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**Submissions from entities in the United Nations system, international
organizations and other stakeholders on their efforts in 2020 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 24th 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.

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

2020

1. Executive summary

Freedom of expression and implications of the use of AI-based technologies for human rights are among the priority lines of work for the Council of Europe for the coming years.

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's work in the field of AI aims at preventing abuses of algorithmic systems and processes and contributes to building a doctrine of use that can guarantee effective protection of all human rights. Regulatory response to these issues remains high placed on the Council of Europe's agenda.

The identification of comprehensive responses to mis- and disinformation campaigns, the promotion of favourable conditions for quality journalism in the digital age, media and information literacy enhancement and the effective moderation of online content in line with the rule of law remain the areas of concern and attention for the Council of Europe, as well as strengthening the protection of privacy and personal data and efficient criminal justice response to cybercrime and other crime involving electronic evidence in accordance with data protection and other safeguards calls for coordinated action.

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. This comes together with unprecedented levels of media change, with major implications for 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 growing use of AI-powered tools has a profound impact on the exercise and enjoyment of the right to freedom of expression, as well as other human rights and fundamental freedoms, and also carries risks for democratic processes. The rights to privacy and personal data protection are under particular strain due to the explosion of digitalisation, accentuated this year with the health crisis, and the use of technologies facilitating and expanding the processing of personal data in every sphere of individuals' life.

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.

The outbreak of the COVID-19 pandemic has 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

The Council of Europe contributed to the implementation of the following WSIS action lines:

C3 – Access to information and knowledge

On 1 December 2020, the [Council of Europe Convention on Access to official documents](#) (CETS No. 205), also known as the Tromsø Convention, entered into force in Bosnia and Herzegovina, Estonia, Finland, Hungary, Lithuania, Montenegro, Norway, the Republic of Moldova, Sweden and Ukraine.

The European Committee on Democracy and Governance (CDDG), in cooperation also with the Centre of Expertise, assists member States in promoting access to information and knowledge by sharing best practices, in implementing the [Guidelines on civil participation in political decision-making](#) and [Recommendation CM/Rec\(2018\)4 on participation of citizens in local public life](#).

Based on [Recommendation CM/Rec\(2018\)7 on Guidelines to respect, protect and fulfil the rights of the child in the digital environment](#), a Handbook for policy makers on the rights of the child in the digital environment and a child-friendly version of the Guidelines (leaflet “[Learn about your rights in the digital environment](#)”) were released in early 2020. To foster and concretely support positive digital parenting approaches, the Council of Europe published a new guidance tool on “[Parenting in the digital age](#)” containing “[positive parenting strategies for different scenarios](#)”.

The Council of Europe, together with the EU Fundamental Rights Agency, continued the work on a joint “Handbook on Cybercrime and Fundamental Rights” which aims to highlight the key fundamental rights challenges of investigating cybercrime and securing electronic evidence, map the obligations of member States to protect individuals and identify promising practices.

The online resource on cyberviolence (set up in 2019, as a follow-up to the recommendations of the July 2018 T-CY mapping study on cyberviolence) continued receiving, documenting and making available information on policies, strategies, preventive, protective and criminal justice measures taken by public sector, civil society and private sector organisations.

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

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, among others, in Georgia, Ukraine, Moldova, Azerbaijan, in the Western Balkans and in Northern Africa. Cooperation activities include: legal and policy advising and technical support, training and curricula development for journalists, law enforcement, legal professionals and other relevant stakeholders, awareness-raising and enabling technical capacities of beneficiary institutions and organisations in the field of public service media through the enhancement of implementing international standards to name just a few. Within the framework of co-operation projects, a number of webinars was organised in 2020 (e.g., on “Improving Defamation and Insult practice” in North Macedonia, on “Legal issues in the operation of the reformed Ukrainian media”, two information meetings for the managers of the regional TV and radio outlet managers in Georgia).

Substantial support is given to data protection supervisory authorities in Southern neighbourhood countries (Tunisia, Morocco) in enhancing their capacities in the area of control, sectoral awareness raising and in helping them to better address new technological and society trends involving the processing of personal data.

Under the umbrella of the European Programme for Human Rights Education for Legal Professionals (HELP), a new training course on the “Protection and safety of journalists” and an updated course on “Freedom of expression”, intended for legal practitioners, judges and law enforcement officials, were launched in 2020. The HELP course on “Data protection and

privacy rights” is developed and deployed in a growing number of countries and languages (in 2020, launched in France, Georgia, San Marino, Poland, Turkey; in preparation in Morocco, Tunisia), helping legal professionals to better understand, up-hold and defend these rights.

While the Council of Europe’s No Hate Speech Movement campaigns have been successfully completed, national movements and organisational structures continue operating at the national level and are being supported to organise themselves into an international network.

Through its [Cybercrime Programme Office \(C-PROC\)](#), the Council of Europe is currently implementing 6 projects worldwide with a cumulative budget of more than 38 mln EUR, 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. More than 240 activities are carried out each year in priority regions in Europe, as well as in other regions of the world committed to implementing the Budapest Convention. 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.

