Ministry of Foreign Affairs of the Netherlands

# The role of governments in protecting and furthering internet freedom

## Background paper

# Introduction

Governments, as well as private-sector, civil-society and other international organisations, have an important role and responsibility in the development of the Information Society.[1] As the primary entities responsible for the protection of the fundamental rights and freedoms of their citizens, governments play a central and crucial role in supplying open access to the Internet, guaranteeing internet freedom and securing the rule of law online.

An open and free Internet is a key means by which individuals can exercise their right to freedom of opinion, expression, association and assembly. However, these freedoms are not absolute. In protecting and furthering internet freedom, governments must take account of the rights and interests of all members of society. The conduct of individuals, groups or institutions online may be at odds with the rights of others. Therefore, in furthering internet freedom, governments also have a duty to protect these rights and interests. These rights and interests include (cyber)security, the right to privacy, protection against speech that incites violence, and the dignity of individuals.

The main question is thus how governments can foster the continued evolution of an internet ecosystem that supports human creativity, expression and knowledge sharing while protecting interests such as privacy and security.[2] In answering this question, we must also take into account that the online world is borderless. This raises questions about the influence, role and remit of nation states in the online world.

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1 World Summit on the Information Society (2003), *Geneva Declaration of Principles*, WSIS-03/GENEVA/DOC/0004
2 Gutterman, B. (2011), *Developing the Future Together: the Fifth internet Governance Forum*, Vilnius 14-17- September 2010, p. 168

# Encouraging access to the Internet

Open and affordable internet access that is also secure and reliable is a prerequisite for online freedom. As of April 2011, about two billion people worldwide have access to the Internet. Internet penetration is highest in North America, followed by Oceania and Europe. And while it is much lower in Asia, Africa, the Middle East and Latin America, these regions are experiencing spectacular growth, ranging from 700 to 2,500 per cent per year.[3]

Since the Internet is a key driver of economic growth and prosperity as well as an indispensable tool for social and democratic participation, many countries and regions have adopted comprehensive strategies for stimulating the uptake of (broadband) internet access.[4]

4 www.internetworldstats.com/stats.htm
5 See for instance the European Commission's 'Digital Agenda for Europe'

# National efforts to protect and further internet freedom

Although the Internet is by its very nature borderless, that does not mean that nation states have no influence over it. Via the physical infrastructure on which it runs, the Internet is still intimately connected to the physical world, and as such to the territories of sovereign nation states.[5] Therefore, states can significantly influence the free flow of information within their territories.

Many nation states have formulated national strategies for cyberspace, especially for the protection of human rights and fundamental freedoms on the Internet. As such, each country has a different approach to protecting internet freedom and balancing it with other rights and interests. When it comes to internet freedom, there are significant differences around the world. Estonia, The United States and Germany are considered the countries where the Internet is most free, while Cuba, Burma and Iran are considered the countries where it is least free.[6]

While strengthening online freedom at the national level is of vital importance for citizens, there is also a very important international dimension to internet freedom. As well as drawing up national strategies to protect and further internet freedom, we also need to take account of the international dimension of the Internet. At the regional and global level, national governments endeavour to protect and further internet freedom. Below are some examples of countries that put specific emphasis on internet freedom in their national and/ or foreign policy.

## United States

The United States is one of the leading nations when it comes to protecting and furthering internet freedom.[7] Secretary of State Hillary Clinton has given two landmark addresses on internet freedom, identifying the issue as a foreign policy priority for the United States. For protecting and furthering internet freedom, the United States has developed a dedicated *Internet Freedom Agenda* with a global orientation.[8] Internet freedom is a core part of the *International Strategy on Cyberspace*, which outlines the US government's overall cyber policy approach and aims.[9] The US State Department has committed 70 million dollars to promoting internet freedom.[10] US efforts focus on the development of software for circumventing censorship and surveillance, digital safety training, research and advocacy.

