

***Bureau of the Steering
Committee on Media
and Information Society
– CDMSI-BU***



24/10/2017

Report of the 12th meeting (19-20 October 2017)

(Strasbourg, Council of Europe Offices, Agora building, room GO4)

1. Opening of the meeting

The CDMSI Chair, Elfa Ýr Gylfadóttir (Iceland) opened the meeting. The gender distribution among 5 attendants was 3 women (60%) and 2 men (40%).

Jan Kleijssen, Director of Information Society and Action against Crime, welcomed the Bureau to its fourth meeting under the current mandate of the CDMSI. He mentioned the work done by both committees of experts subordinated to the CDMSI in revising the draft texts being prepared.

Mr Kleijssen up-dated the Bureau on progress related to the project for a platform for co-operation with major internet companies, to which the CDMSI had agreed as part of the Council of Europe Strategy for Internet Governance 2017-2019. The first step of the project will consist in an exchange of letters with some of the major internet companies worldwide during a signing ceremony on the margin of the World Forum of Democracy, in Strasbourg, on 8 November. The Council of Europe will thus be the first international organisation to engage with the private sector with a proper status. Hopefully, the participation of the private sector will enrich the work of the CDMSI.

Jan Kleijssen informed the Bureau on the state of play of the future mandate for the CDMSI and possible subordinate committees of experts. He recalled the context as well as constraints imposed by the Committee of Ministers, notably the shift, since the reform of the Council of Europe, from terms of reference prepared by steering committees and submitted to the CM for adoption to terms of reference given by the CM to steering committees. He considered that it would be more efficient to enable steering committees to comment on draft terms of reference before they go to the CM, even without the right to formally adopt them. This would be ensured for the biennium 2020-2021. In the precise case of CDMSI terms of reference, the proposal made to the GR-H (Group of rapporteurs on human rights) triggered the Swiss delegation to make proposals to more visibly integrate internet governance and for some more deliverables. The secretariat had proposed a number of sub-amendments to bring the Swiss text in line with previous CM and CDMSI decisions.

These proposals were discussed, and a revised draft has been submitted to the GR-H. At the time of the meeting, the reaction from Switzerland was still awaited prior to decisions (see also item 10.2).

Mr Kleijssen informed the Bureau on the current budgetary situation of the Council of Europe due to one of its members not paying the remaining of its contribution for 2017. This results in several activities being cancelled or postponed. Should the situation continue next year, it will certainly affect, in particular, the terms of reference and work programme of all steering committees.

He expressed thanks to Austria, and particularly to Matthias Traimer, for the excellent conference in Vienna, co-organised with the OSCE Chairmanship (Austria) and the CM Chairmanship of the Czech Republic on "The roles and responsibilities of internet intermediaries" (13 October 2017).

Finally, he condemned the murder of the Maltese journalist, Daphne Caruana Galizia killed in the bombing of her car just two days before the meeting. This makes even more obvious the importance of the Council of Europe work on freedom of expression and safety of journalists.

He also introduced Francesca Montagna, who recently joined the Media and Internet Division.

2. Adoption of the agenda

The Bureau adopted the agenda of its meeting in view of the preparation of the 13th CDMSI meeting, which will take place from 5 to 8 December 2017. The annotated agenda appears in Appendix 1. The list of participants appears in Appendix 2.

3. Standard setting

3.1 Committee of experts on media pluralism and transparency of media ownership (MSI-MED)

The Bureau took note of the information provided by Urška Umek, secretary of the MSI-MED, on its fourth and last meeting (20 – 21 September 2017) and the committee's progress on its deliverables.

Draft recommendation on media pluralism and transparency of media ownership

The CDMSI Bureau members welcomed the text as approved by the MSI-MED members. They acknowledged that the draft, as amended following the CDMSI plenary comments and external consultations, reflects a difficult compromise between the views of experts and those of member states, but felt that the strong language providing for obligations to legislate in certain areas (transparency of media ownership and obligations of media regulators to provide access to transparency information, media literacy) should be further moderated to express more realistic expectations.

