

HUMAN RIGHTS,
DEMOCRACY
AND THE RULE OF LAW

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

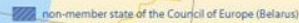
DROITS DE L'HOMME,
DÉMOCRATIE
ET ÉTAT DE DROIT

2019 European Meeting of ICCO

Council of Europe action in the field of Information Society

Presentation
Rome, 6 June 2019

Patrick Penninckx
Head of the Information Society Department



Main Goals

Achieve
Greater Unity
Realise Common
Ideals and Principles
Facilitate Economic
and Social Progress

Rule of Law

Fundamental

Pluralist Democracy

Human Rights

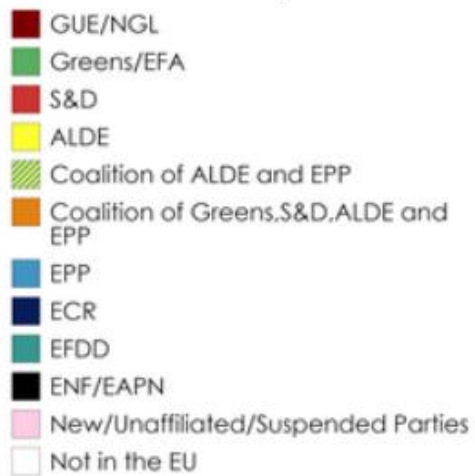
Freedom





Köln Carnival, 27 February 2017

2019 EU Parliamentary Elections Result



Indicative map, source: Reddit

Parliament seats

2014 2019



Populists (EFD)



Right-wing nationalists (ENF)



