

**Freedom of expression online
– Interplay for Human Rights and ICT
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Access to Internet

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Internet's role for people empowerment and societal change

Thorbjørn Jagland, Secretary General of the Council of Europe, and the President of PEN International, John Ralston Saul, made the following joint statement to mark World Press Freedom Day on 3 May:

“Journalists and writers across the world are imprisoned and silenced every year for saying or writing things that did not please those in power. Now we are witnessing the imprisonment of bloggers, citizen journalists, web-activists – even simple Internet users, for legitimately exercising their right to freedom of expression.

It has never been easier to exercise our rights to expression and information, but it has also never been easier to interfere with them.”

The Internet provides indeed a unique tool empowering people to express and exchange ideas and opinions worldwide. The recent events in Tunisia and Egypt demonstrated, as the Council of Europe's Human Rights Commissioner puts it, that, "[online connectivity – with its unprecedented reach and immediacy – can translate into real-life, positive social change.](#)"

47 Council of Europe member states have recognised that the Internet has a public service value. People go online to obtain information; communicate with each other and express themselves; for commercial transactions and entertainment; to do business and to participate in social and political life. The Internet is also a critical infrastructure for national security.

We must ensure that people's Internet access is not impeded. Council of Europe member states have an obligation under the European Convention on Human Rights to guarantee the full exercise and enjoyment of freedom of expression and access to information regardless of frontiers.

Threats to Internet access

As we heard in an international Conference on Internet Freedom organised in Strasbourg on 18 and 19 April, threats to the Internet

are transboundary. We can forget about freedoms on the Internet if the Internet is not working.

In this respect, we must consider existing cross-border infrastructure dependencies. A recent incident affecting Armenia is particularly telling. Armenia gets 90% of its Internet's connectivity from Georgia. The entire country lost its Internet for a whole 5-hour period because a woman in Georgia unwittingly cut a cable while digging.

The situation is similar in many other countries, whether large or small. The Internet is a transboundary network, a common global resource. We all rely on each other for our access to the Internet.

But interferences with unimpeded Internet access may also come directly from governments.

Think of Egypt.

All that was required was one phone call from President Hosni Mubarak's regime to each of the four internet service providers in Egypt to shut down his citizen's networks.

But Egypt is not alone in erecting electronic barriers. Other countries have expunged words, names and phrases from search engine results.

Such actions contravene universally recognised human rights. In Europe, we should be proud to have an international court, where any governmental interference with fundamental rights and freedoms can be challenged by individuals.

There are currently several cases which have been communicated by the European Court of Human Rights regarding sanctions against bloggers in Azerbaijan¹ or the ban of access to certain Internet sites by Turkey². Moreover, according to media reports³, there is also a case pending against Turkey before the Court concerning a ban for YouTube due to certain videos allegedly containing defamatory content concerning Mustafa Kemal Atatürk. It appears that this case has however not (yet) been communicated to the Turkish government.

People have legitimate expectations that the Internet will be up and running and that fundamental human rights such as freedom of expression be guaranteed.

How about Internet operators and service providers?

¹ *Hajizade and Abdullayev v. Azerbaijan*, Appl. No. 4854/10, communicated on 7 April 2010.

² *Yildirim and Akdeniz v. Turkey*, Appl. nos. 3111/10 and 20877/10, communicated on 16 February 2011.

³ See for example David O'Byrne, "Turkey to face European Court on Youtube ban", *Financial Times* of 30 November 2009 (available at www.ft.com).

At the conference in Strasbourg, it emerged that the business community indeed has legitimate expectations that there will be international dialogue and action to define Internet rules which permit the private sector to carry out activities without undue political interference.

The Council of Europe's Deputy Secretary General told an EU ministerial meeting three weeks ago that we cannot simply sit and wait for some hidden force governing this new "e-cology" to achieve a self-balance that will miraculously satisfy all our needs and expectations.

We have to work together to ensure that our common values govern our on-line environment, so that it becomes a space with maximum freedom and that measures taken to preserve this freedom incur a minimum of restrictions.

What is the Council of Europe doing?

In May 2009 in Reykjavik, the Council of Europe Ministers responsible for media and new communication services set out to explore the responsibilities which States share to preserve the global Internet as a means of safeguarding freedom of expression and access to information regardless of frontiers.

The Council of Europe's premise is that safeguarding fundamental rights and freedoms on the Internet, in particular freedom of expression, is crucial for the direction that our democracies and societies will head to in the future.

If we do not have freedom of expression online we are not going to have it offline.

The main goal should be to ensure a sustainable and open platform for access to and free flow of information across borders without interference, which underpins human rights protection but also education, trade and innovation.

We value multi-stakeholder governance which is important for democracy and the creation of a knowledge-based society, though it must not be used to bypass the rule of law or mystify power relationships.

In concrete terms, the Steering Committee on the Media and New Communication Services is currently working, with the help of a group of recognised experts, on two instruments:

- a draft declaration of the Committee of Ministers on Internet governance principles, and

- a draft recommendation of the Committee of Ministers on the protection and promotion of Internet's universality, integrity and openness.

Both are expected to be finalised in autumn 2011.

These proposals were discussed at the international conference in Strasbourg in April, where positive feedback was received from numerous stakeholders.

There is consensus on the need to affirm the core values and governance guiding principles in order to make sure that Internet governance arrangements preserve the promises and maximise the opportunities for access to information, freedom of expression, citizens' participation in matters of public interest, people empowerment, development, economic growth and innovation. State commitments will include information exchange, consultation and mutual assistance in emergency situations.

For the time being, we are working on soft law instruments but, on certain aspects at least, legally binding agreements may be required in the future. The UK Foreign Secretary declared few months ago that, ["in Britain we believe that the time has come to start seeking international agreement about norms in cyberspace."](#)

The Council of Europe has already prepared a Convention on Cybercrime that facilitates international co-operation between law enforcement agencies. But there can be no security without privacy.

That is why we have launched the revision of Data Protection Convention 108 as a truly international process. European Ministers of Justice have encouraged states from all over the world, NGOs and the private sector to actively participate in the modernisation process of Convention 108. This process will be carried out in close co-operation with the European Union, which is revising its own data protection legislation. It is a good example of complementarity between the normative work of our two institutions.

On the basis of shared values and human rights standards, the EU adopts legislation and the Council of Europe drafts treaties that set international standards and provide a dynamic framework for cooperation with like-minded countries beyond Europe.

The Council of Europe will broaden the discussion of these issues with all stakeholders concerned, notably at the forthcoming conferences of EuroDIG (Belgrade, 30 and 31 May), IGF (Nairobi,

27 to 30 September 2011) and data protection commissioners (Mexico City, 31 October to 4 November).

We count in particular on support of the European Parliament. Let us work together to ensure that the Internet remains a space where people can express themselves freely, without fear of being persecuted or tracked against their will.

Thank you for your attention.