Some minor amendments were also suggested, such as featuring financial support measures in a more explicit manner, shortening the preamble and moving the references to previous CoE documents from the operative part to the text of the preamble, making some changes to the definition of online media, etc.

*Draft feasibility studies on the use of the internet in electoral campaigns
Draft feasibility study on a standard-setting instrument on media coverage of elections with a specific focus on gender equality*

It was emphasised that more stock-taking on the two issues would be necessary before any possible standard-setting activities could be envisaged. Given the open-ended conclusions of both studies, the members felt that mentions of »standard-setting instruments« might mislead the readers and decided to delete them from the titles of the studies, after consultation with the MSI-MED. It was also decided that a follow-up plan was necessary, especially as regards the very topical issue of the use of the internet in electoral campaigns which might also be an appropriate topic for the 2020 ministerial conference.

The Bureau decided that the drafts should be sent out to the members and invited the members to send comments in writing to the secretariat no later than until 7 November 2017, should they wish to make any. Comments received would be incorporated into the texts. The revised documents would then be made available to the members within the set deadlines to be discussed and approved at the CDMSI plenary meeting in December.

3.2 Committee of experts on internet intermediaries (MSI-NET)

The Bureau took note of the information provided by Charlotte Altenhöner-Dion, secretary of the MSI-NET, on its fourth and last meeting (18 – 19 September 2017) and the committee's progress on its deliverables.

Draft recommendation on internet intermediaries.

The Bureau welcomed the changes made to the text during the last meeting of the MSI-NET, incorporating the suggestions received by the CDMSI in June as well as the detailed comments obtained during public consultations. Delegates expressed their contentment with the finalised draft as well-balanced and mature enough to be forwarded to the CDMSI. It suggested to review the reference in the Preamble to the 2008 Human Rights Guidelines for Internet Service Providers, prepared in co-operation with EuroISPA and their being "reinforced by this recommendation". While a CM recommendation cannot "update" guidelines developed in co-operation with ISPs, the phrasing should clarify that it has been agreed with EuroISPA that this recommendation in practice serves as an update.

Draft Study on the human rights dimensions of automated data processing techniques (in particular algorithms) and possible regulatory implications

The Bureau welcomed the changes made to the draft during and after the last MSI-NET meeting and expressed its satisfaction with the conclusions. It suggested re-phrasing number 8, as the term "institutional arrangements" alludes to formal and informal regulation which may not be intended. It was emphasised that the study leaves all options open to the CDMSI to decide on its appropriate follow-up.

The Bureau decided that both texts be sent to the CDMSI without substantial changes and invited the members to send any possible comments or suggestions

for change by 7 November 2017 latest. This will allow for a reflection of the comments in the final drafts that will be made available to the CDMSI within set deadlines for approval at the 13th plenary meeting (5-8 December 2017).

4. Co-operation activities

The Bureau took note with interest of the information by the secretariat on on-going and future co-operation programmes and activities, as reflected in document MEDIA-COOP(2017)02.

In general, activities in the various programmes are progressing well, with an average of 40 activities per month, among which, as example, the publication of a handbook on Regulatory authorities and Hate speech in the framework of JUFREX project.

Regarding projects funded by EU/EC joint programmes or voluntary contributions by member states, nine of the 12 current projects will end in 2018. Although some of them, such as projects in Ukraine, Morocco and Tunisia will continue and there is good chance that a project in Turkey on freedom of expression could start, most of them are likely not to receive any resources for continuation. There will be no projects any more in Azerbaijan, Armenia and Georgia (neither country specific nor regional).

