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Submissions from entities in the United Nations system, international organizations and other stakeholders on their efforts in 2023 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 27th 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.

**Annual report on "Progress made in 2023 in the implementation of the outcomes
of the World Summit on the Information Society
at the regional and international levels"**

Contribution provided by the Council of Europe

1. Executive summary

Freedom of expression and the implications of the use of AI-based technologies for human rights remain among the key lines of work for the Council of Europe. This was confirmed by the 4th Summit of Heads of State and Government of the Council of Europe that took place in Reykjavík, on 16 and 17 May 2023.

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 intergovernmental and ad-hoc committees, are 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. This includes the Council of Europe's *Digital Partnership*, an initiative aimed at fostering cooperation with companies and their business associations to promote respect for human rights, democracy and the rule of law on the internet. Ongoing joint projects, cooperation initiatives, and policy consultations with the private partners have been continuing throughout 2023. New companies have shown interest in joining the partnership,

proving its mutual added value. Strengthening cooperation with digital companies, as a way to ensure enforcement of Council of Europe standards and values in the digital era, is also part of part of the Council of Europe digital agenda 2022-2025 "Protecting human rights, democracy and the rule of law in the digital environment", reflecting the Organisation's inclusive approach and commitment to multi-stakeholder dialogue.

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 Covid-19 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.

Combating disinformation is another area of increased concern, requiring effective and comprehensive efforts, including by empowering users of all categories and ages through media and information literacy measures.

3. **Innovative policies, programmes and projects undertaken**

C3 – Access to information and knowledge

In 2023, the <u>Council of Europe Convention on Access to official documents (CETS No. 205)</u>, also known as the Tromsø Convention, was ratified and entered into force also in Slovenia, and on 1 January will enter into force for Spain. The <u>Council of Europe Access Info Group</u>, responsible for monitoring the implementation of the Convention by its Parties, already started the examination of the draft first baseline evaluation report.

The <u>Protocol amending the Convention for the protection of individuals with regard to automatic processing of personal data (CETS n° 223)</u>, known as Convention 108+, and aiming to modernise and improve the Convention 108, the only binding international instrument with global relevance in this field, counts ten more ratifications since the beginning of 2023 and two more signatures. The minimum threshold to enter into force is 38 ratifications. The modernisation of the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data, addresses the challenges to privacy resulting from the use of new information and communication technologies, and strengthens the convention's mechanism to ensure its effective implementation.

The Council of Europe's Digital Citizenship Education (DCE) Programme is preparing citizens to live in a technologically enriched world. Since access to education is increasingly related to digital technology, various Council of Europe projects aim to empower learners of all levels to tackle the educational challenges brought by digital evolution, but also to benefit from the opportunities opened in the field by the technological development. Digital Citizenship is a broader concept that encompasses digital literacy, digital competences, citizenship's skills and information literacy. Based on <u>Recommendation CM/Rec(2019)10 of the Committee of Ministers to member States on developing and promoting digital citizenship education</u>, the Council of Europe launched a project on artificial intelligence and education. In the context of this project, a literacy review was conducted and a report (entitled: <u>Artificial intelligence and education - A critical view through the lens of human rights, democracy and the rule of law - Empower learners of all level</u>) was prepared with important conclusions for a better understanding of the links between education and AI. It is also envisaged to elaborate future guidance on the application of AI systems in education.

Safeguarding and promoting the rights of the child in the digital environment and keeping them safe online are at the heart of the Council of Europe's work. The right to access to and safe use of technologies remains one of the key priorities in the Council of Europe's current [Strategy for the Rights of the Child](#) (2022–2027) and is addressed through its standard-setting, monitoring and co-operation activities.

The Council of Europe is strongly committed to fighting sexual exploitation and sexual abuse of children online, through the Council of Europe [Convention on the Protection of Children from Sexual Exploitation and Sexual Abuse](#) (Lanzarote Convention), as well as bilateral and regional projects. State Parties to this Convention commit to criminalise any type of sexual exploitation and sexual abuse against children, online and offline, and the fact of knowingly accessing online child sexual abuse material.

