Committee of Experts on Increasing Resilience of the Media (MSI-RES)

COUNCIL OF EUROPE CONSEIL DE L'EUROPE

2nd meeting, 29-30 September 2022
(Strasbourg, Palais de l'Europe, Room 8, and online)

MSI-RES(2021)09
14 November 2022

Meeting report

Opening and agenda

1. The meeting was opened by the Chair of the Committee of Experts on increasing resilience in media (MSI-RES) Mr Ramón Salaverría Aliaga. Mr Jan Kleijssen, Director, Information Society – Action against Crime, welcomed the members and participants and informed them about the recent developments in the Council of Europe.

2. As one of the means of increasing media resilience and raise member states' awareness about the mounting concerns, an informal exchange of views on media freedom and safety of journalists was held on 28 September between the Committee of Ministers and civil society, notably the representatives of the Partners to the Council of Europe's Platform for the Safety of Journalists. Based on the Partners' 2022 Annual report and Committee of Ministers' recommendations CM/Rec(2016)4 on the safety of journalists, CM/Rec(2022)4 on promoting a favourable environment for quality journalism and CM/Rec(2022)13 on the impacts of digital technologies on freedom of expression, the discussion centred around the urgent issues of journalists' safety and media freedom, especially in the context of Russia's war on Ukraine, and on the rising online threats to journalism. Mr Kleijssen also drew parallels between the work of the MSI-RES and the Committee on Artificial Intelligence (CAI), which is developing a (framework) convention with overall principles applicable in all fields of AI development, design and application, explaining that experience have shown that human rights and rule of law based international framework is needed to prevent or mitigate various failures in AI systems which can have serious adverse impacts on people's rights and obligations.

3. The agenda (Appendix I) was adopted without change. According to the list of participants (Appendix II), of 28 members and participants, there were 18 women (64%) and 10 men (36%). The meeting was attended by all members (twelve in person and one online).

Committee on Artificial Intelligence (CAI)

4. The MSI-RES had an exchange with Mr Kristian Bartholin, Secretary of the CAI, the committee tasked with elaborating a legally binding instrument on AI based on Council of Europe standards. The idea is to produce an instrument with potentially global reach, one that will be less Euro-centred but certainly human-centred and human rights-compliant, to serve as a benchmark in this area. Mr Bartholin explained that a so-called "zero draft" of the future convention has recently been circulated amongst the committee members and observers, to be discussed and negotiated in the course of

next year and finalised by 25 November 2023. In addition to developing general principles to shape the development and use of AI systems, the future convention is to focus on AI in the public sector where any unfair or biased outputs can pose severe threats to human rights, the rule of law and democracy. The CAI will focus on the contexts in which AI systems are used, the idea being not to ban any technology but to strike a fair balance between the various interests involved and prevent the risks to human rights and dignity, but also to democratic systems. The Committee is also working on the definitions; hence it would be preferable for other committees working on AI related issues to avoid defining any general concepts that will be featured in the convention.

Conclusions and decisions

5. The MSI-RES reviewed and discussed the first drafts of its two deliverables, the Draft guidelines on the responsible use of artificial intelligence (AI) in journalism (MSI-RES(2022)07) and the Good practices for sustainable media financing (MSI-RES(2022)08). The discussion focused on the purpose, structure and objectives of the documents, as well as their substance and especially the elements still to be included or further elaborated. The MSI-RES welcomed the texts as prepared by the rapporteurs, noting that they were well-advanced, appropriate in scope and clear in language. The members endorsed the structure and the main lines of the documents, as well as the rapporteurs' reflection on the wide range of issues discussed at the first meeting and their effort to integrate those reflections in the respective texts.