5 Goldsmith, J., Wu T., (2006), *Who Controls the Internet? Illusions of a Borderless World,* New York: Oxford University Press
6 Kelly, S. Cook, S. (2011), Freedom on the Net 2011, *A Global Assessment of internet and Digital Media,* Freedom House
7 For an overview see: www.state.gov/e/eeb/cip/netfreedom/index.htm
8 Rodham Clinton, H. (2011), Internet Rights and Wrongs: Choices & Challenges in a Networked World, George Washington University Washington DC, 15 February 2011. See also: US State Department (2011), internet Freedom In the 21st Century: Integrating new technologies into diplomacy and development, February 4th 2011
9 *International Strategy for Cyberspace, Prosperity, Security, and Openness in a Networked World,* May 2011
10 Smith, J. (2011), *State department allocates final $28 million for internet freedom programs, in:* National Journal (online), May 3 2011

## Sweden

Sweden is a strong supporter of internet freedom and plays a leading role in the international debate. In January 2010, Sweden's foreign minister, Carl Bildt, published an article underlining the importance of internet freedom.[11] In June 2010, the Swedish Ministry of Foreign Affairs hosted a meeting on freedom of expression online, together with UN Special Rapporteur LaRue. On 10 June 2011, on behalf of over 40 countries, Sweden addressed the United Nations Human Rights Council in a cross-regional statement, noting that human rights must be respected online just as they are offline.[12]

## Estonia

Estonia is the country where the Internet is considered most free.[13] Estonia has a strong focus on providing internet access and protecting online freedom and the human rights of its citizens. Apart from a domestic policy with a specific focus on internet freedom, Estonia also promotes internet freedom in its foreign policy. An example is the address of the Estonian president Mr Ilves, at the 66th session of the United Nations General Assembly.[14]

## The Netherlands

Human rights are at the heart of Dutch foreign policy, and internet freedom is a key part of this policy.[15] In April 2010, the Dutch Ministry of Foreign Affairs hosted a conference on 'freedom of expression and new technologies'. The purpose of the conference was twofold: to explore the possibilities of using new technologies to promote freedom of expression; and to focus attention on the plight of (cyber)activists under authoritarian regimes and find ways to strengthen their protection.[16] The Netherlands also actively engages with the private sector to ensure that the idea of internet freedom is included in businesses' corporate social responsibility programmes. To further emphasise the importance of internet freedom and to take further steps, the Dutch Ministry of Foreign Affairs is hosting this Internet Freedom Conference 2011.

## Brazil

In the Americas, Brazil takes a leading role in the global discussion on internet freedom. In 2009, the Brazilian Internet Steering Committee formulated a set of principles for the governance and use of the Internet in Brazil. The list was the result of a multi-stakeholder process that involved parties from the public sector, civil society, private sector and academia. The principles emphasise the importance of the protection of freedom, privacy and human rights, network neutrality, multi-stakeholderism, universality, diversity and innovation.[17]

## Kenya

In Africa, Kenya is seen as a forerunner in the area of internet freedom. In recent years, Kenya has taken significant steps to strengthen freedom of expression online. After South Africa, Kenya enjoys the highest level of internet freedom in Africa.[18] In September 2011, Kenya hosted the 2011 internet Governance Forum.

11 Bildt, C. (2010), *Tear down these walls against internet freedom*, in: Washington Post, January 25 2010
12 Bildt, C. (2011), *Freedom of Expression on the Internet Cross-regional Statement*, Speech to the Human Rights Council 17th session, 10 June 2011
13 Kelly, S. Cook, S. (2011), Freedom on the Net 2011, *A Global Assessment of Internet and Digital Media*, Freedom House
14 Toomas Hendrik Ilves, H. E. (2011), Speech to 66th Session of the United Nations General Assembly, New York, 21st September 2011
15 Verhagen, M. (2010), Speech to the Conference on the Internet and Freedom of Expression, Paris, July 8 2010
16 Tweede Kamer, vergaderjaar 2010–2011, 32 500 V, nr. 191, p. 2 (in Dutch)
17 internet Steering Committee in Brazil (2009), *Principles for the governance and use of the Internet in Brazil*, Sao Paolo, CGI.br/Res/2009/03/P
18 Kelly, S. Cook, S. (2011), Freedom on the Net 2011, *A Global Assessment of Internet and Digital Media*, Freedom House