TRIANGULAR
Methodology

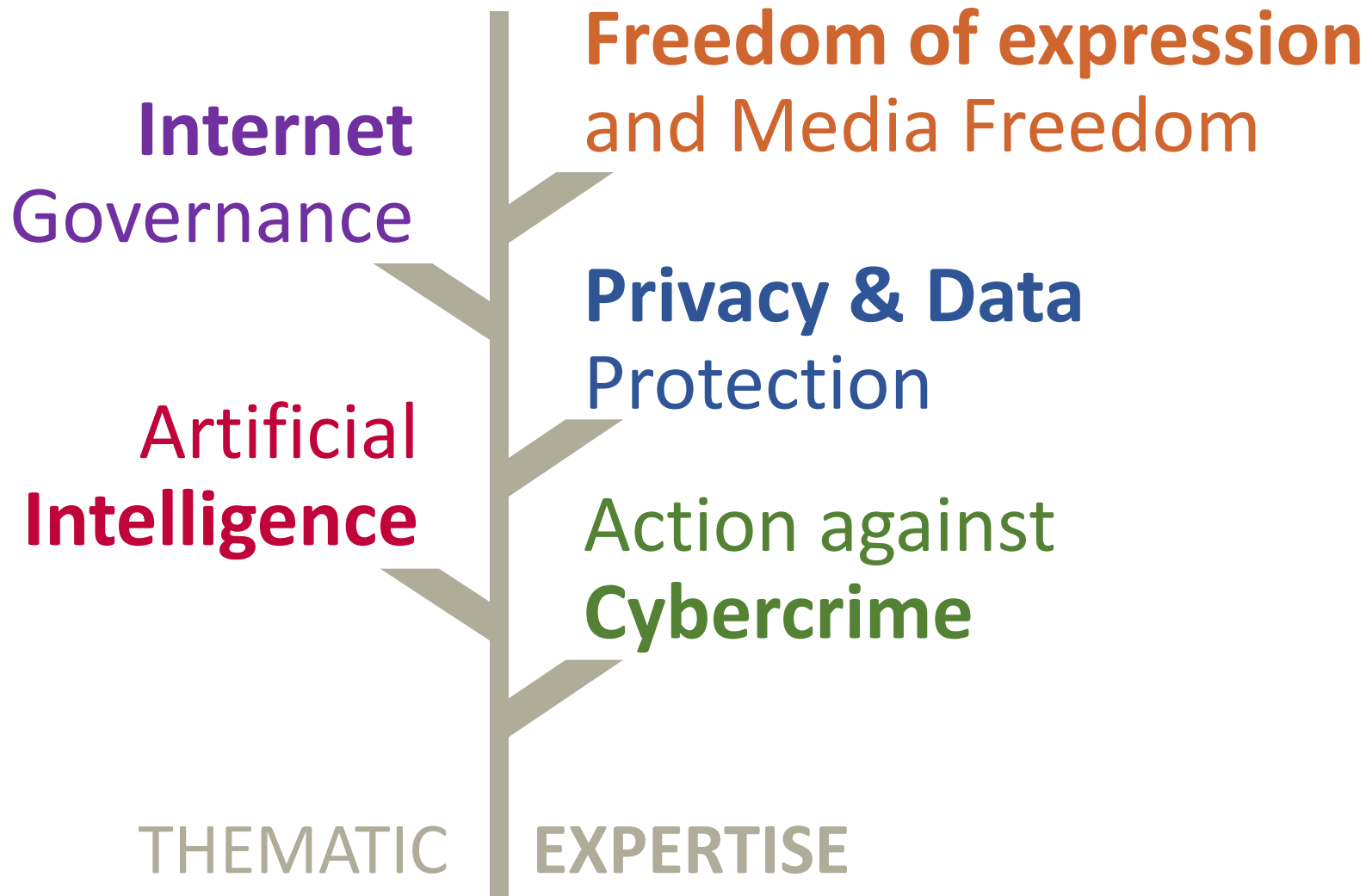
STANDARDS
Recommendations
Conventions

Projects
Programmes
ASSISTANCE

Surveys
Mechanisms

MONITORING





Safeguards of Media Freedom

Legal guarantees
for the freedom of
expression

Protection of
journalists and other
media actors

Media
independence

Freedom of expression

Media pluralism
and diversity

Protection of
freedom of
expression on the
Internet

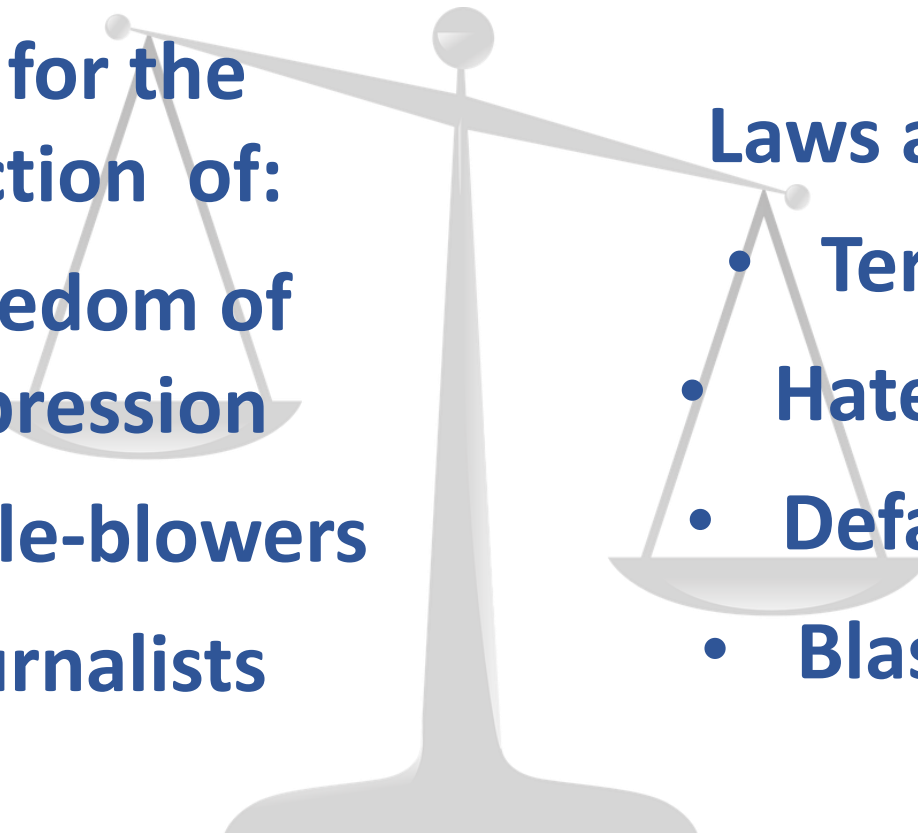
Freedom of expression – balancing rights

**Laws for the
protection of:**

- Freedom of Expression
- Whistle-blowers
- Journalists

Laws against:

- Terrorism
- Hate speech
- Defamation
- Blasphemy