Draft guidelines on the responsible use of artificial intelligence (AI) in journalism

6. Rapporteurs Mr Richard Fletcher and Ms Natali Helberger presented the Draft guidelines which are grounded in Article 10 of the European Convention on Human Rights, as further concretised through relevant Committee of Ministers' recommendations. They also based them on academic research and a series of workshops with practitioners who set out several themes on which useful guidance can be made for the practical application of AI, such as the decision on whether or not to build own technology, or the conditions of procurement. The Guidelines are structured around different categories of addresses and the process of implementing AI tools. For media organisations, they follow the different stages in the implementation of AI: the decision to (not) implement, the development and implementation, the use and evaluation, the relationship with the audience and the impact on the broader media ecology. Additionally, there are specific sections addressing AI developers, platforms as the main distributors of news content and member states. The Guidelines are to focus on concrete and implementable recommendations and best practices for value-driven implementation of AI into the organisation process, accentuating the issues where the Council of Europe can provide added value and contribute to media resilience.

7. The MSI-RES members and participants engaged in an insightful exchange, with constructive input and many ideas for the improvement of the text. They complimented the coherent and comprehensive document oriented to reality and addressing media organisations and states, as well as AI developers and platforms. It was decided to focus specifically on AI tools and take out other digital tools, also from the title, as they are of less relevance to the purpose of the text. An addition might be useful on what makes AI different from other technologies and why special guidelines are needed on this issue. There were reflections on aligning the document with the structure of the CAHAI's "Possible elements of a legal framework on artificial intelligence", which centres around the development, design, and application of AI systems. This can be achieved through a closer attention to the terminology applied in individual sections of the Guidelines. The discussion also addressed the need for definitions and additional notions that might require defining.

8. The section featuring the overarching fundamental principles would be further developed as the document progressed. It was considered to introduce several important points, but it is not always clear whether they should be considered as normative principles or policy goals. Moreover, other principles, such as diversity, could be considered in this section, or alternatively, the principles could be repositioned under other more specific sections.

9. Regarding the focus of the document particularly on small and medium scale media organisations, it was emphasised that sizes vary considerably in individual member states and that in some states also large media organisations do not have their own internal or self-regulatory policies on the use

of AI. Furthermore, there may be specific aspects to consider regarding small media organisations; for example, subsidiary companies (chain-owned media) do not themselves make a choice on whether to use AI tools, as some corporate aspects of their operations are decided centrally. It was considered that, at a minimum, the audiences should be made aware of how decisions on the use of AI are made.

10. The Guidelines would further benefit from a more detailed description of the different uses of AI tools along the media production chain (how AI used in journalism). In this connection, it was also discussed whether the use of AI in the production and distributions stage, respectively, might raise different issues to be addressed in different ways. The MSI-RES also discussed the addressees of the Guidelines, especially those in the media sector, as the guidelines target media managers, editors and journalists. There should be an acknowledgment of their different responsibilities, as well as of the fact that AI in journalism can be used for both editorial and non-editorial purposes. Similarly, the Guidelines distinguish between the use of AI in mission critical activities that relate directly to the journalism task to inform and fall under editorial responsibility, and in non-mission critical, or supporting activities (marketing, HR, etc.). Such a distinction may be called for because editorial responsibility cannot extend to every use of AI, but only the tools used to procure, produce, and disseminate news and other content. The question has arisen to what extent the text also addresses, or should address, non-mission critical activities which can be a relevant part of the AI ecosystem in media organisations, and if so, how they should be integrated in the document.

11. The MSI-RES further discussed the issue of authorship and automation, notably the perception of authorship of automatically generated texts or other forms of content and the closely linked assumption of editorial responsibility for such content. Namely, as the editorial control partly or wholly moves to the stage of building AI tools and the data that train the systems, this raises the question of a possible expansion of the notion of editorial control to the use of AI tools. At the same time, it was emphasised that from the regulatory perspective, authorship of content is not relevant for determining the editorial responsibility; it is the responsibility of editors to ensure compliance with the applicable regulation and the values-based Guidelines might guide them in recognising the risks involved in the use of AI and related responsibilities. Related to this, also the issue of editorial autonomy needs revisiting as the editors and journalists are made to optimise for clicks and their editorial autonomy can be undermined in the quest for profit. Given the emerging nature of these issues, the Guidelines will offer suggestions on how to consider them in the context of AI development, design and application, but it may be early to develop detailed guidance on all of the elements.

