



OSCE Human Dimension Implementation Meeting

Warsaw, 22 September - 3 October 2014

Working session 2: Fundamental freedoms I - Freedom of expression, free media and information, including best practices for protection of journalists

Contribution of the Council of Europe

OVERVIEW OF THE WORK OF THE COUNCIL OF EUROPE IN THE MEDIA AND INFORMATION SOCIETY FIELD

Key achievements

The Council of Europe's activities in the media and information society field aim at promoting freedom of expression and information, as guaranteed by **Article 10 of the European Convention on Human Rights**, as well as the free flow of information at the pan-European level through the existence of a plurality of independent media. Whilst the European Court of Human Rights provides judicial protection of freedom of expression and information, the Council of Europe policy-making work strives to map out measures that will facilitate the effective exercise of these freedoms having regard to new services technologies and trends, which offer guidance to the Council of Europe's member states.

Council of Europe's Conference of Ministers responsible for Media and Information Society 'Freedom of Expression and Democracy in the Digital Age – Opportunities, Rights, Responsibilities' which took place in Belgrade on 7 and 8 November 2013 provided an impetus for the Council of Europe's policy development in the media and Internet fields, notably through adopting the following texts:

- Political Declaration 'Freedom of Expression and Democracy in the Digital Age – Opportunities, Rights, Responsibilities'
- Resolution 'Internet freedom'
- Resolution 'Preserving the essential role of media in the digital age'
- Resolution 'Safety of journalists'

Council of Europe output has been the Declaration of the Committee of Ministers on the protection of journalism and safety of journalists and other media actors (adopted on 30 April 2014 at the 1198th meeting of the Ministers' Deputies). In addition, important instruments have been adopted, including the Recommendation CM/Rec(2013)1 on gender equality and media which includes guidelines for its implementation. The Council of Europe is currently exploring possibilities for promotion of this important standard-setting instrument and would welcome cooperation in this regard.

Moreover, the Recommendation CM/Rec(2014)6 of the Committee of Ministers to member States on a Guide to human rights for Internet users was adopted in 2013. This instrument offers a tool to member states to assist them in empowering Internet users to exercise and

enjoy their fundamental rights and freedoms on the Internet, notably their right to freedom of expression, privacy and personal data protection, children's rights and the right to an effective remedy.

On 11 June 2013 the Committee of Ministers adopted a Declaration on Risks to Fundamental Rights stemming from Digital Tracking and other Surveillance Technologies. This declaration recalls in particular that tracking and surveillance measures by law enforcement authorities must comply with the European Convention on Human Rights and strictly respect the limits, requirements and safeguards set out in the Data Protection Convention 108 of the Council of Europe.

Promotion of the respect of Article 10 of the European Convention on Human Rights

As guardian of Europe's common values on human rights, democracy and rule of law, the Council of Europe is concerned with the necessary protection and promotion of freedom of expression and information without which none of these values can be upheld. The European Court of Human Rights examines complaints of alleged violations of Article 10 by member states. Other Council of Europe institutions, the Secretary General, the Commissioner for Human Rights, the Parliamentary Assembly and the Committee of Ministers, have distinct and important political, diplomatic and technical roles to play in promoting freedom of expression and of the media. This requires well informed, rapid reaction capacity and adequate follow up involving close cooperation with civil society and other stakeholders and organisations. Ongoing dialogue between member states is key to finding solutions for shortcomings that meet both state concerns and Council of Europe imperatives.

Against this background, on 13 January 2010 the Committee of Ministers adopted a Declaration on measures to promote the respect of Article 10 of the European Convention on Human Rights. This declaration is the result of prolonged dialogue between the bodies mentioned above as well as the Office of the OSCE Representative on Freedom of the Media. In its Resolution 1897 (2010) on Respect for Media Freedom, the Parliamentary Assembly supported the Declaration and made proposals to strengthen its implementation.

In response to the Declaration, the Council of Europe Secretary General established in 2012 a *Task Force on Freedom of Expression and Media* as a transversal structure, bringing together relevant Council of Europe services, for collecting, processing and sharing information on Article 10 issues. Its objective is to identify emerging problems in member states as early as possible and to enable rapid responses. The Task Force gives particular priority to areas such as the safety and protection of journalists and other media actors, the functioning of independent and pluralistic media and access to the media. The Task Force aims at developing transversal working methods for gathering, exchanging and verifying information with a view to preparing the basis for action by pertinent bodies/officials of the Council of Europe within their respective remits.