Regarding projects funded by the ordinary budget of the Council of Europe, the secretariat informed the Bureau of the First Balkan School on Internet governance, which gathered representatives of 10 countries: Albania, Bosnia and Herzegovina, Bulgaria, Croatia, Greece, Former Yugoslav Republic of Macedonia, Montenegro, Romania, Serbia, Slovenia and of Kosovo¹. Besides, activities had to be postponed due to the budgetary restrictions: a regional conference on hate speech with the regulatory authority of Croatia, follow-up activities to the conference on media and terrorism, an activity with OIF on media freedoms.

Mindful of the importance of co-operation activities for the implementation of Council of Europe standards as well as translation of its work in countries, the Bureau decided to draft a message to CDMSI members to draw their attention on the need for funding activities.

5. Implementation of Council of Europe adopted standards

5.1 Initiatives in member states

The secretariat recalled this standard item that aims at sharing of information on initiatives related to the CDMSI area of work between members but should also

¹ *All references to Kosovo, whether the territory, institutions or population, in this text shall be understood in full compliance with United Nation's Security Council Resolution 1244 and without prejudice to the status of Kosovo

serve as an early warning tool that would help the secretariat to transmit information through the organisation and/or gather elements to answer possible questions from the Secretary General.

Pien van den Eijnden (the Netherlands) shared information on the programme of the future government regarding media and internet.

Matthias Traimer (Austria) informed the Bureau on steps taken to implement the Recommendation on internet freedom.

Emir Powlakić (Bosnia and Herzegovina) informed the Bureau on the organization of the 3rd national IGF meeting in Bosnia and Herzegovina.

This information will be repeated at the plenary meeting in December and supplemented if necessary.

5.2 Internet governance

Internet Governance Strategy 2016-2019

The Bureau took note of information by the Secretariat on the state of play of the implementation of the Council of Europe Strategy on Internet Governance 2016-2019, adopted on 30 March 2016 by the Committee of Ministers. The Secretariat is still collecting information from other services of the Organisation that implement the Strategy, in order, inter alia, to prepare the report that will be presented by the Secretary General to the Committee of Ministers. In general, it reported no major delay in the implementation.

It discussed the topic of exchange of letters concerning co-operation between the Council of Europe and internet companies (see also item 1) and asked the secretariat to provide clarification on what the agreement would change in terms of granting observer status by the CDMSI and what form that collaboration could take.

EuroDIG

The secretariat informed the Bureau about the outcome of the EuroDIG 2017 and the preparatory process leading to the 2018 edition in Tbilisi (5-6 June 2018).

Internet Governance Forum (IGF)

The secretariat informed the Bureau about the preparations to the IGF 2017 in Geneva, notably the events organized by the Council of Europe. The Bureau expressed a wish for sustained efforts in the promotion of CoE standard and more visibility at future IGFs and, more generally, at internet governance events.

ICANN

The Bureau noted that the budgetary constraints already referred to (see item 1) prevent the secretariat from undertaking travelling to the next meeting of ICANN

in Abu Dhabi. However, remote participation is envisaged, notably by Data protection colleagues.

6. European Convention on Transfrontier Television

The Secretariat informed the Bureau about the responses received from the members of the CDMSI on the questionnaire regarding possible revision of the Convention on Transfrontier Television.

The Bureau decided that a CDMSI message should be addressed to the Committee of Ministers proposing to “re-open the negotiation on the revision of the Convention” (which should include granting the Council of Europe Secretariat a mandate to initiate a discussion with the European Commission), based on the conclusions flowing from delegations’ responses. It tasked the secretariat to draft such a message, which it will approved by written procedure.

7. Data Protection

The Bureau took note with interest of information on the state of play of the draft modernised Convention 108 and state of the current negotiations.

It also took note of information on other work of the T-PD, i.e. the draft Practical Guide on use of personal data in the context of police and the revision of the Recommendation on health data. That latter will be sent to the CDMSI once approved by the T-PD.

The Bureau was informed of development at ICANN in terms of data protection.