MAJOR CHALLENGES

- **Two assassinations of journalists in Europe** investigating corruption and organised crime
- **Restrictive legislation** that undermines their freedom of speech and association
- **Adverse impacts of the digital revolution** on the financial viability of quality journalism
- **Shutdowns of media outlets** and criminal prosecutions of journalists
- **Growing responsibilities of major online platforms** for containing the spread of disinformation and terrorist propaganda, protecting user privacy and other interests

CHALLENGES

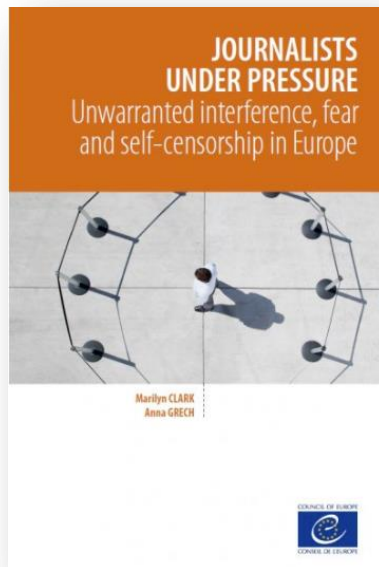
In 2018 ECtHR issued over 50 incriminating judgements on Article 10 concerning:

- ✓ Protection of symbolic speech
- ✓ State duty to investigate attacks on journalists
- ✓ Growing threats against the protection of sources
- ✓ Mass state surveillance

SOLUTIONS

- ✓ Integrate ECtHR jurisprudence into national legislation
- ✓ Render criminal laws more clear and precise
- ✓ Develop self-regulatory and co-regulatory mechanisms

Experiences of unwarranted interference in SEE countries



26% of journalists experienced **physical assault**

47% experienced **threats** of force

31% of respondents were **threatened by the police**

75% of respondents reported having experienced **psychological violence**

59% were victims of **cyberbullying**

40% of respondents became, due to these interferences, even **more resilient**

CHALLENGES

Upward trend in the number and severity of attacks on the physical safety of journalists in Europe:

- ✓ 17 cases of impunity for murder of journalists since 2015
- ✓ Proliferation of violent incidents by non-state actors

SOLUTIONS

- ✓ Establishment of national mechanisms for taking action on Media Freedom Alerts
- ✓ Implementation of the Recommendation CM/Rec(2016)4 on the protection of journalism and safety of journalists and other media actors

CHALLENGES

Government shutdowns of media outlets remain among the most severe forms of curtailment of media freedom:

- ✓ 150 media outlets liquidated under the state of emergency
- ✓ Financial pressures, favouritism and manipulations

SOLUTIONS

- ✓ States should support quality, independent and investigative journalism
- ✓ Legal provisions concerning transparency of formal and beneficial ownership should be improved

CHALLENGES

Struggle to adapt to new environment:

- ✓ Loss of revenue
- ✓ Threats to investigative journalism and local reporting
- ✓ Degradation of working conditions of journalists

SOLUTIONS

- ✓ Declaration of the Committee of Ministers on the financial sustainability of quality journalism
- ✓ A draft Recommendation on promoting favourable environment for quality journalism in the digital age
- ✓ Trade unions and journalists' organisations should represent also freelancers in collective bargaining

CHALLENGES

Misuse of anti-terrorism legislation:

- ✓ Concepts that are not clearly defined
- ✓ Unnecessary or disproportionate restrictions

SOLUTIONS

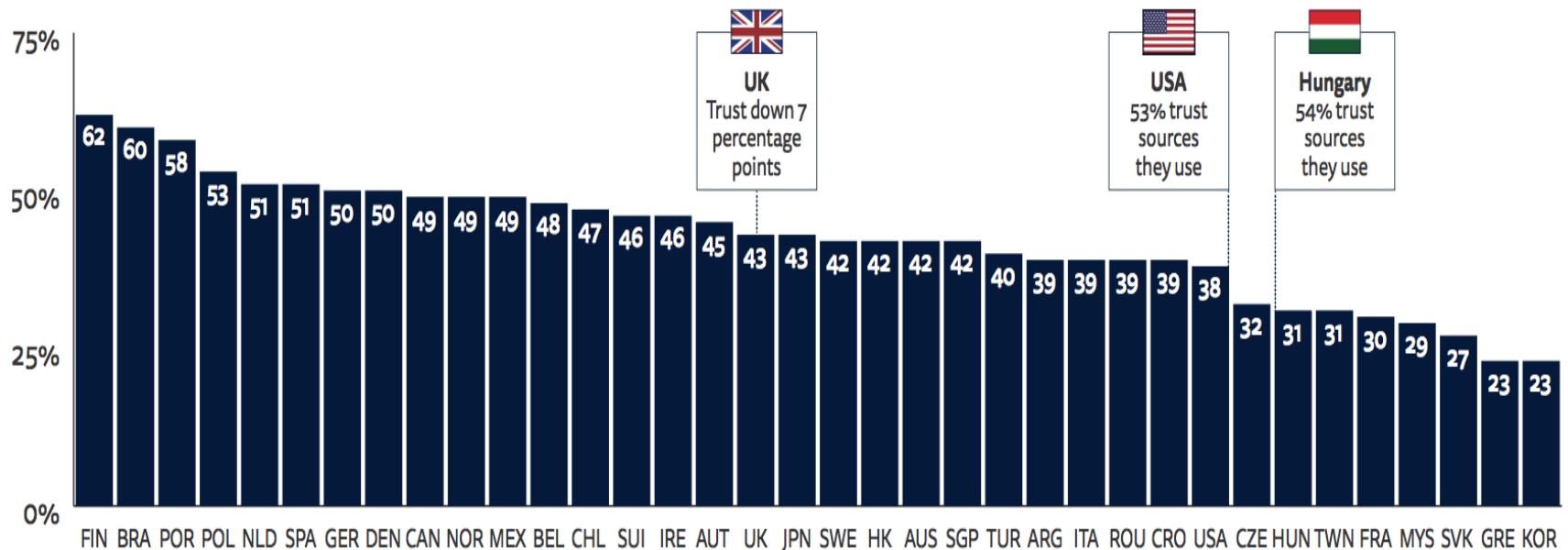
- ✓ Develop a clear regulatory framework for balancing freedom of expression with national security interests
- ✓ Assess the human rights impact of counter-terrorist measures
- ✓ Clarify the responsibilities of intermediaries for content moderation