Ongoing standard-setting and other activities

The development of new communication technologies and services, in particular now that the Internet is for many an essential tool accessed continuously via mobile devices, can bear significantly on the exercise of freedom of expression and information. The services provided via these technologies help contribute to the plurality of views, opinions and cultures in Europe, but they also raise new challenges as regards the protection of human rights and democratic values and the regulatory framework applicable.

The Council of Europe continued to develop a more holistic and sustainable vision for the Internet, one which puts people first. After adoption in March 2012, of the Committee of Ministers' Internet Governance Strategy 2012-2015 the Council initiated implementation of its more than 40 action lines in order to build a free, open and secure Internet. The strategy identifies challenges and corresponding responses to enable state and non-state actors together to make the Internet a space which is inclusive and people-centred. The existing framework of international law, including human rights law, is, as a matter of principle, equally applicable on-line as it is off-line.

As a follow-up to the adoption of the Committee of Ministers' Declaration on network neutrality in 2010, which underlines, inter alia, the importance of Internet users having the greatest possible access to Internet-based content, applications and services of their choice, the Council of Europe is currently examining the human rights implications of network neutrality.

As part of its follow-up to the Recommendation CM/Rec(2011)8 of the Committee of Ministers to member states on the protection and promotion of the universality, integrity and openness of the Internet and the Declaration by the Committee of Ministers on Internet governance principles of 21 September 2011, a multi-stakeholder conference on "Transparency to protect Internet freedom: a shared commitment", held in Strasbourg, on 24-25 September 2013. The results of this conference, including any proposals for new standards, will be examined by the Council of Europe's Steering Committee on Media and Information Society (CDMSI).

The Council of Europe is actively involved in the follow-up to the World Summit on the Information Society (WSIS), in particular by contributing to and participating in the United Nations-led Internet Governance Forum (IGF) The Council of Europe will participate actively in the IGF, in Istanbul from 2 to 5 September.

The Council of Europe also supports and facilitates the European Dialogue on Internet Governance the 7th edition of which brought together 600 participants in Berlin from 12 – 13 June 2013 on the theme of "*Digital society at stake - Europe and the future of the Internet*".

Co-operation with the OSCE

As in previous steering committees, the OSCE enjoys a participant (observer) status in the Council of Europe's Steering Committee on Media and Information Society (CDMSI) and in the committee of experts which operate under the authority of the CDMSI, notably the Committee of Experts on Rights of Internet Users (MSI-DUI), MSI-INT on cross-border flow of Internet traffic and Internet Freedom (MSI-INT) and MSI-JO on protection of journalism and safety of journalists...

The OSCE actively participated in the Conference 'The Hate Factor in Political Speech – Where do responsibilities lie' which took place on 18 and 19 September 2013 in Warsaw. The Conference was organised by the Polish Ministry of Administration and Digitization and the Council of Europe, with the support of the EAA and Norway Grants. Representatives of the Office for Democratic Institutions and Human Rights (ODHIR) addressed the session 'Pluralist democracy, populism and political calculus' and contributed to other discussions of the conference.

Ms Dunja Mijatović, the OSCE Representative on Freedom of the Media participated in the Council of Europe's Conference of Ministers responsible for Media and Information Society 'Freedom of Expression and Democracy in the Digital Age – Opportunities, Rights, Responsibilities' which took place in Belgrade on 7 and 8 November 2013.

The second ministerial session of the Conference 'How do we address the current threats to journalism?' greatly benefited from Ms Mijatović's introduction and participation. The Ministers expressed concern about intimidation, deprivation of liberty and even loss of lives of journalists in the course of their work and consequently agreed to invite the Committee of Ministers to take action on the protection of journalism and safety of journalists.

The OSCE is a participant (observer) in the Council of Europe's Steering Committee on Media and Information Society (CDMSI). The Office of the Representative on Freedom of the Media is also a participant in and contributes to the ongoing activities of the following Committee of Experts:

-MSI-INT on cross-border flow of Internet traffic and Internet Freedom (MSI-INT). This work offers opportunities for synergies in particular with regard to the elaboration of the Council of Europe's draft recommendation of the Committee of Ministers to member states on Internet Freedom. The reports and analysis of the OSCE Representative on Freedom of the Media are an important source of information and inspiration for this activity of the Council of Europe.