Moreover, synergies are sought among Council of Europe instruments in order to enhance emphasis on the rule of law and human rights safeguards. With the [GLACY+ project](#), the Organisation continues providing support and expertise to a number of countries from outside Europe in the drafting of data protection legislation compliant with Convention 108+.

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 2020, the number of parties to the Council of Europe’s instruments and frameworks addressing specific challenges stemming from the digital environment continued to grow. In particular, the [Council of Europe Convention on Cybercrime](#) (Budapest Convention) now counts 65 states parties, while its Protocol on Xenophobia and Racism has 32 parties. The [Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data](#) (Convention 108) counts 55 parties, and the modernised Convention 108+ (Amending protocol CETS n°223) has 33 signatures and 9 ratifications (by Bulgaria, Croatia, Cyprus, Estonia, Lithuania, Malta, Mauritius, Poland and Serbia).

The Cybercrime Convention Committee is currently holding [stakeholder consultations](#) on the draft provisions of the 2nd Additional Protocol to the Budapest Convention. This protocol aims at enhancing co-operation and disclosure of electronic evidence, offering specific solutions for more effective mutual legal assistance, direct co-operation with service providers in other jurisdictions, co-operation in emergency situations, and data protection safeguards. It is hoped that the Protocol will be adopted and opened for signature in 2021. The provisions of this Protocol will be of operational and policy benefit and will ensure that the Budapest Convention continues to stand for a free internet where governments meet their obligation to protect individuals and their rights in cyberspace.

In November 2020, the Consultative Committee of Convention 108 adopted Guidelines on Children’s Data Protection in an Education Setting and pursues important work in other areas such as profiling, digital identities, data processed in the context of political campaign and facial recognition. [Report “Digital solutions to fight COVID-19”](#) was published in October, providing a review of how health-related data are processed in the 55 State Parties of Convention 108, in relation to the pandemic.

The Chair of the Committee of Convention 108 and the Data Protection Commissioner of the Council of Europe published a joint statement on [“Better protecting individuals in the context of international data flows: the need for democratic and effective oversight of intelligence](#)

services”, in the aftermath of the EU Court of Justice decision in the “Schrems II” case which invalidated the “Privacy Shield” agreement between the EU and the USA on data transfers. This decision has implications beyond EU-US data transfers and raises broader questions relating to international data transfers that are being addressed in Convention 108+.

To assist Parties to Convention 108 in addressing privacy and data protection issues when taking measures to contain the pandemic, joint statements on the [Right to data protection in the context of the COVID-19](#) and on [Digital contact tracing](#) were published by the Chair of the Committee of Convention 108 and the Council of Europe Data Protection Commissioner.

The Council of Europe [ad hoc committee on Artificial intelligence \(CAHAI\)](#) examines, on the basis of broad multi-stakeholder consultations, the feasibility and potential elements of a legal framework for the development, design and application of AI, based on Council of Europe standards in the field of human rights, democracy and the rule of law. In September 2020, the Committee of Ministers approved the [first progress report of CAHAI](#); in December the draft feasibility study for a legal framework for AI will be discussed at the CAHAI Plenary meeting.

As a follow-up to the [European Ethical Charter on the use of artificial intelligence in judicial systems and their environment](#) (adopted in late 2018), in January 2020 the CEPEJ launched a consultation on the feasibility of a certification process, within the framework of the applicability of this Charter.

The [Working Group on Cyberjustice and Artificial Intelligence \(CEPEJ-GT-CYBERJUST\)](#) was tasked with "developing tools with a view to offering a framework and guarantees to member States and legal professionals wishing to create or use Information and Communication Technologies and/or artificial intelligence mechanisms in judicial systems in order to improve the efficiency and quality of justice". The Working Group will also develop training programmes concerning CEPEJ tools in the field of cyberjustice and AI.

The [European Committee on Legal Co-operation \(CDCJ\)](#) is preparing guidelines on online dispute resolution mechanisms aiming to ensure compatibility with Article 6 (right to a fair trial) and Article 13 (Right to an effective remedy) of the European Convention on Human Rights - to be submitted to the Committee of Ministers for possible adoption in 2021.

In February 2020, the Council of Europe Committee of Ministers supported a [Strategic Action Plan on Human Rights and Technologies in Biomedicine \(2020-2025\)](#), developed by the Committee on Bioethics, on human rights and technologies in biomedicine (DH-BIO) and intended to protect human dignity, human rights and individual freedoms with regard to the application of technological developments and trends in biomedical practices.

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

Since the outburst of COVID-19 in Europe, the Council of Europe’s paramount objective has been to assist its member States in finding ways to contain the pandemic within the framework of the rule of law and with the least possible detriment to human rights. The Organisation’s Secretary General published a [Toolkit for member states “Respecting democracy, rule of law and human rights in the framework of the COVID-19 sanitary crisis” \(SG/Inf\(2020\)11\)](#), also highlighting freedom of expression and media freedom concerns, and a [Toolkit “On the impact of the sanitary crisis on freedom of expression and media freedom” \(SG/Inf\(2020\)19\)](#) providing sector-specific guidance.