# Regional and global internet governance initiatives

Discussions on internet freedom also take place in multilateral contacts between nation states and within intergovernmental organisations. The importance of the Internet in promoting the freedom of expression has been recognised by various intergovernmental organisations at regional and global level. Within these organisations, the discussions on internet freedom are closely related to the broader topic of internet governance.

Below, we present an overview of various intergovernmental organisations and forums in which internet governance in general and internet freedom in particular are discussed.

## United Nations

Within the United Nations, the topic of internet freedom and human rights features most prominently within the UN Human Rights Council.[19] The 17th session of the Human Rights Council produced a cross-regional statement on freedom of expression on the Internet.[20]

At the same session, the Special UN Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Mr Frank LaRue, presented his report on the role of the Internet in promoting freedom of expression. The report underlines the importance of the Internet in promoting and protecting the right to freedom of opinion and expression.[21] The report explores key trends and challenges to the right of all individuals to seek, receive and impart information and ideas of all kinds via the Internet. The Special Rapporteur underscores the unique and transformative nature of the Internet not only to enable individuals to exercise their right to freedom of opinion and expression and other human rights, but also to promote the progress of society as a whole.

As well as the report, a joint statement on freedom of expression on the Internet has been issued by the Special Rapporteur, along with the OSCE Representative on Freedom of the Media, the OAS Special Rapporteur on Freedom of Expression, and the African Commission on Human and Peoples' Rights (ACHPR) Special Rapporteur on Freedom of Expression and Access to Information.[22]

The 18th session of the Human Rights Council accepted a proposal from the Swedish government for the creation of an Expert Panel on Freedom of Expression on the Internet to convene at the 19th Session of the Human Rights Council in March 2012.[23]

19 www2.ohchr.org/english/bodies/hrcouncil/
20 Human Rights Council 17th session, June 10 2011, *Freedom of Expression on the Internet Cross-regional Statement*, via: http://www.regeringen.se/sb/d/14186/a/170565
21 LaRue, F. (2011), Human Rights Council , Seventeenth session , Agenda item 3, *Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression*, Frank LaRue, May 16th 2011, A/HRC/17/27
22 hwww.cidh.oas.org/relatoria/showarticle.asp?artID=848&lID=1
23 Human Rights Council Eighteenth session, Agenda item 1, Report of the Human Rights Council on its eighteenth session, 18 November 2011, A/HRC/18/2

## Council of Europe

Within the Information Society, Media and Data Protection Division of the Directorate General of Human Rights and Legal Affairs of the Council of Europe, a special Ad-hoc Advisory Group on Cross-border Internet has been established.[24] The mandate of this group is to examine the responsibilities of states for providing universal access to the Internet and to submit proposals for guaranteeing the on-going functioning and universal nature and integrity of the Internet.[25] In 2010, the Advisory Group released an interim report on international and multi-stakeholder cooperation on cross-border internet.[26]

## European Union

Within the EU, there is no specific (foreign) policy agenda for internet freedom. Rather, internet freedom is an integral part of the broader EU approach to human rights and (media) freedom, a topic that is high on the political agenda.[27] Apart from the focus on the protection of human rights and media freedom within the EU itself, media freedom is also part of the accession negotiations for EU enlargement. Finally, internet freedom features in foreign policy. In March 2010, for instance, the Council of the European Union called on Iran to stop internet censorship.[28] Furthermore, in January 2011, the Council of the European Union adopted conclusions calling on Egypt to restore access to the Internet and guarantee unhindered access to all media, including the Internet.[29] In December 2011, the European Parliament adopted a proposal to include internet freedom as a key objective in foreign policy and international trade. Projects that enable safe and unrestricted access to the Internet will be funded via the creation of a new 'internet freedom fund' within the European Instrument for Democracy and Human Rights (EIDHR).[30]