- MSI-JO on protection of journalism and safety of journalists, with a mandate to elaborate a Recommendation with practical guidelines for the protection of journalism and safety of journalists and other media actors.

Mr Juan Barata, Principal Adviser to the Representative on Freedom of the Media, Ms Mijatović, participated to the Round Table "Safety of journalists: From commitment to action, held on 19 May 2014. The Round Table brought together stakeholders (civil society, international organisations such as OSCE, UNESCO, EU) inviting their input for concrete proposals to be submitted to the Council of Europe's Committee of Ministers, on an early warning mechanism and rapid response capacity to be established in the context of media freedom and safety of journalists, notably through the setting up of an Internet based platform for recording serious freedom of expression concerns.

Assistance and co-operation

The Council of Europe standards acquire real value when they are integrated into the law and practice of member states. Assistance and co-operation activities are the main tools for promoting this integration. They address needs identified, responding to the specific requests of member states. These activities include legal expertise, training programmes, seminars, conferences, publications and other events with the participation mainly of public officials, media professionals and civil society. In addition to helping promote freedom of expression and freedom of the media, these activities contribute more generally to strengthening democracy, human rights and the rule of law.

Thanks to Council of Europe support, target countries have ratified important conventions and have adopted and implemented key laws aimed at guaranteeing freedom and pluralism of the media, keeping media freedom always on the European agenda. Its impact also includes reforming of public-service broadcasters and of journalism education, as well as supporting networks of media professionals and capacity-building for the governmental and non-governmental sectors.

In order to achieve efficiency, maximum impact and sustainable results, we constantly look for links between our various projects. The best practices and the results achieved in one place are shared with others through bilateral and regional networking. Such exchanges have taken place, for example, regarding the reform of university journalism education and making broadcast regulatory bodies independent, effective and transparent. In 2013, the

Media Division had activities in following countries: Albania, Bosnia and Herzegovina, FYROM, Montenegro, Serbia, Ukraine, Kosovo* and more than 100 cooperation activities were carried out with externally funded projects as well as on the Council of Europe's annual budget.

During 2013 the following results were achieved.

Educational modules on diversity reporting and inclusion and hate speech for students of various universities in Bosnia and Herzegovina were developed and introduced as additional courses to their curriculum. A set of recommendations to improve media legislation with a focus on media pluralism, transparency of media ownership and responsibility of the Public Broadcasting Services vis-à-vis citizens of Bosnia-Herzegovina was developed. Recommendations on how to improve the legal protection of individuals and social groups – victims of hate speech and incitements to violence were developed and implementation was started. Recommendations on how to combat hate speech through media for media professionals and other actors in a society were developed and implementation was started. For Azerbaijan, four text books were prepared resulting in state of the art modern journalism textbooks for the country. Furthermore, a teaching module on photojournalism at Baku State University was created.

As the result of the extensive work within the project “Promoting freedom of expression and information and freedom of the media in South-East Europe”, the Memorandum of Understanding between representatives of media self-regulatory bodies from six project countries and two countries which are not part of this project was signed, creating the informal regional network. This network will serve as a platform for regional cooperation and exchange of experience with objective to promote high-quality, professional media and ethical journalism in these countries.

During 2013, further assistance to Hungary was provided to align its media legislation with Council of Europe standards. Two Roundtables on “Public service media” and on “‘Smart’ media regulation principles” as well as the final Conference on “Current and new challenges in European media regulation” were scoped and organised jointly by the Council of Europe and the Hungarian Media Council in December 2013.

Where appropriate, cooperation activities are organised and implemented in cooperation with other organisations, including the OSCE field missions. Notably, a Seminar on Safety of Journalists in Kyiv on 15-16 April 2014 benefited from the presence of the OSCE Representative on Freedom of the Media, Ms Dunja Mijatović. The seminar was organised in the framework of the Council of Europe project “Integration of European Standards in the Ukrainian Media Environment” funded by the Government of Canada. The two-day event gave practical guidance to journalists in Ukraine on how to ensure their own safety in physical, legal and technological terms. It will be replicated in Ukraine and elsewhere as needed.

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* All references to Kosovo, whether to the territory, institutions or population, in this text, shall be understood in full compliance with United Nations Security Council Resolution 1244 and without prejudice to the status of Kosovo.

Further and more detailed information can also be obtained on the web sites, at the following address: <http://www.coe.int/media> and <http://www.coe.int/information society>