12. The aspect of data protection could be emphasised in the document, as well as a focus on the users, either by articulating their rights or by highlighting the role of AI in society. The user perspective could also be enhanced by putting more emphasis on transparency and responsibilities resulting from the use of AI by the media. It was also suggested to mention the need for security and integrity of AI tools to prevent their manipulation or misuse, as well as highlight the gender perspective where appropriate. Finally, the MSI-RES agreed that accountability mechanisms need to be given more prominence in the text, with emphasis on self-regulatory regimes of responsibility for the use of journalistic AI and oversight. Further codes of good practices and similar resources will also be included in Annex 3, which could be updated regularly even after the adoption of the Guidelines.

Draft Good practices for sustainable news media financing

13. Rapporteurs Ms Elda Brogi and Ms Helle Sjøvaag presented the first draft of Good practices for sustainable media financing, adding “news” to the title to reflect the focus of the report. This report is to present various models and schemes of media financing that have proved impactful and could be used as inspiration by the media sector as well as lead to (more) effective support by member states when developing their own financing schemes. The report opens with an analysis of the media business model and an overview of some recent academic literature and policy reports: Media Pluralism Monitor, the Forum on Freedom on Democracy Report: A New Deal for Journalism, UNESCO 2022 Report: Finding the funds for journalism to thrive, and the Cairncross Review: a sustainable future for journalism. There is wide agreement amongst researchers that resilience and sustainability are generated through diversified and multidimensional revenue streams. also, one of the key goals of sustainable media financing is to enhance the media’s ability to innovate, which

in turn makes them more resilient. Resilience is defined in the report as the capacity to function through unstable times and adjust to or cope with environmental and social threats. Resilient media are able to sustain their production, to have a constant output of content, to make a profit and also to have revenues that they can reinvest in their production. That said, economic resilience is but one element required for journalism to survive and flourish; the management of media companies is of relevance as well, and the wider social, political, economic and technological environment in which journalism operates.

14. The core of the report is an already well-developed section with the analysis and examples of good practices for sustainable market-based revenues and effective state support. Further information on the media markets, as well as legislative and policy frameworks will be added in the time until the third meeting of the Expert Committee, when the replies to the CDMSI questionnaire on best practices for media financing will be analysed. The examples show that there are no fit-for-all solutions, and no single model can be successful: hence, specific recommendations are being developed, considering the differences in regions/cultures, media market sizes and the levels of media independence. Direct revenue is still the dominant strategy, and while there is evidence of success in some countries, earnings are still decreasing. Philanthropy has had a slow uptake in Europe, contrary to the US, with concerns about transparency, fairness, and predictability, and appeals towards more sustainable and independent philanthropic programmes. Crowdfunding requires a lot of effort for raising funds and has a low level of sustainability, but it seems to work in markets with a high level of political influence over the media. There are also some interesting funding initiatives introduced by states, such as partnership schemes for PSM to support local and public interest media. Further emphasis should be put on the threats and vulnerabilities, to better explain why certain financing solutions can work better in specific circumstances.

15. The final structure of the report will be defined by its main addressees, with two major categories identified, member states and media companies. For States, information on successful regulatory frameworks and support schemes will be of particular value as not all states have access to comparative data, and media companies will receive insights on sustainable ways of generating market revenues. In view of the report's length and richness, the Committee discussed how to best combine the examples with the analysis for maximum clarity and comprehensiveness, suggesting using frames or boxes to highlight key information.

16. From the literature review and examples of sustainable media practices, some general findings have emerged on the importance of diversification of revenue sources; transparency in media ownership, the allocation of public funding and the application of AI and data analytics in the news industry; and disruption caused by platforms to journalism business models across the sector. As for state support, tax relief emerges as a dominant recommendation to sustain media businesses.

17. The Expert Committee discussed the criteria for the evaluation of good practices. It was suggested that in the long term, good practices are linked to the definition of sustainability and independence, so the general principles of economic sustainability can serve as suitable criteria for their identification. It was also reiterated that different regions in Europe reveal different trends about successful financing models. For example, the audiences' willingness to pay for news demonstrated in Scandinavian countries is not shared across the entire continent. In this connection, it was considered that more examples were needed from Eastern European countries. Likewise, several members suggested giving more indication about the differences between international, national, regional and local media. In this regard, it was also suggested that local media in larger countries may be the same size as national media in smaller countries, so also the market size should be considered.