C4 – Capacity Building

The Council of Europe is currently implementing, through its Cybercrime Programme Office (C-PROC), 5 projects worldwide (Octopus Project (2021-2024); iPROCEEDS-2 (2020-2023); CyberEast (2019-2023); CyberSouth (2017-2023); GLACY+ (2016-2024)), aimed at capacity building on cybercrime and electronic evidence, on the basis of the Budapest Convention on Cybercrime and related standards. Over 400 activities - aimed at improving the legislation, training of judges, prosecutors and investigators, public/private and international cooperation, as well as strengthening the responses of criminal justice to cybercrime and electronic evidence - are carried out each year in priority regions in Europe and beyond.

Cooperation programmes and activities encompassing various areas of freedom of expression including the challenges related to the new (digital) media environment - public service media, media literacy and quality journalism, transparency of media ownership, audiovisual media, safety of journalists, including in the online environment - continue, with 14 co-operation programs being currently implemented involving bilateral and multi -country programmes in 18 countries of Western Balkans, Eastern Europe and South Mediterranean region (MENA). One of the priorities is to enhance a pluralistic and safe media environment in the project countries, through support to media legislation reforms, the promotion of the independence and effectiveness of national regulatory authorities and public service media, support to other stakeholders (media industry) and the establishment of networks and platforms for exchanging experiences.

Moreover, the cooperation activities aim to ensure the safety of journalists, offline and online, and the protection of whistle-blowers by supporting investigative journalism and encouraging responsible and ethical journalism. Another area of intervention is the cooperation with partners locally to advance the alignment to international law on access to official documents (the Council of Europe's Convention on Access to Official Documents) and to strengthen personal data protection in its nexus with freedom of expression. Concrete examples include assistance and support for legal and institutional reforms, such as in Albania, Armenia, Bosnia and Herzegovina, Georgia, the Republic of Moldova, Montenegro, and North Macedonia. Specific assistance was provide to Ukraine

The European Committee on Democracy and Governance (CDDG) supports member States, at all levels of government, to harness the opportunities offered by digital transformation whilst reducing possible risks. In 2023, the Committee published a Report on new forms of deliberative and participatory democracy, to complement the 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 work on e-democracy. The Committee also organised a conference on E-voting and ICT in elections: taking stock and moving forward, to prepare the bi-annual review of the implementation of the Recommendation CM/Rec (2017)5 on standards for e-voting.

C5 - Building confidence and security in the use of ICTs

By October 2023, the Second Additional Protocol to the Convention on Cybercrime (Budapest Convention), opened for signature on 12 May 2022, had gathered 40 signatures by Council of Europe members States, but also non-member states, and 2 ratifications/accessions. 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. As to the first Additional Protocol to the Convention on Cybercrime, concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems (ETS No. 189), it counts in October 2023 a total of 35 ratifications/accessions. This Protocol entails an extension of the Cybercrime Convention's scope, including its substantive, procedural and international cooperation provisions, so as to cover also offences of racist or xenophobic propaganda. Thus, apart from harmonising the substantive law elements of such behaviour, the Protocol aims at improving the ability of the Parties to make use of the means and avenues of international cooperation set out in the Convention (ETS No. 185) in this area.

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.

Citing "mounting evidence" that spyware has been used for illegitimate purposes by several Council of Europe member states, the Parliamentary Assembly of the Council of Europe (PACE) adopted Resolution 2513 (2023) and Recommendation 2258 (2023) on Pegasus and similar spyware and secret state surveillance. The Assembly urged the concerned member States to promptly and fully investigate all cases of abuse of spyware, sanction any they find, and provide redress to victims.

Additionally, in one of her comments of 2023, the Human Rights Commissioner called on Council of Europe member states to impose a strict moratorium on the export,

sale, transfer, and use of highly intrusive zero-click spyware tools such as Pegasus, and to put in place a precise, human rights compliant legislative framework for the use of modern surveillance technology. This framework should provide for meaningful procedural guarantees, robust systems of ex-ante and ex-post oversight through judicial review and parliamentary scrutiny, and effective redress mechanisms for victims. Once in place, this framework should be rigorously enforced.

The Human Rights Commissioner issued a new [Recomendation on "Human Rights by Design, future-proofing human rights protection in the era of AI](#)", building on the [2019 report on ''Unboxing Artificial Intelligence- 10 steps to protect Human Rights](#)".

In 2023, the Committee on Artificial Intelligence (CAI), has continued the work towards establishing a future Council of Europe framework convention on artificial intelligence, human rights, democracy and the rule of law.[1] An advanced draft is currently being discussed by member States and other participating stakeholders. In addition to the work of the CAI, a broad range of projects are being developed within the Organisation in this field (see www.coe.int/ai).