Finally, it welcomed the suggestion that the Guidelines on Safeguarding Privacy in the Media, prepared in the framework of the PGG, be presented to the CDMSI for information.

8. Work of other Council of Europe institutions and bodies

8.1 Secretary General's initiatives

The Bureau took note of the on-going preparations of chapter 2 of the 5th Annual Report of the Secretary General, that will be entitled “Role of institutions, threat to institutions”, and will have a particular focus on corruption. Three of five sub-chapters (legal guarantees, safety of journalists and media independence) will draw particular attention to related themes, such as the role of investigative journalists and the protection of their sources, transparency of media ownership, selective prosecutions to silence journalists, and the protection of whistle-blowers.

8.2 Committee of Ministers

Committee of Ministers Thematic Coordinator on Information Policy – TC-Inf

The Bureau expressed the wish that the TC-INF Ambassador Corina Călugăru be invited for an exchange of views at the up-coming plenary meeting.

8.3 Parliamentary Assembly of the Council of Europe

The secretariat informed the Bureau on the state of play of past CDMSI comments on a series of PACE recommendations and on CM replies, where appropriate.

PACE Recommendation 2111(2017) on "Political influence over independent media and journalists"

The Bureau examined draft CDMSI comments on PACE Recommendation 2111(2017) on Political influence over independent media and journalists and made some amendments that will be considered in a revised version. It also agreed that the text be submitted to the CDMSI for adoption by written procedure to meet CM deadlines.

8.4 Congress of Local and Regional Authorities of the Council of Europe

CPLRE Recommendation 398(2017) – Open data for better public services

The Bureau took note of the state of play of CDMSI comments on the CPLRE recommendations and of CM reply.

8.5 Commissioner for Human Rights

The Bureau agreed that the new Commissioner for Human Rights who will be elected in January 2018 be invited for an exchange of views during the 14th plenary meeting of the CDMSI.

8.6 Conference of INGOs of the Council of Europe

Nothing was reported on this item.

8.7 Committee of Experts on Terrorism (CODEXTER)

Maja Raković reported on her participation in two meetings of the CODEXTER drafting group on Terrorists acting alone, where she represented the CDMSI. The draft recommendation will be further worked upon before CODEXTER plenary meeting in November. She should have the opportunity to examine the revised version and suggested that the CDMSI provides then a second set of comments. She also suggested that co-operation between both committees be continued, including in the framework of CDMSI work on internet intermediaries.

The Bureau agreed with her proposal for comments on the upcoming draft as well as for regular representation in CODEXTER meetings.

8.8 Steering Committee for Human Rights (CDDH)

The Bureau took note of Emir Povelčić's report on his attendance of the drafting group on freedom of expression and links to other rights. He found the co-operation with CDMSI and other committees constructive.

8.9 Ad hoc Committee for the Rights of the Child (CAHENF)

The Bureau also took note of the secretariat report on the state of play of the draft Recommendation of the Committee of Ministers to Member States on Guidelines to protect, promote and fulfil children's rights in the digital environment, prepared by the CAHENF-IT. The draft should be submitted to the Committee of Ministers at the end of the year, after being approved by the Ad Hoc CAHENF Committee at its plenary meeting (22-24 November 2017).

8.10 Steering Committee for Culture, Heritage and Landscape (CDCPP)

The Bureau took note of the adoption, by the Committee of Ministers on 27 September 2017 of the Recommendation of the Committee of Ministers to member states on the Challenges of Big Data for Culture, Literacy and Democracy.

8.11 World Forum for Democracy

The Bureau took note of information on the World Forum for Democracy 2017 which will take place from 8 – 10 November under the general title of "Is Populism a problem?" focussing on the role of political parties and media in the context of rising populism.. A plenary session with the title "Media - friend or foe of democracy" will take place on 8 November. The organisation First Draft will present its work on fact-checking information and debunking false news. The Bureau members were informed of the Report "Information Disorder: toward an interdisciplinary framework for research and policymaking" to be published on 31 October 2017. The report was commissioned by the Media and Internet Division and produced in co-operation with First Draft and the Shorenstein Centre for Media, Politics and Public Policy at Harvard Kennedy School. The Bureau welcomed the report and recommended a thorough discussion on the topic of "fake news" on the basis of this report at the CDMSI plenary in December.