Erosion of trust in Media

OVERALL TRUST IN NEWS MEDIA

ALL MARKETS

- ✓ Fragmentation of public media spaces
- ✓ Polarisation
- ✓ Ideologically laden echo-chambers

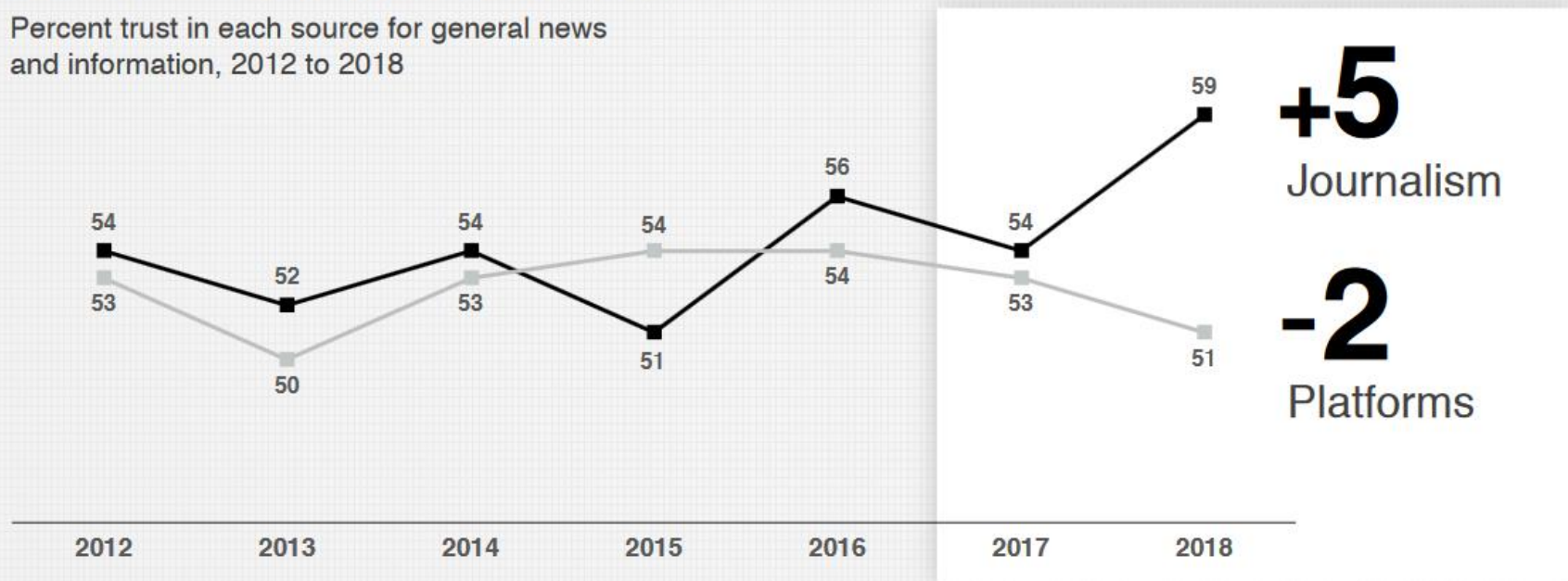


MEDIA | JOURNALISM | PLATFORMS

While Trust in Platforms Declines, Trust in Journalism Rebounds

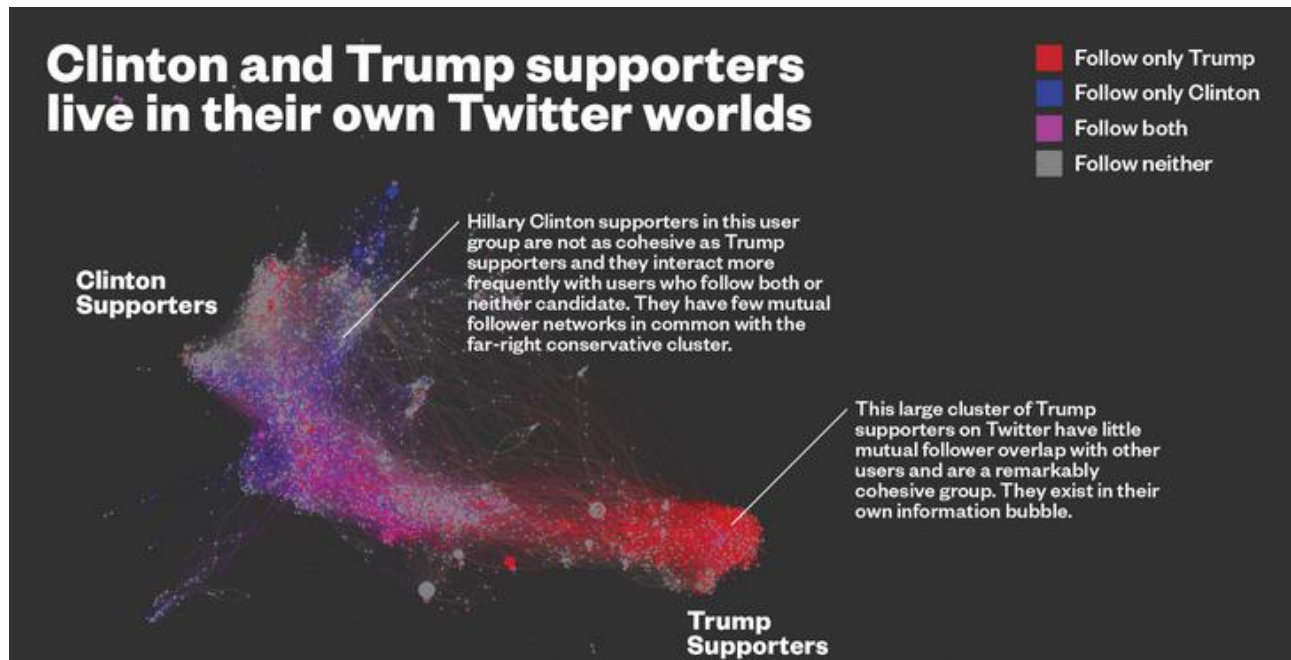
Percent trust in each source for general news
and information, 2012 to 2018

- Average trust in traditional and online-only media
- Average trust in search engines and social media platforms



Dominant influence of new technologies on media content

- ✓ Personalisation of information based on predicted preferences
- ✓ “Filter bubbles”
- ✓ Automated content removal processes on social media



INFORMATION DISORDER:
Toward an interdisciplinary framework
for research and policy making



Council of Europe report
DGI(2017)09

Claire Wardle, PhD
Hossein Derakhshan



Pope Francis Shocks World, Endorses Donald Trump for President, Releases Statement

TOPICS: Pope Francis Endorses Donald Trump



Mis-Information

*False Connection
Misleading Content*

Dis-Information

*False Context
Imposter Content
Manipulated Content
Fabricated Content*

Mal-Information

*Leaks
Harassment
Hate speech*

What can
we do?