An important aspect of EU foreign policy on protecting online freedom is export regulation, in particular the rules concerning the export of ICT technologies that can be used for monitoring and filtering internet traffic in authoritarian regimes. In June 2011, for instance, the European Parliament adopted a resolution that prohibits the granting of general EU authorisations for the export to certain countries of telecommunications technologies that can be used in connection with the violation of human rights, democratic principles or freedom of speech. Examples include the targeted surveillance of internet use and the use of interception technologies and digital data transfer devices for monitoring mobile phones and text messages.[31]

24 www.coe.int/t/dghl/standardsetting/media/mc-s-ci/default_EN.asp
25 Terms of reference of the Ad hoc Advisory Group on Cross-border internet (MC-S-CI), 28 September 2010
26 Council of Europe (2010), *International and multi-stakeholder cooperation on cross-border internet, report of the Ad-hoc Advisory Group on Cross-border internet to the Steering Committee on the Media and New Communication Services incorporating analysis of proposals for international and multi-stakeholder cooperation on cross-border internet*
27 MEMO/11/790, *Media freedom high on European agenda*, Strasbourg, 15 November 2011
28 Council of the European Union, 3005th FOREIGN AFFAIRS, Council conclusions on free access to information in Iran, Council meeting, Brussels, 22 March 2011
29 Council of the European Union, 3065th FOREIGN AFFAIRS, Council conclusions on Egypt, Council meeting Brussels, 31 January 2011
30 www.internetfreedomfund.tumblr.com
31 European Parliament (2011), Dual-use items and technology: Community regime for the control of exports (amend. Regulation (EC) No 1334/2000), COD/2008/0249

### OCSE

The Organization for Cooperation and Security in Europe (OCSE) monitors media developments in its participating states for violations of freedom of expression. This includes reviewing legislation regulating the media, as well as monitoring cases where journalists are prosecuted for their professional activities or are the victims of harassment. The OSCE also engages in media development by training and supporting editors and journalists. In 2003, the OCSE published the Amsterdam Declaration on Freedom of the Media and the Internet.[32] The recommendations focus on access to the Internet, freedom of expression, education and fostering professional journalism. In July 2011, the OCSE launched the report 'Freedom of Expression on the Internet', [33] a study of legal provisions and practices relating to freedom of expression, the free flow of information, and media pluralism on the Internet in OSCE states. In June 2011, the OCSE representative on the freedom of the media co-signed the Joint Declaration on Freedom of Expression and the Internet.

### OAS

Within the Organization of American States (OAS), the importance of universal access to the Internet and its role in encouraging freedom of expression were recognised in the Declaration of Santo Domingo in 2006.[34] Furthermore, the issue of online freedom is relevant within the Inter-American Commission on Human Rights.[35] The OAS Special Rapporteur on Freedom of Expression has co-signed the Joint Declaration on Freedom of Expression and the Internet.

### African Union

Within the African Union, the Commission on Human and Peoples' Rights (ACHPR) is primarily concerned with online freedom.[36] The Special Rapporteur on Freedom of Expression and Access to Information has co-signed the Joint Declaration on the Freedom of Expression on the Internet.

### OECD

Within the OECD, the Committee for Information, Computer and Communications Policy (ICCP) addresses issues arising from the digital economy, the developing global information infrastructure, and the evolution towards a global information society. To engage civil society in the process of policymaking for the Information Society, a Civil Society Information Society Advisory Council (CSISAC) has been established. The Council aims to contribute constructively to the ICCP's policy work and to promote the exchange of information between the OECD and the civil society participants most active in information technology.

