

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

## **OSCE Human Dimension Implementation Meeting**

**Warsaw, 21 September - 2 October 2015**

**Working Session 1: Fundamental Freedoms, Freedom of expression, free media and information**

**Working session 2 & 3: Challenges to the enjoyment of fundamental freedoms and human rights in the age of new information and communication technologies, including respect for privacy**

**Contribution of the Council of Europe**

### **OVERVIEW OF THE WORK OF THE COUNCIL OF EUROPE IN THE MEDIA AND INFORMATION SOCIETY FIELD**

The Council of Europe's activities in the media and information society field aim at promoting freedom of expression and information, as guaranteed by **Article 10 of the European Convention on Human Rights**, as well as the free flow of information at the pan-European level through the existence of a plurality of independent media. Whilst the European Court of Human Rights provides judicial protection of freedom of expression and information, the Council of Europe policy-making work strives to map out measures that will facilitate the effective exercise of these freedoms having regard to new services, technologies and trends.

The rapid spreading of new information technologies and their ever growing role in all sectors of everyday life challenge the respect of private life, leading the Council of Europe to also consider the Article 8 of the European Convention on Human Rights..

In 2014 and 2015, the Council of Europe Steering Committee on Media and Information Society (CDMSI) followed the directions given at the November 2013 ministerial conference in Belgrade. In fulfilling the first year of its renewed mandate, it focussed on the application of Article 10 of the European Convention for Human Rights in the context of new developments and technological innovations embracing a multi-stakeholder approach.

#### **Main activities and achievements**

Human rights and fundamental freedoms must be guaranteed off-line and on-line. Due to technological developments, the Internet plays a crucial role in everyday life and in the enjoyment of rights. On 16 April 2014, *Recommendation CM/Rec (2014)6 on a Guide to human rights for Internet users* was adopted. It has since been translated in several languages, adapted to specific target groups, and disseminated in Council of Europe member states and

beyond, in particular in the framework of co-operation activities. Besides, *Recommendation CM/Rec(2015)6 on the free, transboundary flow of information on the Internet* was adopted in April 2015, calling the 47 member states of the Council of Europe to promote and protect the free flow of information on the Internet, and to ensure that any blocking of content complies with human rights standards and does not interfere with international Internet traffic.

In a democratic society, press and the media play a fundamental role for the freedom of expression. However, the safety of journalists and other media actors is strongly deteriorating as they are increasingly victims of violence and intimidation. States have a positive obligation to protect them but also to prosecute perpetrators of malevolent actions targeting journalists and media actors. The Committee of Ministers of the Council of Europe recalled these principles in its *Declaration on the Protection of Journalism and Safety of Journalists and Other Media Actors*.

The issues of freedom of the media and safety of journalists have implications in many areas of society and must involve various actors. The Council of Europe Secretary General has therefore established, in 2012, a *Task Force on Freedom of Expression and Media* as a transversal structure, bringing together relevant Council of Europe services, for collecting, processing and sharing information on Article 10 issues. Its objective was to identify emerging problems in member states as early as possible to enable rapid responses. The Task Force works at developing transversal working methods for gathering, exchanging and verifying information with a view to preparing the basis for action by pertinent bodies/officials of the Council of Europe within their respective remits.

Its main achievement so far is the signature, in December 2014, by the Council of Europe and five major media NGOs of a *memorandum of understanding* laying the basis for an *interactive platform for the safety of journalists*, which became operational in May 2015. It enables to signal threats targeting journalists in Europe, a swift reaction by the Council of Europe and an enhanced dialogue with member states to redress and improve the situation.

In November 2014, the Council of Europe, UNESCO and civil society partners jointly organised a seminar and inter-regional dialogue on the protection of journalists to foster dialogue between international human rights courts, other international organisations, experts and civil society in order to enhance safety of journalists, fight impunity and identify existing gaps in legislation.

The importance of freedom of expression on the Internet was underlined by the 47 member States during a *thematic debate*, held in December 2014. This was reasserted by the Secretary General in his *Report on the State of Democracy, Human Rights and the Rule of Law in Europe*, released in April 2015.

In 2015, the Committee of Ministers emphasized its commitments towards Internet issues by adopting a *Declaration on ICANN, human rights and the rule of law*, and a *Declaration on the World Summit on the Information Society (WSIS) +10 review and the extension of the mandate of the Internet Governance Forum (IGF)*.

### **Ongoing standard-setting activities**

The crucial issue of safety of media actors (professional journalists as well as other actors), deserves continuous attention and efforts ; therefore the Council of Europe is also currently working on a recommendation *on the Protection of Journalism and Safety of Journalists and Other Media Actors*.

The development of new communication technologies and services, in particular since Internet is for many an essential tool accessed continuously via mobile devices, can bear significantly on the exercise of freedom of expression and information. The services thus provided help contribute to the plurality of views, opinions and cultures in Europe but also raise new challenges as regards the protection of human rights and democratic values and the regulatory framework applicable.

The Council of Europe continued to develop a more holistic and sustainable vision for the Internet, one which puts people first. In the framework of *Council of Europe Internet Governance Strategy 2012-2015*, the implementation of around 40 action lines was initiated in order to build a free, open and secure Internet. The strategy identifies challenges and corresponding responses to enable state and non-state actors together to make the Internet a space which is inclusive and people-centred. A new *Strategy of the Council of Europe towards Internet governance for 2016-2019* is being prepared.

As a follow-up to the adoption of the Committee of Ministers' Declaration on network neutrality in 2010, which underlines, inter alia, the importance of Internet users having the greatest possible access to Internet-based content, applications and services of their choice, the Council of Europe is currently working on a *Recommendation on protecting and promoting the right to freedom of expression and the right to private life with regard to network neutrality*.

