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Submissions from entities in the United Nations system, international organizations and other stakeholders on their efforts in 2022 to implement the outcomes of the WSIS

Submission by

Council of Europe

This submission was prepared as an input to the report of the UN Secretary-General on "Progress made in the implementation of and follow-up to the outcomes of the World Summit on the Information Society at the regional and international levels" (to the 26th session of the CSTD), in response to the request by the Economic and Social Council, in its resolution 2006/46, to the UN Secretary-General to inform the Commission on Science and Technology for Development on the implementation of the outcomes of the WSIS as part of his annual reporting to the Commission.

**FLOW OF INFORMATION FOR THE FOLLOW-UP TO THE
WORLD SUMMIT ON THE INFORMATION SOCIETY**

2022

1. Executive summary

Freedom of expression and the implications of the use of AI-based technologies for human rights have been and will continue to be among the priority lines of work for the Council of Europe. This work resides in the core values safeguarded by the Organisation: human rights, democracy and the rule of law.

The organisation's work in this area covers among others, promoting a favourable environment for freedom of expression in the digital age (including fostering favourable conditions for quality journalism and the safety of journalists, enhancing media and information literacy, effective and human rights compliant online content moderation, etc.), strengthening the protection of privacy and personal data, ensuring an efficient criminal justice response to cybercrime, enhancing democratic participation, protecting vulnerable groups and building a doctrine of digital technology use that guarantees effective protection of all human rights and prevents abuses.

The majority of Council of Europe bodies and structures, e.g. the Committee of Ministers, the Parliamentary Assembly, the Commissioner for Human Rights and a range of inter-governmental and ad-hoc committees, are widely engaged in dealing with the issues raised by the impacts of digital technologies on human rights, democracy and the rule of law - through the preparation of studies, reports, standard-setting and other documents providing guidance to governments and other stakeholder groups.

The Council of Europe attaches importance to the review, strengthening and development of synergies and partnerships with key stakeholders - governments, the private sector, civil society, technical community and academia.

2. Overview of trends

Technological advancement over the past decades has fundamentally transformed the communication patterns and behaviours of individuals, communities, and societies. Technology shapes how individuals exercise their right to freedom of expression and access information, as well as how they interact online. When it comes to the media, the development of AI driven tools significantly impacts the overall quality and diversity of the information offer provided by the news media, by changing the complex ecology of funding, ethics and regulation that has developed over centuries and helped sustain media pluralism and diversity, essential corollaries of the right to freedom of expression.

The evolution of information and communication technologies – while bringing opportunities for mankind – also raises challenges, including for criminal justice and thus for the rule of law in cyberspace. While cybercrime and other offences entailing electronic evidence on computer systems are thriving and while such evidence is increasingly stored on servers in foreign, multiple, shifting or unknown jurisdictions, that is, in the cloud, the powers of law enforcement are limited by territorial boundaries. Additionally, the pervasive and invisible nature of AI systems, together with their ability to identify and track behaviour can have a chilling effect on the right to freedom of expression and other fundamental rights. For instance, the rights to privacy and personal data protection are under particular strain due to the explosion of digitalisation and the use of technologies facilitating and expanding the processing of personal data in every sphere of individuals' life.

The recent health crisis and the Russian invasion of Ukraine have further exacerbated many of the already existing concerns in the areas of data protection, the impact of digital

technologies' application on human rights, the media ecosystem and the information environment, testing the sustainability of human rights frameworks and the sufficiency of existing guarantees.

3. Innovative policies, programmes and projects undertaken

C3 – Access to information and knowledge

In 2022, the Council of Europe Convention on Access to official documents (CETS No. 205), also known as the Tromsø Convention, was ratified and entered into force also in Albania and Armenia. According to the Resolution CM/Res(2021)2 on rules on the election procedure of the members of the Group of Specialists on Access to Official Documents, the Consultation of the Parties of the Tromsø Convention elected ten members of the Council of Europe Access Info Group, who is responsible for monitoring the implementation of the Convention by its Parties.