In June 2011, the OECD High Level Meeting on the Internet Economy discussed principles for internet policymaking. [37] A concluding communiqué was issued, putting forward 14 principles of internet policymaking. [38]

**32** Organization for Security and Cooperation in Europe, the Representative on Freedom of the Media, *Amsterdam Recommendations on Freedom of the Media and the Internet, June 14 2003*

**33** OSCE (2011), *Freedom of Expression on the Internet: study of legal provisions and practices related to freedom of expression, the free flow of information and media pluralism on the Internet in OSCE participating States*

**34** OAS (2006), *Declaration of Santo Domingo on Good Governance and Development in the Knowledge-based Society*

**35** www.cidh.oas.org/DefaultE.htm

**36** www.achpr.org/

**37** www.oecd.org/site/0,3407,en_21571361_47081080_1_1_1_1_1,00.html

**38** OECD High Level Meeting on the Internet Economy, *Final communiqué on principles for internet policy making,* June 29 2011

## G8

At the G8 summit in Deauville in May 2011, the G8 issued a declaration calling for a Renewed Commitment to Freedom and Democracy. Internet freedom features prominently in this declaration. The G8 recognises that openness, transparency and freedom of the Internet have been essential to its development and success. These principles, together with those of non-discrimination and fair competition, must continue to be an essential force behind its development. Government leaders agreed on a number of key principles, including freedom, respect for privacy and intellectual property, multi-stakeholder governance, cybersecurity, and protection from crime.[39]

39 G8 declaration, Renewed commitment for freedom and democracy, G8 Summit of Deauville, May 26-27, 2011

# Engaging the global internet community

A recurring theme in discussions on internet governance is the importance of inclusive participation by governments, civil society, academia and the private sector. Within the global community, there are several key organisations concerned with global internet governance. Since decisions on the standards and architecture of the Internet directly influence how it works and may affect the rights and interests of its users, questions on internet governance are closely related to technical questions. Organisations involved in determining internet standards and technical operations therefore need to be involved in discussions on internet governance.

## Internet Governance Forum[40]

The Internet Governance Forum (IGF) was established as a follow-up to the World Summit on the Information Society (WSIS), held in Geneva in 2003 and in Tunis in 2006. The IGF aims to support the United Nations Secretary-General in carrying out the mandate issued by the World Summit on the Information Society (WSIS) with regard to convening a new forum for multi-stakeholder policy dialogue. The IGF's approach is to serve as a voluntary, neutral, multi-stakeholder platform for discussion on internet governance.

Preparations for the global IGF take place in national internet governance forums and regional forums such as the Asia Pacific Regional IGF (APrIGF), the East Africa IGF (EAIGF), the Latin America and Caribbean IGF, and the European Dialogue on Internet Governance (EuroDIG).

Within the context of the IGF, an International Rights & Principles Coalition was formed. The mission of this dynamic coalition is 'to make rights on the Internet and their related duties, specified from the point of view of individual users, a central theme of the internet governance debate held in the IGF context.'[41]

## ITU[42]

The ITU is the United Nations agency for information and communication technologies. The ITU is founded on the principle of international cooperation between governments and the private sector. Within the ITU, governments and the private sector work towards consensus on a wide range of issues affecting the ICT industry. The ITU has 193 member states, 539 sector members, 157 associate members and 25 academic members.

## Internet Society (ISOC), IAB and IETF[43]

The Internet Society (ISOC) is a non-profit organisation founded in 1992 to provide leadership in internet-related education and policy. ISOC hosts the Internet Architecture Board (IAB), the primary body that oversees the technological development of the Internet. Within the IAB, the Internet Engineering Taskforce (IETF) is the principal body engaged in the development of new internet standard specifications.