8.12 European Audio-visual Observatory

The Bureau agreed that a representative of the Observatory be invited to update the CDMSI on the activities and last developments.

8.13 Participation of CDMSI members in meetings and events

Matthias Traimer and Elfa Ýr Gylfadóttir reported on the OSCE/CoE Internet Freedom Conference 13 October in Vienna under several items of the agenda.

9. Other organisations

European Union

The Bureau expressed the wish that, besides information on activities of the outgoing EU presidency and future activities of the incoming one, the CDMSI receive information on the EU trilogue at its next plenary meeting.

10. CDMSI work programme and working methods

10.1 Reflection on a future ministerial conference

The Secretariat gave an overview of the current state of play in relation to the preparatory work for the Ministerial Conference. It made several proposals as to the topics which could be addressed by the Ministerial Conference: promotion of media and information literacy in the digital environment; the role of independent media in ensuring social cohesion; threats to journalism and, in particular, the issue of impunity for crimes committed against journalists; new technologies including automated data processing systems and artificial intelligence and their impact on human rights.

The Chair commented that a lot of work had already been carried out on the issue of "threats to journalism". Other Bureau members, however, reiterated the importance of the subject. Silvia Grundmann proposed to address that topic in the Ministerial Conference with a view of issuing a resolution which would foster the implementation of Recommendation CM/Rec(2016)4, possibly through an Action plan. It was agreed that a concept paper would be sent by the Secretariat to the Bureau Members on the prospective topics for the Ministerial Conference as soon as possible.

10.2 Information on future terms of reference, new expert committees, election of new bureau and gender equality rapporteur

The Bureau discussed the future terms of reference of the CDMSI and its subordinate committees based on oral information by Jan Kleijssen (see item 1) and of a note prepared by the secretariat. It took note of the state of play of their preparation and adoption.

Conscious of the need that sub-committees are operational early in 2018 to start the work, it agreed on the following procedure for their composition: the secretariat will send its information note to the CDMSI - specifying that the information contained is subject to CM decision - and asking them to send proposals for the seven members representing member states, for each committee (names and CVs). These candidates should have the necessary competencies to carry out the work leading to the expected results included in the draft terms of reference but also sufficient knowledge of institutional/CoE drafting work and procedures. Based on the applications received, by way of written procedure, the Bureau will make a proposal to the CDMSI at its plenary meeting, prior to the elections, with the understanding that the CDMSI could, of course, decide otherwise. Besides, to better face cases where a member changes position and must quit a sub-committee, the Bureau decided that substitute members should also be elected to replace possible leaving members. In addition to the members representing states, the Secretary General will appoint 6 technical experts for each sub-committee.

11. Elections

In view of the need to proceed to elections to its Bureau at the next plenary meeting, Bureau member did a "tour de table" of which could/wished to run for a

further mandate. For information, positive answers were: Maja Raković, Elfa Ýr Gylfadóttir, Matthias Traimer, and Joanna Chansel (who had transmitted the message in her absence).

12. Provisional draft agenda of the 13th CDMSI meeting (5-8 December 2017)

The Bureau approved the draft provisional agenda for the 13th plenary meeting of the CDMSI.