Technology Companies

National Governments

Media Organisations

Civil Society

International Institutions



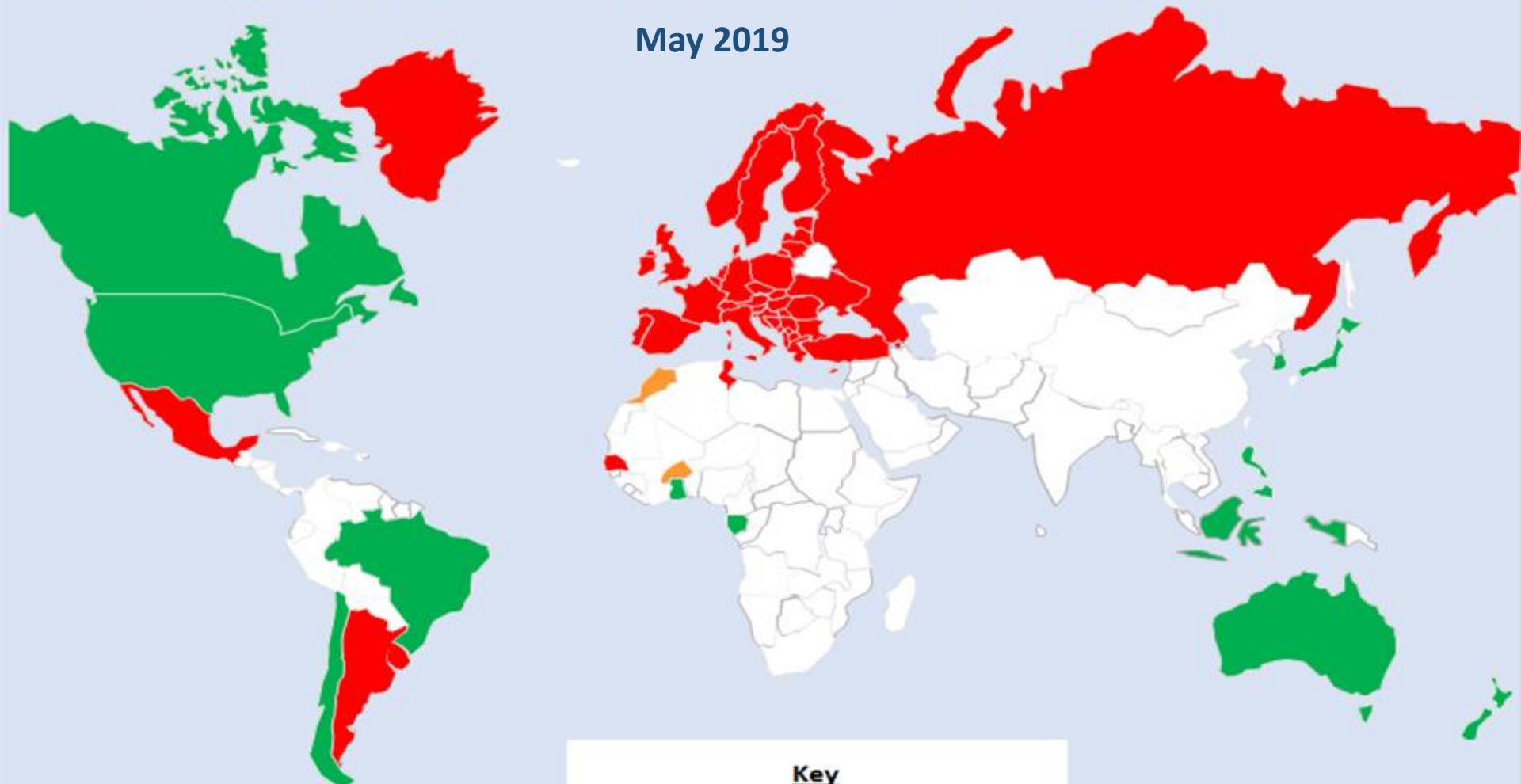
Freedom of Expression



Data Protection Convention

54 Parties + 2 invited + 13 Observer = 69

May 2019



Key
Parties to Convention
Acceding Countries
Observer Countries/ DPAs



Infvisual map / property of
Prof Graham Greenleaf

Convention 108

- ➔ 54 countries
- ➔ Outlaws processing of sensitive data on:
 - Race
 - Politics
 - Health
 - Religion
 - Sexual life
- ➔ Enshrines the individual's right to access and correct personal data

Modernised Convention 108 +

(adopted on 18 May 2018)

- ➔ New rights for individuals related to big data and algorithms
- ➔ New obligations for data controllers on transparency and accountability
- ➔ Reinforced powers for Data Protection Authorities
- ➔ New monitoring mechanism

