Committee of Experts on Media Environment and Reform (MSI-REF)

MEETING REPORT

Opening, agenda, elections

1. The [Committee of Experts on Media Environment and Reform](#) (MSI-REF) met online via videoconference on 23–24 September 2020. The meeting was attended by eleven members; Ms Helena Mandić (Bosnia and Herzegovina) and Artur Cozma (Republic of Moldova) apologised.

    Jan Kleijssen, Director of the Information Society – Action against Crime Directorate, welcomed the participants from Strasbourg and expressed satisfaction that the expert committee's work could resume despite the COVID-19 crisis, since the challenges posed by the outbreak highlighted the importance the media and communication sectors. Media continue to play a vital role in our society, as demonstrated by their contribution to the understanding and responding to the current crisis; however, the public sphere has changed to the point where the media's capacity to perform their functions is undermined. Evoking the Council of Europe's rich body of standard-setting instruments, Mr Kleijssen encouraged the MSI-REF to strengthen the new media environment with updated governance principles, so as to include the entirety of functions performed by media organisations and online platforms.

2. The MSI-REF members adopted the meeting agenda without amendment.

3. Urška Umek, Secretary to the MSI-REF, introduced the main objectives of the Council of Europe's standard setting and presented the working methods of intergovernmental committees and their subordinate bodies, in line with Committee of Ministers' Resolution [CM/Res(2011)24](#). Working under the supervision of the Steering Committee on Media and Information Society ([CDMSI](#)), the MSI-REF was charged by its [terms of reference](#) to prepare three standard-setting documents in the biennium 2020-2021.

    The members of the expert committee introduced themselves and presented their views on the challenges posed by the media environment and the opportunities for the committee to respond to the governance needs in the media and communication sector, including in the area of electoral communication and media coverage of election campaigns.

4. With only one candidate proposed for the functions of MSI-REF Chair and Vice-Chair, the expert committee unanimously elected Maria Donde (the United Kingdom) as its

Chair and Marko Milosavljević (Slovenia) as its Vice-Chair. Jadranka Vojvodić (Montenegro) and Markus Oermann (Germany) were appointed Gender Equality Rapporteurs.

The elections were conducted using the messaging function in the KUDO videoconferencing system, since no member requested a secret ballot.

Furthermore, the MSI-REF appointed the rapporteurs for the three documents in preparation:

- Mark Cole and Manuel Puppis were appointed rapporteurs for the Draft recommendation on principles for media and communication governance;

- Elda Brogi and Raphaël Kies were appointed rapporteurs for the Draft recommendation on electoral communication and media coverage of election campaigns;

- Damian Tambini was appointed rapporteur for the Draft guidance note on the prioritisation of public interest content on online platforms.

5. The list of confirmed participants appears in Appendix 2. Of the 47 confirmed participants, there were 25 women (53%) and 22 men (47%).

6. The meeting was chaired by Ms Maria Donde. The discussion focused on the scope, format and priority areas of the three deliverables the committee is expected to finalise by the end of its mandate in December 2021, based on the preliminary drafts of the two recommendations and the report "Politics of discoverability" from which the draft guidance note will be drawn up.

Conclusions and decisions

7. As to the three deliverables:

The MSI-REF welcomed the preliminary draft recommendation on principles for media and communication governance, as prepared by the rapporteurs, commending the text's systematic and consistent approach. Regarding structure, the text consists of two parts, procedural and substantive principles, and the latter part is further divided into three sections encompassing media production, distribution and use. The participants discussed the notion of governance and the need to further articulate it in order to provide appropriate safeguards against undue state interference with media independence and self-regulatory mechanisms. This might be achieved, *inter alia*, by specifying which principles apply to all types of governance and which apply mainly to legislation and other regulatory instruments. In the same context, while the variety of addressees does not make it practical to create dedicated sections addressing each group individually, it will be important to differentiate between guidelines applicable to all, and those applicable to specific groups. In this connection, it was suggested by the rapporteurs to find a horizontal approach and jointly address the shared functions of individual actors (e.g. the function of intermediating in the public sphere played by both the traditional media and new actors) but to acknowledge the differences by allocating different responsibilities to specific stakeholders where appropriate. Members and participants discussed in detail how different intermediaries should be classified, including how best to describe traditional media and their role. It was considered useful to refer in this connection to the Recommendation on a new notion of media. Several participants emphasised the importance of emerging co-regulatory instruments; however, guidance on co-regulation should be clear enough to ensure that self-

regulatory mechanisms will not be undermined by public authorities imposing conditions or restrictions on their activities.