18. Regarding the regulatory environment and its impact on media sustainability, a suggestion was made to highlight also good practices of regulatory responses for improving media sustainability, as not all regulatory measures can be considered effective. For example, there may be benefits to enabling media organisations to operate on a non-profit basis; a Moldovan example was mentioned of a TV channel created as an NGO and thus eligible for different kinds of financial support and grants. In this connection, new skills needed to navigate media management, financing and administration should be reflected also in journalistic education and training, and while this is not a particular focus of the report, a mention might be made of it. Generally, it was considered that a separate section might be useful on state measures to increase media sustainability and resilience.

19. The MSI-RES further discussed the role of platforms and especially large platforms in the media environment, and how to include their various aspects in the report. There was some scepticism expressed about copyright revenues and neighbouring rights as a best practice model for the redistribution of revenues from platforms to the media, as it does not seem to benefit smaller organisations, but at the same time it was suggested that a case should be made in the report about why and how platforms can/should be taxed to contribute to the sustainability of the news media. Also the issue of funds provided by platforms to support innovation in the media could be considered, as well as innovation coaching.

Any other business

20. The MSI-RES agreed to hold its next meeting in Strasbourg on 30-31 March 2023. In line with established practice, 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-RES, allowing for comments within five full working days. In the absence of comments, the report will be deemed adopted and will be transmitted to the CDMSI for information.

Appendix I

Agenda

MSI-RES(2022)06
26 September 2022

2nd meeting of the MSI-RES

29-30 September 2022
Room 6, Palais de l'Europe, Strasbourg / Online

Draft agenda

29 September 2022

9.00 – 9.30 KUDO testing

9:30 – 10:45

1. Opening of the meeting by the Chair
2. Welcoming address by Jan Kleijssen, Director, Information Society - Action against Crime Directorate, Directorate General Human Rights and Rule of Law
3. Adoption of the agenda
4. Information by the Secretariat

Information on relevant standard-setting and reference work of the Council of Europe

10.45 – 11.15

Coffee break

11.15 – 13.00

5. Discussion of the Draft Guidelines on the responsible use of digital tools including artificial intelligence (AI) in journalism (*MSI-RES(2022)07*)

13.00 – 14.30

Lunch break

14.30 – 16.00

6. Continuation of point 5

16.00 – 16.20

Coffee break

16.20 – 18.00

7. Continuation of point 5

30 September 2022

10.00 – 11.15

8. Discussion of the Draft Good practices for sustainable news media financing (*MSI-RES(2022)08*)

11.15 – 11.45

Coffee break

11.45 – 12.30

9. Continuation of point 8

12.30 – 14.00

Lunch break

14.00 – 16.30

10. Continuation of point 8
11. Other business
12. Date and time of next meeting

Appendix II

List of participants / *liste de participants*

20 September 2022

Committee of Experts on Increasing Resilience of the Media (MSI-RES)
Comité d'experts sur le renforcement de la résilience des médias (MSI-RES)

2nd meeting, 29–30 September 2022
Hybrid meeting, Council of Europe, Strasbourg

2éme réunion, 29–30 septembre 2022
Réunion hybride, Conseil de l'Europe, Strasbourg