13. Any other business

The meeting was closed at 13.30

Appendix I

Meeting agenda

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 - 3.1 *Committee of experts on Media Pluralism and Transparency of Media Ownership (MSI-MED)*
 - 3.2 *Committee of experts on Internet Intermediaries (MSI-NET)*
4. Cooperation activities
5. Implementation of Council of Europe adopted standards and best practices
 - 5.1 *Initiatives in member states*
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6. European Convention on Transfrontier Television
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8. Work of other Council of Europe institutions and bodies
 - 8.1 *Secretary General's initiatives*
 - 8.2 *Committee of Ministers*
 - 8.3 *Parliamentary Assembly of the Council of Europe*
 - 8.4 *Congress of Local and Regional Authorities of the Council of Europe*
 - 8.5 *Commissioner for Human Rights*
 - 8.6 *Conference of INGOs of the Council of Europe*
 - 8.7 *Committee of Experts on terrorism (CODEXTER)*
 - 8.8 *Steering Committee for Human Rights (CDDH)*
 - 8.9 *Ad hoc Committee for the Rights of the Child (CAHENF)*
 - 8.10 *Steering Committee for Culture, Heritage and Landscape (CDCPP)*
 - 8.11 *World Forum for Democracy*
 - 8.12 *European Audio-visual Observatory*
 - 8.13 *Participation of CDMSI members in meetings and events*
9. Other organisations
10. CDMSI work programme and working methods
 - 10.1 *Reflection on a future conference of ministers responsible for media and information society*
 - 10.2 *Information on future terms of reference, new expert committees, election of new bureau and gender equality rapporteur*
11. Elections
12. Provisional draft agenda of the 13th CDMSI meeting (5-8 December 2017)
13. Any other item

Appendix II – list of participants

12th meeting of CDMSI Bureau meeting
Thursday 19 and Friday 20 October 2017

Room G04, Agora

Participants

The gender distribution among 5 attendants was 3 women (60%) and 2 men (40%).

Ms Elfa Ýr Gyöfadóttir, Iceland (Chair)
Media Commission, Ministry of Education, Science and Education, Reykjavik

Mr Emir Povlakić, Bosnia-Herzegovina (Vice-Chair)
Head of Division for Licensing, Digitalization and Coordination in Broadcasting,
Communications Regulatory Agency, Sarajevo

Ms Maja Raković, Serbia
Ministry of Foreign Affairs, Belgrade

Mr Matthias Traimer, Austria
Federal Chancellery, Head of Department, Media Affairs and Information Society, Federal
Chancellery, Constitutional Service, Vienna

Ms Pien van den Eijnden, the Netherlands
Senior Legal Adviser. Ministry of the Interior and Kingdom Relations, The Hague

Secretariat

Mr Jan Kleijssen, Director of Information Society and Action against Crime, Directorate
General Human Rights and Rule of Law

Ms Silvia Grundmann, Head of Media and Internet Division, Directorate General of
Human Rights and Rule of Law, Secretary to the Steering Committee on Media and
Information Society

Ms Charlotte Altenhöner-Dion, Administrator, Media and Internet Division, Directorate
General Human Rights and Rule of Law

Mr Peter Kimpian, Administrator, Data Protection Unit, Directorate General Human Rights
and Rule of Law

Ms Sophie Kwasny, Administrator, Data Protection Unit, Directorate General Human
Rights and Rule of Law

Ms Christina Lamprou, Administrator, Media and Internet Division, Directorate General
Human Rights and Rule of Law

Ms Elena Lopatina, Administrator, Media and Internet Division, Directorate General
Human Rights and Rule of Law

Ms Francesca Montagna, Media and Internet Division, Directorate General Human Rights
and Rule of Law

Ms Malgorzata Pek, Administrator, Media and Internet Division, Directorate General
Human Rights and Rule of Law

Ms Urška Umek, Administrator, Media and Internet Division, Directorate General Human
Rights and Rule of Law

Ms Anne Boyer-Donnard, Principal Administrative Assistant, Media and Internet Division,
Directorate General Human Rights and Rule of Law

Ms Julia Whitham, Administrative Assistant, Media and Internet Division, Directorate
General Human Rights and Rule of Law