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40 www.intgovforum.org/
41 www.internetrightsandprinciples.org
42 www.itu.int
43 www.isoc.org

## ICANN[44]

From a technical perspective, the Internet Corporation for Assigned Names and Numbers (ICANN) plays a crucial role in the operation of the Internet, since it is the entity responsible for the global policy on unique internet identifiers (IP addresses) and the Domain Name System, which are vital for the proper functioning of the global Internet. ICANN is a non-profit organisation governed according to a multi-stakeholder model. A government advisory committee provides ICANN with advice on public policy issues.[45]

## Private sector, civil society, academia

Apart from the key organisations mentioned above, there are numerous public- and private-sector organisations and individual stakeholders who need to be involved in the discussion on internet freedom. Examples include business (via organisations such as the International Chamber of Commerce (ICC), the World Information Technology and Services Alliance (WITSA) and the Global Network Initiative (GNI)), civil society (NGOs, civil rights movements, consumer organisations, journalists, etc.) and academia. Many of these stakeholders participate in the multi-stakeholder discussions within organisations such as the IGF.

44  www.icann.org
45 www.icann.org/en/structure/

# General principles of internet governance and online freedom

Within the various regional and global forums that discuss internet freedom and governance, general principles are set out in various declarations, statements and reports. Below is a summary of the general principles set out by these various bodies.

## United Nations

The report of the Special UN Rapporteur on the promotion and protection of the right to freedom of opinion and expression underscores the importance of the Internet as a medium for the promotion of the freedom of expression. The Internet has become a key means by which individuals can exercise their right to freedom of opinion and expression, as guaranteed by article 19 of the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights.[46]

If there is to be any limitation to the freedom of expression, the Special Rapporteur states such a limitation must pass a three-part cumulative test:
1) It must be provided by law, which is clear and accessible to everyone (principles of predictability and transparency).
2) It must pursue one of the purposes set out in article 19, paragraph 3, of the Covenant, namely (i) to protect the rights or reputations of others, or (ii) to protect national security, public order, public health or morals (principle of legitimacy).
3) It must be proven to be the least restrictive means required to achieve the purported aim (principles of necessity and proportionality).

Moreover, any legislation restricting the right to freedom of expression must be applied by a body which is independent of any political, commercial, or other unwarranted influences in a manner that is neither arbitrary nor discriminatory, and with adequate safeguards against abuse, including the possibility of challenge and remedy against its abusive application.

The Joint Statement on the Freedom of Expression and the Internet, which was co-signed by the Special UN rapporteur on the promotion and protection of the right to freedom of opinion and expression, the OSCE Representative on Freedom of the Media, the OAS Special Rapporteur on Freedom of Expression, and the African Commission on Human and Peoples' Rights (ACHPR) special rapporteur on freedom of expression and access to information, sets out the following general principles:
1) Freedom of expression applies to the Internet, as it does to all means of communication. Any restrictions are only acceptable if they comply with established international standards, including that they are provided for by law, and that they are necessary to protect an interest which is recognised under international law (i.e., the 'three-part' test).
2) When assessing the proportionality of a restriction on freedom of expression on the Internet, the impact of that restriction on the ability of the Internet to deliver positive freedom of expression outcomes must be weighed against its benefits in terms of protecting other interests.
3) Approaches to regulation developed for other means of communication – such as telephony or broadcasting – cannot simply be transferred to the Internet but, rather, need to be specifically designed for it.

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46 LaRue, F. (2011), Human Rights Council, Seventeenth session, Agenda item 3, Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Frank LaRue, May 16 2011, A/HRC/17/27, p. 6

4) Greater attention should be given to developing alternative, tailored approaches, which are adapted to the unique characteristics of the Internet, for responding to illegal content, while recognising that no special content restrictions should be established for material disseminated over the Internet.

5) Self-regulation can be an effective tool in redressing harmful speech and should be promoted.