Practical guide on the use of personal data in the police sector

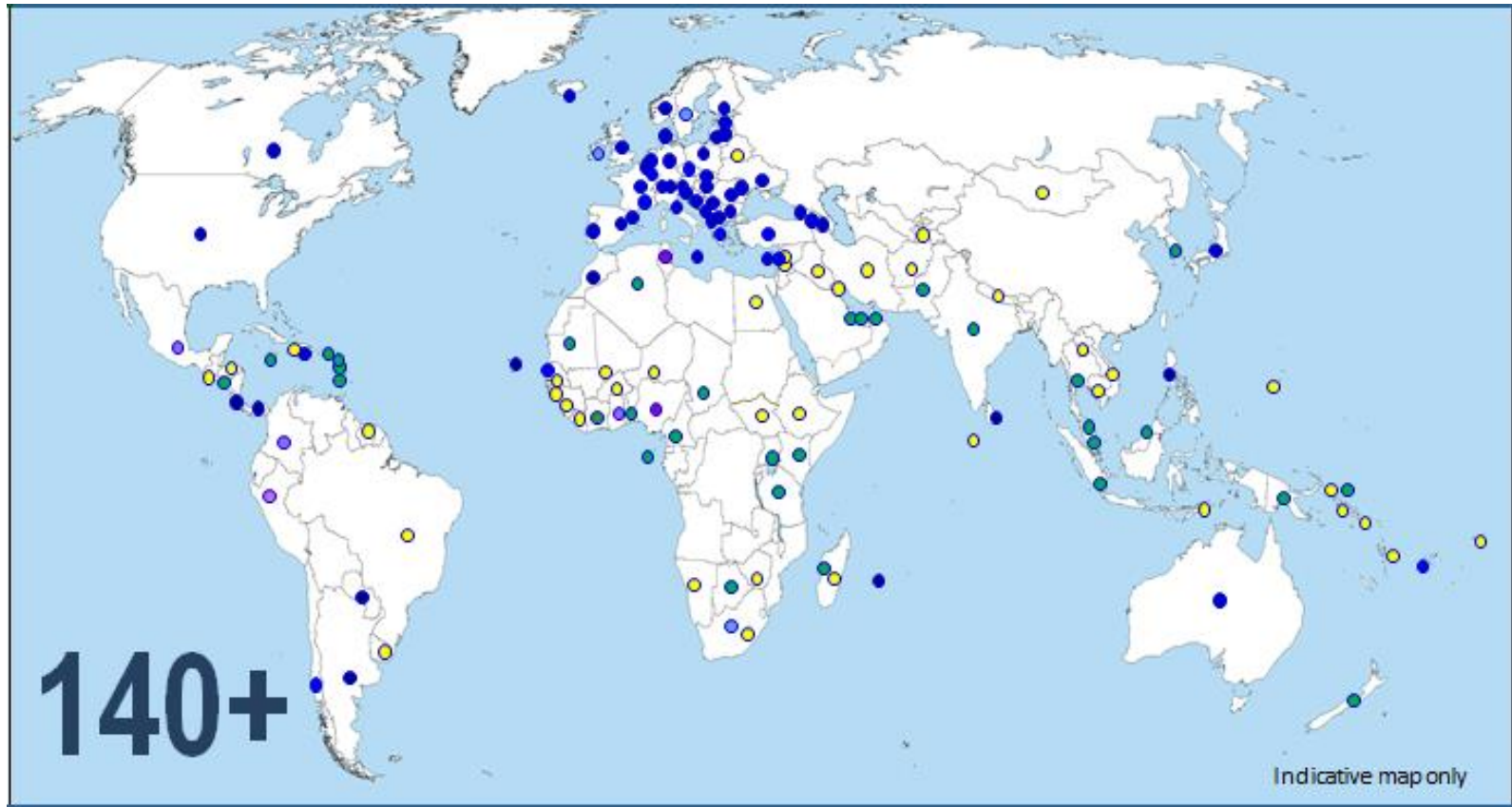


www.coe.int/data-protection

New tools

- ➔ Recommendation on the processing of personal data in the context of employment
- ➔ Practical Guide on the use of personal data in the police sector
- ➔ Big Data Guidelines
- ➔ Recommendation on the protection of health-related data

Cybercrime Convention



Ratified/acceded: 63

Signed: 4

Invited to accede: 4
= 71



Other States with laws/draft laws largely in line with Budapest Convention = 20+

Further States drawing on Budapest Convention for legislation = 50+



Cybercrime Convention

Key features

- Criminalises offences against and by means of computers
- Provides powers to secure electronic evidence
- Creates a framework for effective international cooperation



Recent Recommendations dealing with internet and internet intermediaries



- Recommendation CM/Rec(2018)2 on the **roles and responsibilities of internet intermediaries**
- Recommendation CM/Rec(2016)5 on **Internet freedom**
- Recommendation CM/Rec(2016)1 with regard to **network neutrality**
- Recommendation CM/Rec(2015)6 on the free, **transboundary flow of information on the Internet**
- Recommendation CM/Rec(2014)6 on a **Guide to human rights for Internet users**
- Recommendation CM/Rec(2012)3 on the protection of human rights with regard to **search engines**

EXCHANGE OF LETTERS with companies

- 14 internet companies and associations joined in November 2017
- 2 new partners joined in May 2018
- On-going discussions with potential partners



- ✓ Apple, Deutsche Telekom, Facebook, Google, Microsoft, Kaspersky Lab, Orange, Telefónica and Cloudflare.
- ✓ Computer & Communications Industry Association (CCIA), DIGITALEUROPE, the European Digital SME Alliance, the European Telecommunications Network Operators' Association (ETNO), GSMA, the Global Network Initiative (GNI) and EuroISPA.

Strategy

Council of Europe **Internet Governance Strategy 2016 - 2019** recognises the critical role that internet companies play in addressing today's challenges of the digital age

Objective

Combine Council of Europe's expertise in HR-based policies and partners' expertise in digital technologies

Opportunities for companies



- Boost public confidence
- Access to the network of the Council of Europe's 47 member states and 6 observer states and civil society organisations
- Better understand government and societal expectations
- Influence the development of Council of Europe policies for the internet
- Devise and implement corporate social responsibility initiatives more effectively



Companies

Cloudflare

Deutsche Telecom

European Digital

SME Alliance

EuroISPA

Facebook

GNI

Google

Kaspersky Lab

Strasbourg, 23 May 2018

Official meeting Committee of Ministers and internet companies (TC-INF meeting)

- Implementation mechanisms for the Recommendation on the **roles and responsibilities of internet intermediaries**
- Opportunities for further cooperation regarding **new technologies** and **artificial intelligence**