In early 2020, [Recommendation CM/Rec\(2020\)1 of the Committee of Ministers to member States on the human rights impacts of algorithmic systems](#) was adopted. Draft Recommendation on promoting a favourable environment for quality journalism in the digital age is currently under discussion in the Committee of Ministers, pending adoption.

The Council of Europe's [Committee of experts on Freedom of Expression and Digital Technologies \(MSI-DIG\)](#) is working on the draft recommendation by the Committee of Ministers to member States on the impacts of digital technologies on freedom of expression and on the draft Guidance Note on best practices towards effective legal and procedural frameworks for self-regulatory and co-regulatory mechanisms of content moderation.

The [Committee of experts on Media Environment and Reform \(MSI-REF\)](#) is preparing the draft recommendation of the Committee of Ministers to member States on principles for media and communication governance and the draft recommendation of the Committee of Ministers to member States on electoral communication and media coverage of election campaigns, as well as the draft guidance note on the prioritisation and discoverability of public interest content.

The [Committee of Experts on Combating Hate Speech \(ADI/MSI-DIS\)](#) is developing the draft recommendation of the Committee of Ministers to member States on a comprehensive approach to addressing hate speech.

The following studies and reports were published in 2020: ["Supporting Quality Journalism through Media and Information Literacy"](#), ["Gender Equality and Media"](#), ["Prioritisation uncovered: The Discoverability of Public Interest Content Online"](#), ["A mission to inform: journalists at risk speak out"](#) and ["The impact of COVID-19 and ensuing measures on freedom of expression in Council of Europe member states"](#).

The [Implementation Guide to the Recommendation CM/Rec\(2016\)4 on the protection of journalism and safety of journalists and other media actors](#) was published and its interactive online version supplemented by additional materials is currently under preparation.

The Council of Europe [Platform to promote the protection of journalism and safety of journalists](#) published the 2020 Annual Report by its partner organisations on ["Hands off press freedom: attacks on media in Europe must not become a new normal"](#) and an ["Addendum to the Report: Press freedom suffers in Council of Europe member states under COVID-19"](#).

The Council of Europe also organised a number of events, such as the launch event for the study ["A mission to inform"](#) and an [online discussion on the impact of COVID-19 on media freedom](#), and participated in a wide range of relevant conferences and events.

C11 – International and regional cooperation

The Council of Europe participated in the EuroDIG 2020 and in the Internet Governance Forum (IGF) 2020 by [organising sessions](#) and taking active part in the debates. It also participated in a number of international and regional events and conferences and in exchanges of views with the European Commission on EU documents in preparation.

Partnerships and synergies in the field of cybercrime and electronic evidence were fostered through joint projects with the EU, cooperation with Eurojust and Europol, the EU Institute for Security Studies, INTERPOL, the African Union Commission, CARICOM, the Community of Portuguese Language-speaking countries (CPLP), ECOWAS, FOPREL, the Global Forum on Cyber Expertise, the International Association of Prosecutors, the Organization of American States, the Pacific Island Law Officers Network (PILON), the United Nations, the US Department of Justice and the US Department of State, the Government of Romania as the host country of C-PROC, and many others.

The Council of Europe is also a regular partner of the African Network of African Data Protection Authorities with which it develops a series of online seminars to raise awareness and grow capacities of current and possible future members of the network in international data protection standards applied to various thematic areas.

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. A broad range of projects have been initiated within the Organization (see www.coe.int/ai).

CAHAI will hold consultations on the feasibility study for a possible legally binding instrument on AI in 2021. Multi-stakeholder partners will further be invited to contribute to development of concrete policies to operationalise such an instrument into practice.

A [Conference of Ministers responsible for media and information society](#) will be held in Nicosia, Cyprus (10-11 June 2021).

In line with the [Implementation Strategy to Recommendation CM/Rec\(2016\)4](#), the Council of Europe will continue collecting of good practices in the field of safety of journalists, with a view to setting up a database. It will also extend the Implementation Guide to Recommendation CM/Rec(2016)4 to the pillars of “prevention” and that of “promotion of information, education and awareness raising” of the Guidelines to the Recommendation.

The Council of Europe will further strengthen the Platform to promote the protection of journalism and safety of journalists.

It will also continue [co-operation with internet and telecommunications companies](#) and will prepare an Action Plan for this partnership in 2021.

The Cybercrime Convention Committee will hold further consultations on the draft 2nd Additional Protocol to the Budapest Convention. Once the Protocol is adopted, Parties to the Convention would need to be supported in its implementation.

The online resource on cyberviolence will be further developed enhancing synergies between the Budapest, Lanzarote, Istanbul Conventions and other standards of the Council of Europe.

Political commitment and engagement by member States remains an important pre-condition for the success of the Organisation’s activities and their impact.