6) Awareness raising and educational efforts to promote the ability of everyone to engage in autonomous, self-driven and responsible use of the Internet should be fostered ('Internet literacy').

Apart from these general principles, the declaration also sets forth more specific guidelines on:
1) intermediary liability, 2) filtering and blocking, 3) criminal and civil liability,
4) network neutrality, and 5) access to the Internet.

## OECD

Within the OECD a set of 14 principles on internet governance have been endorsed.
They are:[47]

1) The promotion and protection of the global free flow of information.
2) The promotion of the open, distributed and interconnected nature of the Internet.
3) The promotion of investment and competition in high speed networks and services.
4) Promoting and enabling cross-border delivery of services.
5) Encouraging multi-stakeholder cooperation in policy development processes.
6) Fostering voluntarily developed codes of conduct.
7) Developing capacities to bring publicly available, reliable data into the policy-making process.
8) Ensuring transparency, fair process, and accountability.
9) Strengthening consistency and effectiveness in privacy protection at a global level.
10) Maximising individual empowerment.
11) Promoting creativity and innovation.
12) Limiting internet intermediary liability.
13) Encouraging cooperation to promote internet security.
14) Giving appropriate priority to enforcement efforts.

## Council of Europe

The report on international and multi-stakeholder cooperation on cross-border Internet sets out the following principles for internet governance:[48]

1) Protection of and respect for fundamental rights and freedoms.
2) Ensure multi-stakeholderism in internet governance.
3) Develop policies that respect the universal nature of the Internet.
4) Ensure the stability, robustness and resilience of the Internet through international and multi-stakeholder cooperation.
5) Empower internet users to fully exercise their right to freedom online.
6) Take the architectural principles of the Internet as a normative guide for policy making.
7) Ensure full and inclusive participation in internet governance.
8) Take cultural and linguistic diversity as key objectives in Internet-related policy.
9) Maintain the decentralised management responsibility of the private sector for the functioning of the Internet.
10) Ensure the responsibilities of states for internet-related public policy.

47 OECD High Level Meeting on the Internet Economy, *Final communiqué on principles for Internet policy making,* June 29 2011
48 Council of Europe (2010), *International and multi-stakeholder cooperation on cross-border Internet, report of the Ad-hoc Advisory Group on Cross-border Internet to the Steering Committee on the Media and New Communication Services, incorporating analysis of proposals for international and multi-stakeholder cooperation on cross-border Internet*

In 2011, the Council of Europe followed up with the following Internet Governance Principles:[49]

1) Internet governance arrangements must ensure the protection of human rights, democracy and the rule of law.
2) Internet governance should take place in a multi-stakeholder environment that is open, transparent and accountable.
3) The responsibility of states to refrain from internet policy that could harm persons or entities outside their territorial jurisdiction, and the responsibility to ensure that any limitation of internet freedom may only be made if it is in line with international obligations and laws.
4) Users should be fully empowered to exercise their fundamental rights and freedoms;
5) internet-related policies should recognise the global nature of the Internet and the objective of universal access.
6) Internet's stability, robustness and resilience should be the key objectives of internet governance.
7) The decentralised nature of responsibility for the day-to-day management of the Internet should be preserved.
8)  The design principles of the Internet, that is, its openness, interoperability and end-to-end nature should be preserved.
9) Users should have the greatest possible access to Internet-based content, applications and services of their choice, whether or not they are offered free of charge, using suitable devices of their choice (net neutrality).
10) Preserving cultural and linguistic diversity and fostering the development of local content should be key objectives of internet-related policy.