The Second Additional Protocol to the Convention on Cybercrime (Budapest Convention), on enhanced co-operation and disclosure of electronic evidence, was opened for signature on 12 May. The new instrument complements the Budapest Convention with provisions for a more effective mutual legal assistance, direct cooperation between service providers in other jurisdictions and other tools backed up by a strong system of rule of law and data protection safeguards. By October 2022 it had gathered 24 signatures by Council of Europe members States, but also by the United States of America, Japan, Morocco, Chile, Colombia and others.

Through the Cybercrime Programme Office (C-PROC) in Romania, the Council of Europe supports global capacity building on cybercrime and electronic evidence.

The Octopus Cybercrime Community online platform remains an important tool for information sharing and cooperation on cybercrime and electronic evidence.

In 2022, five more State Parties ratified the modernised Convention 108 (Convention 108+) – bringing it to 20 members –, aimed at ensuring appropriate protection that an individual would seek to have in an ever-expanding digital era. Convention 108+ is the landmark and global instrument with a view to safeguarding dignity and an intimate private sphere, and to fully enjoying the right to informational self-determination.

The current Strategy for the Rights of the Child was adopted by the Committee of Ministers of the Council of Europe on 23 February 2022 and launched at the High-level Conference "Beyond the horizon: a new era for the rights of the child" in Rome on 7-8 April 2022. 'Access to and safe use of technologies for all children' and 'Giving a voice to every child' are among the six priorities for the Council of Europe to guarantee the rights of the child.

The European Committee on Democracy and Governance (CDDG), will focus on developing a draft Recommendation on the 12 Principles of Good Democratic Governance applicable to all levels of government, building on the 12 Principles of Good Democratic Governance at local level. Furthermore, the Committee will carry out a study on new forms of deliberative and participatory democracy, with a view to complementing Recommendation CM/Rec(2018)4 on the participation of citizens in local public life and the 2017 Guidelines on civil participation in decision-making and taking into account its own work on e-democracy.

C4 – Capacity Building

Cooperation programmes and activities encompassing the areas of safety of journalists, transparency of media ownership, public service media, media literacy and quality journalism continue, with 14 co-operation programs being currently implemented involving 5 bilateral and 3 multi—country programmes in 18 countries of Western Balkans, Eastern Europe and South Mediterranean region (MENA).

Modalities used in providing cooperation and assistance in these areas include: legal and policy advising and support, training and curricula development for journalists, law

enforcement, legal professionals and other relevant stakeholders, awareness-raising and standard promotion, enabling human and technical capacities of beneficiary institutions and organisations in the field of public service media, provision of tools to enhance and facilitate the implementation of European standards, and institutional building.

Through its Cybercrime Programme Office (C-PROC), the Council of Europe is currently implementing 5 projects worldwide (Octopus Project (2021-2024); iPROCEEDS-2 (2020-2023); CyberEast (2019-2023); CyberSouth (2017-2023); GLACY+ (2016-2024)), thus remaining a global leader for capacity building on cybercrime and electronic evidence on the basis of the Budapest Convention on Cybercrime and related standards. Some 400 activities are carried out each year in priority regions in Europe and other regions of the world. They are aimed at improving the legislation, training of judges, prosecutors and investigators, public/private and international cooperation, and other measures to strengthen the criminal justice response to cybercrime and electronic evidence.

The Council of Europe presented and officially launched a Toolkit to raise awareness of data protection in the health sector in Tunisia. Among other specific topics, it coves rules and practices in the area of tele-medicine. A Practical Guide to conciliate the rights to access to information and data protection was develop for Tunisia and launched in October. The European Judicial Training Network (EJTN), main platform and promoter for the training and exchange of knowledge of the European judiciary, held a training focused on the most relevant legal and jurisprudential developments in the field of data protection and the protection of the right to private life, where Council of Europe Convention 108+ featured high on the agenda.

The European Committee on Democracy and Governance (CDDG) assists member states in developing e-governance/e-government and suitable e-democracy tools to improve governance, civil participation and combat disengagement from democratic institutions and society. It also supports the introduction of e-participation platforms at national and international level in the field of voter education and capacity-building of domestic election observers.

C5 - Building confidence and security in the use of ICTs

In 2022, the Council of Europe's instruments and frameworks addressing specific challenges stemming from the digital environment continued to grow. In particular, the Second Additional Protocol to the Convention on Cybercrime (Budapest Convention), on enhanced co-operation and disclosure of electronic evidence, was opened for signature on 12 May, while the modernised Convention 108+ (Amending protocol CETS n°223) has crossed the threshold of half the number of ratifications needed for its entry into force with 20 ratifications.

