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The protection of freedom of expression and information on the Internet and online media

Reply to Recommendation[1]: Recommendation 1998 (2012)
Committee of Ministers

1. The Committee of Ministers has examined with interest Recommendation 1998 (2012) of the Parliamentary Assembly on "The protection of freedom of expression and information on the Internet and online media", which it has transmitted to a number of intergovernmental bodies for information and possible comments.[2] It invites the governments of the member States to transmit this recommendation, and Resolution 1877 (2012) of the Assembly, also entitled "The protection of freedom of expression and information on the Internet and online media", as referred to in the recommendation, to national authorities and regulatory authorities responsible for media based on information and communication technology (ICT).

2. The Committee of Ministers recalls the standards it has set in respect of media and freedom of expression and information, and considers that the Parliamentary Assembly's recommendation positively builds on these. The Committee of Ministers recalls, most recently, its Declaration on the Desirability of International Standards dealing with Forum Shopping in respect of Defamation, "Libel Tourism", to Ensure Freedom of Expression, adopted in July 2012. Further, the Committee of Ministers wishes to stress the fundamental importance for people to be able to express themselves and access information on the Internet and through online media without restrictions other than those permitted by Article 10, paragraph 2 of the European Convention on Human Rights.[3] The European Court of Human Rights has recently underscored this approach,[4] citing several instruments adopted by the Committee of Ministers. This means exercising restraint and acting with proportionality to protect users' freedom online. The Committee of Ministers recalls its Declaration on Measures to Promote the Respect of Article 10 of the European Convention on Human Rights, adopted in January 2010.

3. The Committee of Ministers considers that there is a need to protect the freedom of privately operated Internet platforms and online service providers that serve the public interest (see Declaration of the Committee of Ministers on the Protection of Freedom of Expression and Freedom of Assembly and Association with regard to Privately Operated Internet Platforms and Online Service Providers, adopted in December 2011). However, with freedom comes responsibility. The Committee of Ministers recalls that the indicators and

1. Adopted at the 1165th meeting of the Ministers' Deputies (13 March 2013).
2. Forwarded to the Steering Committee on Media and Information Society (CDMSI), the European Committee on Crime Problems (CDPC) and the Committee of Experts on Terrorism (CODEXTER).
3. Article 10, paragraph 2 provides that: "2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary."
4. See the judgment in the case of Ahmet Yildirim v. Turkey (concerning Google Sites – Chamber judgment of 18 December 2012).

criteria established in its recommendation to member States on a new notion of media, adopted in September 2011, help to clarify when intermediaries exercise the same functions as traditional media actors, to gauge and align their freedoms and responsibilities.

4. The Committee of Ministers supports the Parliamentary Assembly's recommendation for intermediaries of ICT-based media to establish self-regulation in respect of codes of conduct, to carry out their functions in a transparent way and to inform users in a clear language of their corporate policies. Users' awareness and ability to make fully informed decisions on the Internet is a central theme of many recent Committee of Ministers' standards in the field of the media and information society, in particular its Recommendation Rec(2012)3 to member States on the protection of human rights with regard to search engines and its Recommendation Rec(2012)4 to member States on the protection of human rights with regard to social networking services, both adopted in April 2012.

5. Moreover, the Committee of Ministers would draw attention to the Council of Europe Internet Governance Strategy 2012-2015,[5] adopted in March 2012, which includes work on a compendium of rights for Internet users and guidelines to assist governments and Internet intermediaries promote pluralistic quality-based and diverse sources of information. In addition, it includes work on principles for "network neutrality" which will directly contribute to the Assembly's proposal to co-operate with the European Commission and the European Union Body of European Regulators for Electronic Communications (BEREC).

6. With respect to the Parliamentary Assembly's final recommendation in relation to the Convention on Cybercrime (ETS No. 185), the Committee of Ministers again refers to the Internet Governance Strategy and, in particular, its chapter IV.

5. Document CM(2011)175 final: Internet Governance – Council of Europe Strategy 2012-2015.