

HDIM.IO/6/06
2 October 2006



OSCE Human Dimension Implementation Meeting

Warsaw, 2-13 October 2006

Working session 1:

“Freedom of the Media: Protection of Journalists and Access to Information”

Contribution of the Council of Europe

OVERVIEW OF THE WORK OF THE COUNCIL OF EUROPE IN THE MEDIA FIELD

Introduction

The activities of the Council of Europe in the media field are aimed 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 policy-making work of the Council of Europe in the media field strives to broaden the scope of freedom of expression and information through the adoption of appropriate positive measures for the exercise of these freedoms. Major policy initiatives have been taken so far, and particular reference can be made to Committee of Ministers' Declarations for example **on freedom of expression and information (1982)**, **on freedom of communication on the Internet (2003)**, and to achievements like the **European Convention on Transfrontier Television¹**, which is currently under revision, as well as to numerous other instruments, some of which are mentioned in this document.

The implementation of the media component of the Intergovernmental Programme of Activities of the Council of Europe falls within the competence of the Steering Committee on the Media and New Communications Services (CDMC) which has recently broadened its field of action to emphasise the growing importance of the media's use of new information and communication technologies. The OSCE enjoys observer status with the CDMC.

Media concentration and pluralism

The progressive changes in both Western Europe and in Central and East European countries, tend to reinforce the trend towards media concentrations at a pan-European level. This raises the question of the availability of a plurality of independent sources of information and means of expression.

Since the early 1990s, different structures have been given responsibility for examining this

¹ As at 15 August 2006, the Convention has been ratified by 30 Council of Europe member states and by one Council of Europe observer state and signed by 6 other countries.

issue and in 1999, the Committee of Ministers adopted **Recommendation No. R (99) 1 on measures to promote media pluralism**, seeking to prevent harmful media concentration. It was underpinned by various reports on (transnational) media concentration in Europe. Media concentration and its impact on pluralism is also closely followed in the context of the Media Division's assistance activities.

The most recent (7th) European Ministerial Conference on Mass Media Policy organised by the Council of Europe in Kiev in March 2005 ("the Kiev Ministerial Conference") made media diversity one of its priorities. A Group of Specialists on media diversity (MC-S-MD) was set up to make proposals on possible responses to media concentration in Europe.

Media in situations of conflict and tension

The right of journalists to report on matters of public interest and to scrutinise the activities of public authorities is particularly important in situations of conflict and tension, given the impact of such situations on society. However, precisely in view of the sensitive character of public policy in situations of conflict or tension, journalists often encounter restrictions on their right to free and independent reporting and may sometimes be the victims of harassment or see their safety compromised, due for example to assaults, detention and even murder.

As a result of the concern expressed at the 4th European Ministerial Conference on Mass Media Policy in Prague in December 1994 ("the Prague Ministerial Conference") over the increasing number of violations of journalistic freedoms in situations of conflict and tension, in 1996, the Committee of Ministers adopted a **Declaration on the protection of journalists in situations of conflict and tension** supplemented by a **Recommendation** on the same topic. They concerned the respect by member States of their international legal obligations and the strengthening of existing arrangements within the Council of Europe. More recently, in 2005, the Committee of Ministers adopted a **Declaration on freedom of expression and information in the context of the fight against terrorism**.

In order to pursue work in this area, and taking into account the current international context, a new Group of Specialists on freedom of expression and information in times of crisis (MC-S-IC) was set up after the Kiev Ministerial Conference. The Group of Specialists is addressing a number of issues in this field. Moreover, the Council of Europe has supported, and continues to support, training activities to media professionals in situations of conflict or tension.

Public Service Media

Genuine public service broadcasting and other public service media are a key factor in ensuring the provision of independent and diverse information, pluralism of opinion, quality and varied content and particularly in the face of media concentration.

Following a Resolution on the future of public service broadcasting adopted at the Prague Ministerial Conference, the Committee of Ministers of the Council of Europe adopted **Recommendation No. R (96) 10 on the guarantee of the independence of public service broadcasting**, **Recommendation No. R (99) 15 on measures concerning media coverage of election campaigns** and **Recommendation (2000) 23 on the independence and functions of regulatory authorities for the broadcasting sector**.