A new Council of Europe report investigating Pegasus spyware impacts on human rights was launched on the occasion of the Parliamentary Assembly's 2022 summer session. After a new wiretapping scandal at national level in Greece triggered a reaction from the European Commission asking for explanations, the report shows to be more relevant than ever and that the issue should remain under close scrutiny.

The Council of Europe Data Protection Commissioner and the Chair of the Consultative Committee of Convention 108 were heard during part-sessions of the PACE on tracing applications deployed since the covid-19 pandemic, declaring that the "legitimate fight against the pandemic should in no way justify to suspend the right to personal data protection", and adding that "it is possible to reconcile the requirements of an efficient public health policy with the protection of personal data and the respect for privacy".

In November 2021, the T-PD adopted and published Guidelines on data protection and election campaigns, and the Committee of Minsters of the Council of Europe adopted (also in November) a Recommendation on the protection of individuals with regard to automatic processing of personal data in the context of profiling. In June 2021, the T-PD also published Guidelines on facial recognition.

Regarding the Council of Europe work related to Artificial Intelligence, the previous ad-hoc Committee on Artificial Intelligence (CAHAI) has completed its mandate at the end of 2021. It adopted 'Possible elements for a legal framework on artificial intelligence, based on Council of Europe standards, democracy and the rule of law', which contained specific proposals which could serve as a basis for a possible legally binding instrument. In 2022-2023, the newly established Committee on Artificial Intelligence (CAI), taking over from the CAHAI, continues the work towards establishing this legally binding instrument critical to ensuring that human rights, democracy and the rule of law are appropriately safeguarded in the context of the development and use of AI systems. The CAI held its second plenary meeting on 21-23 September 2022 where it held the first reading of the Zero Draft Convention prepared by the Chair with the assistance of the Secretariat. These negotiations are set to continue in the beginning of January 2023 and are scheduled to end by September 2023.

The Working Group on cyberjustice and Artificial Intelligence (CEPEJ-GT-CYBERJUST) is developing tools providing legal, judicial, organisational, ethical and technical solutions found in the context of digital transformation of justice and e-justice and their impact on the quality of judicial systems, in particular in the areas of access to e-documentation by users and digitalisation of courts and prosecutors' registers and treatment of data.

The Pompidou Group is providing a platform for cooperation among law enforcement officials and experts on drug related cybercrime, connecting specialists (customs, police, prosecutors, judges, computer crime specialists) and relevant international organisations and the private sector, notably IT companies and internet providers to examine, among others, related money laundering in view of emerging anonymising techniques and darknet facilities.

C7 – ICT Applications – e-government

CDDG, in cooperation with the Centre of Expertise, assists member States with practical technical assistance and legal advice as appropriate in developing ICT applications for e-government to meet the 12 Principles of Good Democratic Governance.

C9 – Media

Three expert committees subordinate to the Steering Committee for Media and Information Society (CDMSI) have started their mandate in 2022 for the 2022-2023 biennium:

-The Committee of Experts on the integrity of online information (MSI-INF) is tasked with preparing a Guidance note on countering the spread of online mis- and disinformation through fact-checking and platform design solutions in a human rights compliant manner.

- The Committee of experts on increasing media resilience (MSI-RES) is tasked to prepare two documents: Guidelines on the use of digital tools including artificial intelligence for journalism/by journalists and Good practices for sustainable media financing.

- The Committee of experts on Strategic Lawsuits against public participation (MSI-SLP) is tasked to produce a draft Recommendation on strategic lawsuits against public participation (SLAPPs).