COMMITTEE MEMBERS / *MEMBRES DU COMITÉ*

Ms / Mme Ludmila ANDRONIC Lecturer / *Conférencière* Department of Journalism and Communication Sciences / *Département de journalisme et des sciences de la communication* Moldova State University / *Université d'État de Moldavie* Republic of Moldova / *République de Moldavie*
Ms / Mme Elda BROGI Scientific Coordinator at the Centre for Media Pluralism Media Freedom / *Coordinatrice scientifique au Centre pour le pluralisme des médias et la liberté des médias* Professor (part-time) at the European University Institute / P*rofesseur (à temps partiel) à l'Institut universitaire européen* Florence Italy / *Italie*
Ms / Mme Roxana CLINCIU Deputy director / *Directrice adjointe* Public Diplomacy and Strategic Communication Directorate / *Direction de la diplomatie publique et de la communication stratégique* Ministry of Foreign Affairs / *Ministère des affaires étrangères* Romania / *Roumanie*
Ms/Mme Solvita DENISA–LIEPNIECE Principal media literacy advisor (disinformation resilience), Baltic Centre for media excellence / *Conseillère principale en éducation aux médias (résilience à la désinformation), Centre balte pour l'excellence des médias* Latvia / *Lettonie*
Ms / Mme Maria DONDE Head of International Content Policy / *Chef de la politique de contenu international* Office of Communication (OFCOM) / *Bureau de la Communication (OFCOM)* United Kingdom / *Royaume-Uni*
Ms / Mme Céline FLAMMANG Senior policy advisor / *Conseillère* Department of Media, Connectivity and Digital Policy / *Service des médias, de la connectivité et de la politique numérique* Ministry of State / *Ministère d'État* Luxembourg

Mr / M. Richard FLETCHER Senior Research Fellow / *Chercheur principal* Reuters Institute of the Study of Journalism / *Institut Reuters d'étude du journalisme* United Kingdom / *Royaume-Uni*
Ms / Mme Natali HELBERGER Professor in information law / *Professeur de droit de l'information* Institute for Information Law / *Institut du droit de l'information* University of Amsterdam / *Université d'Amsterdam* Netherlands / *Pays-Bas*
Mr / M. Marko MILOSAVLJEVIĆ Professor, Head of Communication Department / P*rofesseur, Chef du département de la communication* Faculty of Social Sciences / *Faculté des sciences sociales* University of Ljubljana / *Université de Ljubljana* Slovenia / *Slovénie*
Mr/M. Manuel PUPPIS Professor in Media Systems and Media Structures / *Professeur en systèmes et structures médiatiques* University of Fribourg / *Université de Fribourg* Switzerland / *Suisse*
Mr / M. Ramón SALAVERRÍA Professor of Journalism / *Professeur de journalisme* Center for Internet Studies & Digital Life / *Centre d'études de l'Internet et de la vie numérique* University of Navarra / *Université de Navarre* Spain / *Espagne*
Ms / Mme Helle SJØVAAG Professor of Journalism / *Professeur de journalisme* University of Stavanger / *Université de Stavanger* Norway / *Norvège*
Mr / M. R. L. VREEKAMP Founder of Future Journalism Today Academy / *Fondateur de l'Académie Future Journalism Today* Netherlands / *Pays-Bas*

PARTICIPANTS AND OBSERVERS / *PARTICIPANTS ET OBSERVATEURS*

COUNCIL OF EUROPE MEMBER STATES /

GREECE / *GRECE*	**Ms Nicole STELLOU** Media policy expert / *Expert en politique des médias* General Secretariat of Communication and Media / *Secrétariat général de la communication et des médias* Ministry of Digital Governance / *Ministère de la gouvernance numérique*
SERBIA/*SERBIE*	**Ms/Mme Maja ZARIC** Head of Unit for International Cooperation / *Chef de l'unité de la coopération internationale* Ministry of Culture and Media / *Ministère de la culture et des médias*
TÜRKIYE	**Mr / M. Osman ARVAS** Head of International Relations Department / Chef du département des relations internationales

	Radio and Television Supreme Council (RTUK) / Conseil suprême de la radio et de la télévision **Mr / M. Salih KARABULUT** Expert / *Expert* Radio and Television Supreme Council / *Conseil suprême de la radio et de la télévision* International Relations Department / *Département des relations internationales*

NON-MEMBER STATES HAVING OBSERVER STATUS WITH THE COUNCIL OF EUROPE / ETATS NON-MEMBRES AYANT LE STATUT D'OBSERVATEUR AUPRES DU CONSEIL DE L'EUROPE

MEXICO / *MEXIQUE*	**Mr / M. José Alfonso SUÁREZ DEL REAL Y AGUILERA** Ambassador Plenipotentiary - Permanent Observer / *Ambassadeur Plénipotentiaire - Observateur Permanent* Permanent Mission of Mexico to the Council of Europe / *Mission Permanente du Mexique auprès du Conseil de l'Europe*