Public service broadcasting remains a priority for the CDMC. The Kiev Ministerial Conference asked the Council of Europe to examine, inter alia, how the above-mentioned Recommendation No R. (96) 10 is being implemented and how the public service remit of media should be developed and adapted by member States to suit the new digital environment. A Group of Specialists (MC-S-PSB) was set up to work in this field. A Declaration on the guarantee of the independence of public service broadcasting was adopted

by the Committee of Ministers in September 2006.

Media and intolerance

The role which the media may play in propagating racism, xenophobia, anti-Semitism and intolerance as well as the contribution which they can make to combating these phenomena has also been addressed by the Council of Europe by means of two Recommendations of the Committee of Ministers dealing respectively with **hate speech** (Recommendation (No. R (97) 20) and with **the media and the promotion of a culture of tolerance** (Recommendation No. R (97) 21) .

Media law and human rights

Following the adoption of a Resolution on journalistic freedoms and human rights at the Prague Ministerial Conference, the Committee of Ministers adopted **Recommendation No. R (2000)7 on the right of journalists not to disclose their sources of information**. Two other issues which have raised concerns in many European countries for a number of years led to the adoption by the Committee of Ministers of a **Recommendation (Rec (2003)13) to allow the media to report on criminal proceedings while ensuring respect for the presumption of innocence and the fair administration of justice** together with a **Declaration underlining the rights and responsibilities of journalists and media organisations on this matter**, and a further **Declaration on freedom of political debate in the media (2004)**.

The CDMC has also been dealing with the issue of defamation, most recently (in 2006) having looked into, and advising the Committee of Ministers of the Council of Europe on, the alignment of laws on defamation with the relevant case-law of the European Court of Human Rights, including the issue of decriminalisation. To ensure that domestic legislation and practice comply with Council of Europe standards, **seminars for judges, lawyers and media professionals** are frequently organised.

New communications technologies

The development of new communication technologies and services, such as digital television and on-line information services, is one of the most important elements which will affect the exercise of freedom of expression and information over the next few years. Although they will help contribute to the plurality of views, opinions and cultures in Europe, they may also raise new issues from the point of view of the protection of human rights and democratic values and in respect of the regulatory framework applicable to media activities.

In this context, the Committee of Ministers adopted **Recommendation No. R (99) 14 on universal community service concerning new communication and information services** and, in response to the question of the dissemination of illicit or harmful content, **Recommendation (2001) 8 on self-regulation concerning cyber-content**. The Committee of Ministers also adopted in 2003 a **Declaration on freedom of communication on the Internet** and **Recommendation (Rec (2003)9) on measures to promote the democratic and social contribution of digital broadcasting**.

The Kiev Ministerial Conference and the Third Summit of Council of Europe Heads of State and Government (Warsaw, May 2005) backed the Council of Europe's work concerning human rights and new communication technologies and the newly created Group of Specialists on human rights in the Information Society (MC-S-IS) is entrusted, inter alia, with promoting coherence in the protection of minors in all media in the Information Society. In this context, a **Recommendation on empowering children in the new information and communications environment** was adopted by the Committee of Ministers on 27 September 2006. Furthermore, in the light of the Committee of Ministers' **Declaration on**

Human Rights and the Rule of Law in the Information Society (2005), a second pan-European Forum on “Human Rights in the Information Society: Empowering children and young people” is being organised in Yerevan on 5 and 6 October 2006.

Targeted cooperation and assistance programmes in the media field

The programmes are aimed at helping Council of Europe member states establish independent and pluralistic media systems, based on the rule of law and respect for human rights. They take different forms: (i) the provision of **assistance and advice in developing media-related legislation** attuned to the requirements of pluralistic democracy, (ii) **information, awareness-raising and training activities** for state officials, lawyers and media professionals on the regulatory framework for the media in a democracy, (iii) the organisation of **assistance missions** for the transformation of state broadcasters into independent public service broadcasting organisations as well as for the establishment of independent broadcasting regulatory bodies

Over the past few years, a significant part of these activities has been aimed at media reform in South-Eastern Europe, and to assist with the implementation of relevant standards in Eastern Europe. Programmes continue to be implemented in the framework of the Stability Pact for South-Eastern Europe and various other programmes co-funded by the Council of Europe and the European Union (eg. in Armenia, Azerbaijan, Georgia, Ukraine). Regular exchanges of information take place with the OSCE in the implementation of the above programmes, and some activities are also carried out in cooperation with OSCE field missions. Co-operation with the European Union and the OSCE field missions has proved to be both desirable and fruitful.

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