The *modernisation of the Data Protection Convention 108* of the Council of Europe (to deal with new technological challenges and enhance the follow-up mechanism of the Convention) is ongoing. The modernisation of the Convention encompasses revision of article 9, which limits the Convention rights when this is foreseen by the law and constitutes a necessary measure in a democratic society, notably, in the interests of protecting State security, public security, the economic and financial interests of the State or the prevention and suppression of criminal offences.

## **Co-operation with the OSCE**

In the framework of the Austrian Chairmanship of the Committee of Ministers of the Council of Europe, OSCE Representative on Freedom of the Media, Dunja Mijatović participated in the *Austrian-CoE conference "Shaping the digital environment - ensuring our rights on the Internet"*, held in Graz on 16-17 March 2014.

Regular contacts are kept with the Office of the OSCE Representative for Freedom of the Media, on the occasion of events organised in the framework of the general work of both Organisations or of Council of Europe co-operation activities. For instance, on 10 December 2014, at the occasion of International Human Rights Day, Dunja Mijatović delivered a speech in the CoE Conference *"Protecting human rights online: prevention rather than cure"*.

Mr Juan Barata, Principal Adviser to the Representative on Freedom of the Media and Ms Mijatović participated to the Round Table *"Safety of journalists: From commitment to action"*, held on 19 May 2014. The Round Table brought together stakeholders (civil society, international organisations such as OSCE, UNESCO, EU) inviting their input for concrete proposals to be submitted to the Council of Europe's Committee of Ministers, on an early warning mechanism and rapid response capacity to be established in the context of media freedom and safety of journalists, notably through the setting up of an Internet based platform for recording serious freedom of expression concerns. (see above).

On 10 June 2015 at the OSCE Human Dimension Committee, Patrick Penninckx, Head of the Information Society Department of the Council of Europe gave a presentation on Environment for freedom of Expression in Europe and held exchanges with Ms Mijatović.

The OSCE is a participant (observer) in the Council of Europe's Steering Committee on

Media and Information Society (CDMSI) as well as in its two Committee of Experts, respectively on: cross-border flow of Internet traffic and Internet Freedom (MSI-INT) and on protection of journalism and safety of journalists (MSI-JO).

### **Assistance and co-operation**

The Council of Europe standards acquire real value when they are integrated into the law and practice of member states. Assistance and co-operation activities are the main tools for promoting this integration. They address identified needs, responding to the specific requests of member states. These activities include legal expertise, training programmes, seminars, conferences, publications and other events with the participation mainly of public officials, media professionals and civil society. In addition to helping promote freedom of expression and freedom of the media, these activities contribute more generally to strengthening democracy, human rights and the rule of law.

Thanks to Council of Europe support, target countries have adopted and implemented key laws aimed at guaranteeing freedom and pluralism of the media, keeping media freedom always on the European agenda. Its impact also includes the reform of public-service broadcasters and of journalism education, as well as supporting networks of media professionals and capacity-building for the governmental and non-governmental sectors.

Examples of achievement were the Council of Europe actions concerning legislative reforms in media and data protection in Ukraine, including:

- A draft Strategy for approximation of the media legislation with European standards elaborated in an inclusive multi-stakeholder expert group under auspices of the Ukrainian Parliament (Verkhovna Rada, in short Rada);
- the adoption by the Rada of the Law on transparency of media ownership;
- as a result of the political will shown by the Rada's Committee on freedom of expression and information policy, Ukraine has now one of the more progressive and far reaching legal frameworks in Europe on this matter, as in particular the Law forbids ownership from offshores;
- a draft law on reform of state and communal print press was elaborated and registered in the Rada with CoE expert comments; key stakeholders were mobilised in favour of the reform and at least 180 editors of communal print media prepared for the reform and trained throughout the country on international and national best practices and media innovations;
- a draft law further reinforcing the access to public information was elaborated with CoE expert's support following a series of expert and public discussions of the concept preceding the draft law;
- a draft law on identity documents for traveling abroad was registered the Rada (based on CoE expert opinion and support by relevant Parliament committee).

To achieve efficiency, maximum impact and sustainable results, the Council of Europe constantly looks for links between various projects. The best practices and the results achieved in one place are shared with others through bilateral and regional networking.

During 2014 and 2015 the following activities involving OSCE were carried out:

- *Draft amendments to the Codex of Journalists of Montenegro and Press Conference to present the Draft revised Codex*

The CoE and OSCE provided support to the Montenegrin working group for reviewing and amending the Codex of Journalists of Montenegro. The draft amendments to the existent Codex were prepared by the working group with the financial and technical assistance of

both organisations. This joint action was a first step towards improving and promoting media self-regulation in Montenegro. (The first Codex in Montenegro was adopted in 2003 and has presented the basis for self-regulation of media community). Joint press conference to present the Draft revised Codex was organised in Montenegro in July 2015.

- *Regional workshop “Challenges to transformation of public service media in South Caucasus and Eastern Europe countries”*

The Council of Europe ensured participation of two top-managers of the National Television Channel of Ukraine in the regional workshop “Challenges to transformation of public service media in South Caucasus and Eastern Europe countries” which was organised by the OSCE Representative on Freedom of the Media, Ms Dunja Mijatovic in Tbilisi in March 2015.

Representatives of the OSCE Office in Ukraine and the Office of the OSCE Representative on Freedom of the Media participated in several activities organised by the Council of Europe in Ukraine in 2015 including the Launch of the Public Service Broadcaster of Ukraine, the conference on transparency of media ownership.

- *OSCE Conference: Protection of safety and integrity of journalists in the OSCE region*, Belgrade, Serbia, 26-27 March 2015

The CoE representatives participated in OSCE Conference “Protection of safety and integrity of journalists in the OSCE region”, held in Belgrade in March 2015

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