The Committee of Ministers affirmed these principles in September 2011. Furthermore, a recommendation was issued to member states on the protection and promotion of the universality, integrity and openness of the Internet.[50] These principles form the basis for Council of Europe policymaking on the Internet. On 24-25 November, the Council of Europe held a meeting on internet governance in Vienna. During this meeting, a draft strategy on internet governance for 2012-2015 was discussed. [51]

## Internet Rights and Principles Coalition

The Internet Rights and Principles Coalition has compiled a list of ten key internet rights and principles, rooted in international human rights standards, which derive from the Coalition's emerging Charter of Human Rights and Principles for the Internet.[52] They are:

1) Universality and equality: all humans are born free and equal in dignity and rights, which must be respected, protected and fulfilled in the online environment;
2) Rights and social justice: the Internet is a space for the promotion, protection and fulfilment of human rights and the advancement of social justice. Everyone has the duty to respect the human rights of all others in the online environment.
3) Accessibility: everyone has an equal right to access and use a secure and open Internet.
4) Expression and association: everyone has the right to seek, receive, and impart information freely on the Internet without censorship or other interference. Everyone also has the right to associate freely through and on the Internet, for social, political, cultural or other purposes.

49 Council of Europe (2011), *Internet Governance Principles*, Council of Europe Conference, Strasbourg, 18-19 April 2011
50 Council of Europe (2011), *Declaration by the Committee of Ministers on Internet Governance Principles*, 1121st meeting of the Ministers' Deputies; Council of Europe (2011), *Recommendation of the Committee of Ministers to member states on the protection and promotion of the universality, integrity and openness of the Internet*, CM/Rec(2011)8, 1121st meeting of the Ministers' Deputies, 21 September 2011
51 Council of Europe (2011), *Internet Governance, 2012-2015 Draft Council of Europe Strategy*
52 www.internetrightsandprinciples.org/

5) Privacy and data protection: everyone has the right to privacy online. This includes freedom from surveillance, the right to use encryption, and the right to online anonymity. Everyone also has the right to data protection, including control over personal data collection, retention, processing, disposal and disclosure.

6) Life, liberty and security: the rights to life, liberty and security must be respected, protected and fulfilled online. These rights must not be infringed upon, or used to infringe other rights, in the online environment.

7) Diversity: cultural and linguistic diversity on the Internet must be promoted, and technical and policy innovation should be encouraged to facilitate plurality of expression.

8) Network equality: everyone shall have universal and open access to the Internet's content, free from discriminatory prioritisation, filtering or traffic control on commercial, political or other grounds.

9) Standards and regulation: the Internet's architecture, communication systems, and document and data formats shall be based on open standards that ensure complete interoperability, inclusion and equal opportunity for all.

10) Governance: human rights and social justice must form the legal and normative foundations upon which the Internet operates and is governed. This shall happen in a transparent and multilateral manner, based on principles of openness, inclusive participation and accountability.

## ISOC

The ISOC has defined several key abilities that need to be protected online, viz., the ability to connect, the ability to speak, the ability to innovate, the ability to share, the ability to choose, and the ability to trust. [53]

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[53] www.isoc.org/pubpolpillar/principles.shtml

# Conclusions

The success of the Internet can be attributed to its openness. As such, governments have a responsibility to maintain the open and free character of the global Internet. Governments play a central and crucial role in supplying open access to the Internet, guaranteeing internet freedom, and securing the rule of law online. This responsibility exists at the national level, but given the borderless, global nature of the Internet, internet governance is also very much a global issue. As such, internet freedom is both a domestic and a foreign policy subject.

In the global context, multilateral cooperation on the promotion and protection of internet freedom plays a key role. Within various regional and global intergovernmental organisations, for instance, there are initiatives aimed at promoting online freedom and internet governance.

But while governments have an important obligation in protecting and furthering internet freedom, the very nature of the Internet means that civil society, the private sector and academia also need to be involved in discussions on internet governance. This model of 'multi-stakeholderism' is already visible in international organisations such as the Internet Governance Forum.

Both in intergovernmental organisations and global multi-stakeholder forums, principles for protecting and furthering internet freedom have been formulated. The challenge for the coming years will be to implement these principles in practice, by translating them to concrete strategies for global internet governance.