University of Oslo / *Professeur, département des médias et de la communication, Université d'Oslo*

Ms/Mme Nicole STELLOU
Media Policy Expert, Presidency of the Greek Government / *Experte en politique des médias, présidence du gouvernement grec*

COUNCIL OF EUROPE MEMBER STATES / *ÉTATS MEMBRES DU CONSEIL DE L'EUROPE*

NETHERLANDS / *PAYS-BAS*	**Ms/Mme Inge WELBERGEN** Legal Office Media, Ministry of Education, Culture and Science / *Conseillère juridique médias, ministère de l´Education, de la culture et des sciences*
SPAIN / *ESPAGNE*	**Mr/M. Fernando GARATE MERINO** Junior advisor. Deputy General Directorate for Audiovisual Media Services, Ministry of Digital Transformation / *Conseiller junior, Direction générale adjointe des services de médias audiovisuels, Ministère de la transformation numérique*

OTHER PARTICIPANTS / *AUTRES PARTICIPANT.E.S*

UNESCO	**Ms/Mme Adeline HULIN** Head of Unit for Media and Information Literacy and Digital competencies / *Cheffe d'unité pour l'éducation aux médias et à l'information et les compétences numériques*

COUNCIL OF EUROPE DEPARTMENTS AND BODIES / *DÉPARTEMENTS ET ORGANES DU CONSEIL DE L'EUROPE*

DEMOCRATIC INSTITUTIONS AND FREEDOMS DEPARTMENT/ *SERVICE DES INSTITUTIONS ET DES LIBERTÉS DÉMOCRATIQUES*	**Ms/Mme Irena GUIDIKOVA** Head of Department / *Cheffe du service* **Ms/Mme Artemiza-Tatiana CHISCA** Head of Freedom of Expression and CDMSI Division / *Cheffe de la Division Liberté d´expression et CDMSI* **Ms/Mme Giulia LUCCHESE** Secretary to the Committee of Experts on the Impacts of Generative Artificial Intelligence for Freedom of Expression (MSI-AI) / *Secrétaire du Comité d'experts sur les implications de l'intelligence artificielle générative pour la liberté d'expression (MSI-AI)* **Ms/Mme Urška UMEK** Secretary to the Steering Committee on Democracy (CDDEM) / *Secrétaire du Comité directeur sur la démocratie (CDDEM)*
EUROPEAN AUDIOVISUAL OBSERVATORY / *OBSERVATOIRE EUROPÉEN DE L´AUDIOVISUEL*	**Ms/Mme Amélie LACOURT** Junior Legal Analyst / *Analyste juridique junior*
EUROPEAN PLATFORM OF REGULATORY AUTHORITIES (EPRA) / *PLATEFORME EUROPÉENNE DES AUTORITÉS DE RÉGULATION*	**Ms/Mme Emmanuelle MACHET** Head of EPRA Secretariat / *Cheffe du secrétariat d´EPRA* **Ms/Mme Géraldine DENIS** Administrative assistant to the EPRA Secretariat / *Assistante administrative du secrétariat de l'EPRA*
VIOLENCE AGAINST WOMEN DIVISION / *DIVISION DE LA VIOLENCE A L'EGARD DES FEMMES*	**Ms/Mme Elif SARIAYDIN** Administrator, Secretariat of the Istanbul Convention monitoring mechanism / *Administratrice, Secrétariat du mécanisme de suivi de la Convention d'Istanbul*

MSI-eSEC 1ˢᵗ Meeting Report – Appendix 3

MSI-eSEC Roadmap

2024

9-10 April – 1ˢᵗ MSI-eSEC meeting

- Introduction to working methods and processes
- Election of the Chair and Vice-chair, appointment of drafting rapporteur/s
- Discussion of the scope and main issues to be covered in the deliverable

17 May – CDMSI Bureau meeting

- Report on the 1ˢᵗ MSI-eSEC meeting

18-20 June – CDMSI Plenary meeting

- Report on the 1ˢᵗ MSI-eSEC meeting and work progress
- Preliminary CDMSI orientation on the deliverable and timetable

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April/ September: Intersessional work

Development of an expanded outline with drafting elements of the *draft recommendation* by the drafting rapporteurs, in light of the outcome of the 1ˢᵗ meeting and of the CDMSI exchange, with assistance from the Secretariat.

24-25 September– 2ⁿᵈ MSI-eSEC meeting

- Discussion of the expanded outline of the draft recommendation

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October/November: Intersessional work

Development of a first draft based on the outcome of the 1ˢᵗ Meeting by the drafting rapporteurs, in consultation with the Committee and with assistance from the Secretariat.

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31 October – CDMSI Bureau meeting

- Report on the 2ⁿᵈ MSI-eSEC meeting and overall work progress
- Invitation to CDMSI members to provide feedback on the draft recommendation at the Plenary meeting

4-6 December – CDMSI Plenary meeting

- Report on the 2ⁿᵈ MSI-eSEC meeting and overall work progress
- CDMSI feedback on and input into the draft recommendation

October 2024/March 2025: Intersessional work

Integration of feedback and comments received at the 2ⁿᵈ MSI-eSEC meeting and at the CDMSI Plenary meeting in the draft recommendation by the drafting rapporteurs, with assistance from the Secretariat.

2025

March/April - 3rd MSI-eSEC meeting

- Discussion of the advanced draft of the recommendation

April/May – CDMSI Bureau meeting

- Report on the 3rd MSI-eSEC meeting and overall work progress
- Invitation to CDMSI members to provide feedback on the advanced draft of the recommendation at the Plenary meeting

May/June – CDMSI Plenary meeting

- Report on the 3rd MSI-eSEC meeting and overall work progress
- CDMSI feedback on and input into the draft recommendation

June/July – Public Consultation on the draft recommendation

March/September: Intersessional work

Finalisation of the draft recommendation by the drafting rapporteurs, with assistance from the Secretariat, based on the comments and feedback received at the 3rd MSI-eSEC meeting, at the 23rd CDMSI Plenary meeting and from public consultation as well as with relevant Council of Europe steering and conventional committees.

September/October – 4th MSI-eSEC meeting

- Discussion and finalisation of the draft recommendation
- Agreement by MSI-eSEC to submit the finalised draft recommendation to the CDMSI for adoption
- End of mandate of the MSI-eSEC

October/November – CDMSI Bureau meeting

- Report on the 4th MSI-eSEC meeting and overall work progress
- Discussion of the draft recommendation
- Agreement by the Bureau to put the item on the draft recommendation on the agenda of the CDMSI Plenary meeting for adoption

November/December – CDMSI Plenary meeting

- Report on the 4th MSI-eSEC meeting and overall work progress
- Discussion and finalisation of the draft recommendation
- Adoption of the draft recommendation by the CDMSI