One of the main priorities of Council of Europe's the European Commission for the efficiency of justice (CEPEJ) is to accompany States and courts, in line with its *2022 – 2025 Action plan: "Digitalisation for a better justice",* in a successful transition towards digitalisation of justice in line with European standards and in particular Article 6 of the European Convention of Human Rights. Its specialized working group is developing tools concerning topics as varied as quality criteria for videoconferencing, artificial intelligence used in alternative methods of dispute resolution or enforcement of court decisions or court proceedings in a digital context, as well as related training. In 2023, the CEPEJ has published a Guide on judicial e-auctions (June 2023) and a Comparative Study on the use of judicial e-auctions in the Council of Europe Member States.

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.

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[1] https://www.coe.int/en/web/artificial-intelligence/cai

On 5 October 2023 the Council of Europe launched the 5 year Campaign for the Safety of Journalists aiming at improving the safety of journalists, offline and online, and protecting media freedom across the continent, as well as raising awareness about the role journalists play in safeguarding a democratic and pluralistic society. The Campaign was launched in the margins of the Conference "The Pen is Mightier than the Sword? Meeting today's challenges to freedom of expression and the safety of journalists", organised under the Latvian presidency of the Committee of Ministers of the Council of Europe, in Riga.

The prominent role of the Council of Europe in international standard-setting on freedom of expression and related issues such as media freedom, access to information and combatting hate speech and disinformation has been reaffirmed in the Reykjavík Declaration adopted by the 4th Summit of Heads of State and Government of the Council of Europe

Three specialized expert committees established under the Steering Committee for Media and Information Society (CDMSI) have finalized new standard setting document addressing the most recent challenges in the field:

- The Committee of Experts on the integrity of online information (MSI-INF) a draft 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) : draft 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) a draft Recommendation on strategic lawsuits against public participation (SLAPPs).

All documents are expected to be approved by the CDMSI before the end of 2023 and the draft recommendation on Countering the Use of Strategic Lawsuits against Public Participation (SLAPPs) to be transmitted to the Committee of Ministers for final adoption in spring 2024.

Also, under the CDMSI's mandate and in the framework of the Digital Partnership, there is an ongoing work on a joint report with the Institute of Electrical and Electronics Engineers (IEEE) on the Impact of the Metaverse on Human Rights, Rule of Law and Democracy.

Throughout 2023, a series of ongoing cooperation projects have continued across Council of Europe member states. The 'Safeguarding Freedom of Expression and Freedom of Media in Ukraine' project, executed within the Council of Europe Action Plan for Ukraine 'Resilience, Recovery, and Rebuilding' (2023-2026), has been

initiated. Council of Europe experts assessed the Ukrainian Law on Media Freedom as part of the same project. Similar projects focused on enhancing freedom of expression, fostering media independence and pluralism, promoting internet governance, and advancing data protection have been underway in the Republic of Moldova, Ukraine, Georgia, Azerbaijan, as well as in the Southeast European countries under the horizontal facility (Jufrex2) cooperation projects. Additionally, activities supporting democratic reforms in the Southern Mediterranean have been actively progressing under the South Programme V.

The Committee on Culture, Science, Education and Media of the Parliamentary Assembly of the Council of Europe is preparing the following reports: Countering SLAPPs: an imperative for a democratic society; Guaranteeing media freedom and the safety of journalists: an obligation of member States; Propaganda and freedom of speech in Europe; Public regulation of the freedom of expression in digital platforms[2].

The partner organisations to the <u>Council of Europe Platform to promote the Protection of Journalism and Safety of Journalists</u> published their annual report '**War in Europe and the Fight for the Right to Report**' The report takes stock of key areas of law, policy and practices affecting media freedom and safety of journalists in Europe and identifies actions required to improve effective protection of journalists.

C11 – International and regional cooperation

The Council of Europe actively participated in international events dedicated to information society developments. In particular, the Council of Europe participated, with specific sessions and interventions, in the <u>RightsCon 2023</u>, <u>EuroDIG 2023</u> and the Internet Governance Forum - <u>IGF 2023</u>.

The Council of Europe will pursue AI related cooperation in the framework of the intergovernmental co-operation initiative GlobalPolicy.AI, launched in 2021, and bringing together eight international organisations to promote global co-operation on artificial intelligence.

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[2] https://rm.coe.int/reports-prep-all-eng/1680aa8cd4