Open Workshop on issues of current concern

- ✓ **cyber-security**
- ✓ **data protection**
- ✓ **content moderation**
- ✓ **e-participatory processes**



Companies

Internet Industry
Association (eco)
Microsoft
Global Network
Initiative (GNI)
Facebook
Google
Telefonica
Orange

High level conference, Helsinki, 26-27 February 2019

“Governing the Game Changer – Impacts of artificial intelligence development on human rights, democracy and the rule of law”

- High-level representatives of the Internet Industry Association (eco) and of Microsoft spoke at the event
- Microsoft arranged a demo-stand presenting their work in the field of AI



Selected conclusions

- All relevant stakeholders should engage in in-depth exploration and research into the impacts of AI on human rights, democracy and the rule of law
- Ethical guidelines and self-regulation constitute additional tools to promote these values
- Algorithmic transparency is crucial for building trust and ensuring due rights protection



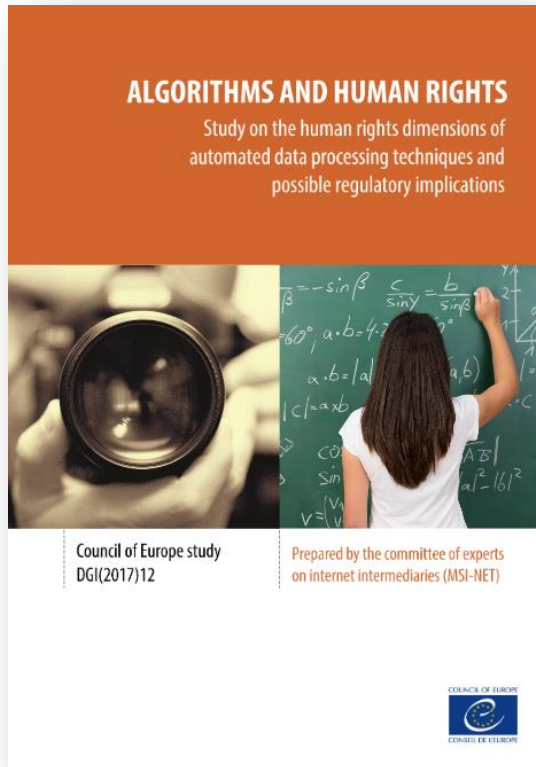
FUTURE: focus on deeper cooperation

- Longer term partnerships
- Reciprocity > open consultations
- From project base to a more structural base

Strasbourg, 18 June 2019

Official meeting Committee of Ministers and internet companies (TC-INF meeting)

- **Role of algorithms in content moderation** (including identification of terrorist content, as well as mis- and mal-information during the election campaigns)
- **Facial recognition** in the light of works launched by Committee 108.



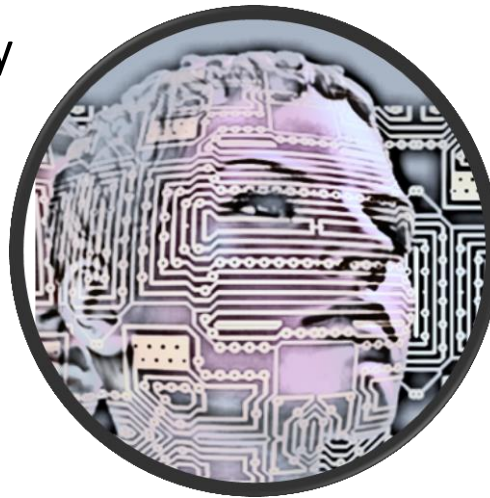
- ✓ **Study “Algorithms and Human Rights”** seeks to identify possible regulatory options that member states may consider to minimise adverse effects or to promote good practices
- ✓ **Declaration on the manipulative capabilities of algorithmic processes** raises awareness about impacts on the formation of opinions, on public communication and on democratic processes
- ✓ **Draft Recommendation on the human rights impacts of algorithmic systems** is intended to provide guidance to member states in developing relevant policies
- ✓ **Council of Europe Foreign Affairs Ministers meeting:** “Examine the feasibility of a legal framework for the development, design and application of artificial intelligence, based on the Council of Europe’s standards”

NEW FOCUS

Work on algorithms, self-learning machines and artificial intelligence within the context of human rights and democratic societies

Overview of AI projects launched within the Council of Europe

- Information Society
- Cybercrime
- Data protection
- Criminal Law
- Bioethics
- Efficiency of justice



- Culture and Heritage
- Children Rights
- Anti-Discrimination
- Gender Equality
- Education
- Democratic Governance

Thanks for
your
attention !

further resources:

www.coe.int/freedomofexpression

www.coe.int/dataprotection

www.coe.int/cybercrime

www.coe.int/AI

Facebook Page

Information Society Group