The MSI-REF further welcomed the preliminary <u>draft recommendation on electoral communication and media coverage of elections campaigns</u>, as prepared by the rapporteurs, complimenting the many important aspects of online campaigning addressed in the text. The participants pointed out that also "traditional" media election coverage should be included in the text, possibly by adding appropriate mentions in guidelines applicable to all campaign actors, and by addressing separately the aspects applicable specifically to the media, maintaining the level of regulation applied under the current frameworks so as to preserve/restore the level playing field for all political parties and candidates. The discussion also showed the need for precise definitions of the notions used in the text (e.g. political advertising, electoral communication, electoral campaigning, third parties, etc.), to enhance the conceptual clarity of the text. In this connection, the committee is yet to decide on the applicability of the document to political advertising outside the pre-electoral periods as designated in national laws. The participants pointed out that campaigning cycles have become continuous, which should be reflected in any future regulation of the area. Also, references to co-regulatory mechanisms should be further developed to describe how to enact such a cooperative approach, and co-operation between different relevant independent regulators (media regulatory authorities, electoral commissions or equivalent bodies and data protection authorities) should be specified.

In preparation for the <u>Draft guidance note on the prioritisation of public interest content on online platforms</u>, the secretariat had commissioned from Eleonora Maria Mazzolli and Damian Tambini a report on the issue titled "The politics of discoverability - a report on the prioritisation of public interest content online". The members discussed the report, its findings and conclusions, suggesting minor changes in structure and additions in terms of developing further the principles of co-regulation to potentially apply to prioritisation; adopting a more granular approach to prominence given to different kinds of content (public interest content to be prioritised, value-neutral content, undesirable or harmful content); further articulating the economic perspective of prioritisation regimes and its impact; clearly separating between the issues raised by current prioritisation regimes and potential problems raised by regulatory attempts; or adding a substantive dimension to the bid for procedural regulation. Following the discussion, the rapporteur presented an outline for the draft guidance note, dividing the text into good practice principles for the private sector (media, online platforms) and guidelines for governments and policymakers.

8. As to the timelines and follow-up:

The MSI-REF agreed to continue its work on the expected results in parallel, in line with the draft roadmap (Appendix III). Deadlines were set at the meeting for written comments to the three deliverables, whereupon the rapporteurs will revise the texts, to be presented in the next meeting.

A possible meeting in January 2021, to compensate for the meeting cancelled in March 2020, would be confirmed in October; dates for this and the March meeting would be decided based on an online scheduling poll. Members also agreed to intensify their work by written procedure throughout the year instead of focusing only on periods around the meetings.

The MSI-REF agreed to continue to invite other partners and stakeholders to its meetings in line with its terms of reference. Members and participants were encouraged to reach out to their networks and inquire about further interest for participation in the committee work.

Any other business

9. The Secretariat will prepare a draft meeting report to be sent to the Chair and Vice-Chair for consideration. Thereafter, the Secretariat will send the draft report to the MSI-REF, allowing for comments within five full working days. In the absence of comments, the report will be deemed finalised and will be transmitted to the CDMSI for information. The progress of work of the MSI-REF will be reflected in its draft documents and the reports of its meetings.

<u>Appendix I</u>

Annotated agenda of the first meeting

1. Opening of the meeting by Jan Kleijssen, Director, Information Society - Action against Crime Directorate, Directorate General Human Rights and Rule of Law

2. Adoption of the agenda

3. Information by the Secretariat

    Introduction to the working methods and procedures of intergovernmental committees and subordinate bodies ([Resolution CM/Res(2011)24](#)). Information on relevant standard-setting and reference work of the Council of Europe

4. Tour de table

5. Election of Chairperson and Vice-chairperson and appointment of Gender Equality Rapporteur

6. Appointment of rapporteurs for the MSI-REF deliverables

7. Discussion of the deliverables under the MSI-REF mandate:

    (i)   a draft recommendation by the Committee of Ministers to member States with guiding principles for media and communication governance in order to address the shift from established channels to social networks and of related risks (manipulation of public opinion, lack of public trust, information disorder) with a view to ensuring consistency of relevant laws and policies with Council of Europe standards on the right to freedom of expression and information.