In the spring of 2022, the draft recommendations developed by the Committee of experts on Freedom of Expression and Digital Technologies (MSI-DIG), the Committee of experts on Media Environment and Reform (MSI-REF) and the Committee of Experts on Combatting Hate Speech (ADI/MSI-DIS) were adopted by the Committee of Ministers:

- CM/Rec(2022)13 on the impacts of digital technologies on freedom of expression;
- CM/Rec(2022)12 on electoral communication and media coverage of election campaigns
- CM/Rec(2022)11 on principles for media and communication governance;
- CM/Rec(2022)4 on promoting a favourable environment for quality journalism in the digital age
- CM/Rec(2022)16 on combatting hate speech

Two guidance notes were adopted in 2021, on best practices towards effective legal and procedural frameworks for self-regulatory and co-regulatory mechanisms of content moderation and on the prioritisation of public interest content online. These will assist member states, platforms and others in their policy and decision making in areas which are subject to growing regulatory attention.

The 2021 Conference of Ministers responsible for Media and Information Society "Artificial intelligence – Intelligent politics: Challenges and opportunities for media and democracy" led to the adoption of four Conference resolutions and the Final Declaration which consolidate governments' commitments for action. The CDMSI is ensuring follow-up to these conclusions and recommendations.

A new Council of Europe publication 'The digital era? Also my era! Media and information literacy: a key to ensure senior's rights to participate in the digital era' was launched in Rome in June 2022 at the UNECE Ministerial Conference on Ageing promoting the spread of digital literacy among senior citizens.

In relation to the World Press Freedom Day, the Secretary General of the Council of Europe made a statement urging European governments, considering particularly the Covid-19 pandemic and ongoing violence in Ukraine, to redouble their efforts to defend the core principles of freedom of expression and media independence that are essential to our democracies.

The Council of Europe Commissioner for Human rights published a country report on Malta containing recommendation on safeguarding media freedom and ensuring safety of journalists, particularly on continuing the investigation of the murder of Daphne Caruana Galizia.

The partner organisations to the Council of Europe Platform to promote the Protection of Journalism and Safety of Journalists published their annual report 'Defending Press Freedom in Times of Tension and Conflict' following the invasion of Ukraine by the Russian Federation and its impact on media freedom. The report shows that the number of alerts reported on the platform concerning serious threats to media freedom in Council of Europe member states in 2021 increased by 41%, up from 200 in 2020 to 282.

A webpage dedicated to freedom of expression in times of conflict was launched gathering a non-exhaustive list of Council of Europe and international relevant principles for safeguarding the role of journalism and the media in times of conflict and aggression.

C11 – International and regional cooperation

The Council of Europe joined new intergovernmental co-operation initiative GlobalPolicy.AI, launched on 14 September 2021 and bringing together eight international organisations to promote global co-operation on artificial intelligence.

The Council of Europe also organised a number of events, such as a regional conference "Media in times of War" in Tbilisi, Georgia, a webinar dedicated to the testimony of Ukrainian journalist Anna Murlykina; a screening of the film "Disturbed Earth", directed by Didem Pekün; and participated in a wide range of relevant conferences and events. In particular, the Council of Europe participated in the RightsCon 2022 to discuss the benefits and challenges of human rights in the digital age, supported the organisation of the European Anti-SLAPP conference 2022, and will participate in the Internet Governance Forum (IGF) 2022 by organising sessions and taking active part in the debates.

Launched in 2017, the Council of Europe partnership framework with internet companies and their associations currently counts 27 members.

4. **Future actions and initiatives to be taken on implementation**

The Council of Europe will continue its efforts to address the impacts of AI and emerging technologies on democracy, human rights and the rule of law. In addition to the work of the CAI on negotiating the future convention on artificial intelligence, a broad range of projects have been initiated within the Organisation in this respect (see www.coe.int/ai).

The Council of Europe will continue co-operation with internet and telecommunications companies (launched in 2017 and currently counting 27 members).

It will also further strengthen the Platform to promote the protection of journalism and safety of journalists.

A campaign for the safety of journalists will be launched by the Council of Europe for the period 2022-2027, with the primary objective to effectively increase the safety of journalists and other media actors in all situations.

On 22 November 2022, a joint conference by the Council of Europe and the European Broadcasting Union on "Public Service Media for Democracy" will be held in Vilnius Lithuania. High level representatives of the Council of Europe and its member States, EBU members, the Parliamentary Assembly of the Council of Europe, other international organisations, national Parliamentarians, regulatory authorities, journalists, civil society organisations will exchange and provide concrete recommendations in the format of a final declaration on how to improve the situation and whether applicable standards should be reviewed to meet the most recent challenges facing public service media.