NON-MEMBER STATES / ÉTATS NON-MEMBRES

MOROCCO / *MAROC*	**Mr / M. El Mahdi AROUSSI IDRISSI** Director of the legal studies Department, High Authority for Audio-visual Communication (HACA) *Directeur du Département des études juridiques, Haute Autorité de la Communication Audiovisuelle (HACA)* **Mr / M. Othmane ALAMI LAKTIB** Executive, Legal Studies Department, High Authority for Audio-visual Communication (HACA) *Cadre, Département des études juridiques, Haute Autorité de la Communication Audiovisuelle (HACA)* **Ms / Mme Chanaz EL AKRICHI** Head of Division of Cooperation, *Ministry of Culture, Youth and Sports- Department of Communication* *Cheffe de Division de la Coopération, Ministère de la Culture, de la Jeunesse et des Sports- Département de la Communication* **Ms / Mme Meriem KHATOURI** Director of Studies and Media Development, *Ministry of Culture, Youth and Sports- Department of Communication* *Directrice des Etudes et du Développement des Médias, Ministère de la Culture, de la Jeunesse et des Sports*

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

EUROPEAN PLATFORM OF REGULATORY AUTHORITIES EPRA / *PLATE-FORME EUROPÉENNE DES*	**Ms Emmanuelle MACHET** Head of EPRA Secretariat / *Cheffe de secretariat d'EPRA* **Ms Géraldine DENIS** Administrator / *Administratrice*

INSTANCES DE RÉGULATION (EPRA)	
Directorate General of Democracy and Human Dignity, Democratic Governance / *Direction générale de la démocratie et de la dignité humaine, Gouvernance démocratique*	**Ms Judith ORLAND** Administrator / *Administratrice*

OTHER INSTITUTIONS / AUTRES INSTITUTIONS

ARTICLE 19	**Ms / Mme Maria Luisa STASI** Head of Law & Policy for digital markets / *Responsable du droit et de la politique des marchés numériques*
EUROPEAN COMMISSION / *COMMISSION EUROPEENNE*	**Mr / M. Marijn DUIJVESTEIN**
UNESCO	**Ms / Mme Adeline HULIN** Project Officer, Freedom of Expression and Media Development / *Chargée de projet, Liberté d'expression et développement des médias*

SECRETARIAT / *SECRETARIAT*

Information Society - Action against Crime Directorate – Direction *de la société de l'information - lutte contre la criminalité*	**Mr / M. Jan KLEIJSSEN** Director / *Directeur*
Information Society Department, Directorate General Human Rights and Rule of Law / *Service de la société de l'information, Direction générale Droits de l'Homme et Etat de droit*	**Mr / M. Patrick PENNINCKX** Head of Department / *Chef de Service*
Information Society Department / *Service de la société de l'information*	**Ms / Mme Urška UMEK** Secretary of MSI-RES, Head of Media Unit, Media and Internet Division / *Secrétaire du MSI-RES, Chef de l'unité médias, Division médias et internet*
Information Society Department / *Service de la société de l'information*	**Ms / Mme Artemiza-Tatiana CHISCA** Head of Media and Internet Division, Secretary to the Steering Committee on Media and Information Society (CDMSI) / *Chef de la Division médias et internet, Secrétaire du Comité directeur sur les médias et la société d'information (CDMSI)*
Information Society Department / *Service de la société de l'information*	**Ms / Mme Giulia LUCCHESE** Secretary of MSI-SLP committee / *Secrétaire du comité MSI-SLP*

Information Society Department / *Service de la société de l'information*	**Ms / Mme Emma GRUDEN** Assistant / Assistante
Information Society Department / *Service de la société de l'information*	**Ms / Mme Joanna SZELEZNIAK** Assistant / Assistante

INTERPRETERS / *INTERPRETES*
Ms / Mme Bettina LUDEWIG-QUAINE
Ms / Mme Gillian WAKENHUT
Ms / Mme Sara WEBSTER

TECHNICIAN KUDO / *TECHNICIEN KUDO*
Ms / Mme Sarah LINDER
Mr / M. Tom PERRIN