    (ii)   a draft recommendation by the Committee of Ministers to member States on election communication and media coverage of electoral campaigns.

    (iii)   a guidance note on regulatory/policy requirements, compatible with freedom of expression and information, responding to users' needs and technical possibilities related to the prioritisation of public interest content on relevant social and search platforms and other news aggregators.

8. Discussion of the road map for the MSI-REF in 2020 and 2021

9. Other business

Wednesday, 23 September 2020	
9:30 – 9:45	Opening of the meeting by Jan Kleijssen, Director, Information Society - Action against Crime Directorate, Directorate General Human Rights and Rule of Law
9:45 – 9:50	Adoption of the agenda
9:50 – 10:10	Information by the Secretariat on the working methods of intergovernmental committees and subordinate bodies and adjustments made due to the COVID-19 sanitary crisis
10:10 – 10:30	Tour de table
10:30 – 11:00	Election of Chairperson and Vice-chair and appointments of Gender Equality Rapporteur and of rapporteurs for the MSI-REF deliverables
11:00 – 12:00	Discussion of a draft recommendation with guiding principles for media and communication governance
12:00 – 13:30	Lunch break
13:30 – 16:00	Continuation of the discussion on a draft recommendation with guiding principles for media and communication governance
Thursday, 24 September 2020	
9:30 – 10:45	Discussion of a guidance note on regulatory/policy requirements related to the prioritisation of public interest content on online platforms
10:45 – 12:00	Discussion of a draft recommendation on election communication and media coverage of electoral campaigns
12:00 – 13:30	Lunch break
13:30 – 15:40	Continuation of the discussion on a draft recommendation on election communication and media coverage of electoral campaigns
15:40 – 15:50	Discussion of the road map for the MSI-REF in 2020 and 2021
15:50 – 16:00	AOB

Appendix II

List of participants / *liste des participants*

Committee members / *Membres du comité*

Elda BROGI
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Artur COZMA
Member of Coordinating Council of the Audio-visual of the Republic of Moldova - Apologised
Membre du Conseil de coordination de l'audiovisuel de la République de Moldova - Excusé

Maria DONDE, Chair of MSI-REF / *Présidente du MSI-REF*
Head of International Content Policy, Office of Communication (OFCOM), United Kingdom
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Interpreters / *Interprètes*

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Appendix III

Roadmap of the MSI-REF

2020

23 – 24 September	**1st MSI-REF meeting**

Introduction into working methods and processes. Election of the Chair and Vice-chair, Appointment of GE Rapporteurs. Discussion of scope and main issues to be covered in deliverables.

29 September   **19th CDMSI Bureau meeting**

Report on the 1st MSI-REF meeting

24 – 26 November   **20th CDMSI Plenary meeting**

Report on MSI-REF work progress, CDMSI orientation on deliverables

2021

January (tbd)   **2nd MSI-REF meeting**

Discussion of the draft deliverables

March   **3rd MSI-REF meeting**

Discussion of the draft deliverables

Agreement to consult with relevant steering and conventional committees and to conduct open consultations with other stakeholders on the draft recommendations

April   **20th CDMSI Bureau meeting**

Report on the 2nd and 3rd MSI-REF meetings and overall work progress. Invitation to CDMSI members to provide feedback on the draft deliverables at the plenary meeting.

June   **21st CDMSI Plenary meeting**

Report on MSI-REF work progress and CDMSI feedback on and input into the draft deliverables. Agreement to consult with relevant steering and conventional committees and to conduct open consultations with other stakeholders on the draft recommendations.

September	**4th MSI-REF meeting**
	Discussion and finalisation of the deliverables, taking into account comments obtained through the public consultations
October	**21st CDMSI Bureau meeting**
	Report on the 4th MSI-REF meeting and overall work progress. Discussion of the draft deliverables and agreement on submitting them for approval to the CDMSI Plenary.
November	**22nd CDMSI Plenary meeting**
	Approval of the draft recommendations for submission to the Committee of Ministers following final editorial and legal checks. Adoption of the guidance note.