

OSCE Human Dimension Implementation Meeting

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Working session 12: Freedom of expression, free media and information

Contribution of the Council of Europe

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

Introduction

The Council of Europe's activities in the media 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 in the media field strives to broaden the scope of freedom of expression and information by adopting appropriate measures for the exercise of these freedoms.

In 2005, the Kiev Ministerial Conference backed the Council of Europe's work concerning human rights and new communication technologies. The Reykjavik Ministerial Conference, held in May 2009, confirmed the importance of that work and set ambitious objectives for further work towards the integration of human rights and Council of Europe standards in the information society.

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 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.

Public service media, media diversity and independence

Public service media, having genuine editorial independence and institutional autonomy, contribute to media diversity and help counterbalance the risk of misuse of power in a situation of strong concentration of the media and new communication services. They are therefore a fundamental component of the media landscape in our democratic societies. However, in a changing environment, public service media face major challenges which may threaten their very survival. The Council of Europe pursued its reflection on possible responses to these challenges.

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

In this context, the Committee of Ministers of the Council of Europe adopted, on 26 March 2008, a [Declaration on the independence and functions of regulatory authorities for the broadcasting sector](#), inviting Member States to implement its related Recommendation [Rec\(2000\)23](#). In particular, they should provide the legal, political, financial, technical and other means necessary to ensure the independent functioning of broadcasting regulatory authorities, so as to remove risks of political or economic interference. The text also invites other actors, the broadcasting regulatory authorities themselves and civil society, to actively play their respective roles towards independence, responsibility and accountability.

In order to guarantee public space for media, decisions made necessary by technological developments have to be taken in the public interest. Consequently, in February 2008, the Committee of Ministers adopted a [Declaration on the allocation and management of the digital dividend and the public interest](#), calling member States to acknowledge the public nature of the digital dividend resulting from the switchover and the need to manage such a public resource efficiently in the public interest and to take decisions accordingly.

Related publications

- The role of public service media for widening individual participation in European Democracy (2008) - [H/Inf \(2008\) 12](#)
- Strategies of public service media as regards promoting a wider democratic participation of individuals - [H/Inf\(2009\)6](#)
- How member states ensure the legal, financial, technical and other appropriate conditions required to enable public service media to discharge their remit - [H/Inf\(2009\)7](#)

Media and social cohesion

The media may have an important role to play in social cohesion and combating racism, xenophobia, anti-Semitism and intolerance. The Council of Europe has addressed these issues in several texts and works, including campaigns and publications. [Living Together](#) is a reference tool on Council of Europe standards on the contribution of the media to harmonious living among different communities and groups in a democratic society. Faced with challenges of multiculturalism, technology and fast-paced modern communication, it is necessary to build bridges, crossroads and links among cultures, traditions and lifestyles.

All components of the society that may play a role towards social cohesion should be supported and encouraged. To that effect, in February 2009, the Committee of Ministers issued a [Declaration on the role of community media in promoting social cohesion and intercultural dialogue](#), declaring its support for community media, with a view to helping them play a positive role for social cohesion and intercultural dialogue. It encouraged member States to support community media in various ways, and to help them play and develop that important role.

Related publications

- [Public Service Media Governance. Looking to the Future](#) – a report by the Council of Europe Secretariat
- [The role of independent productions in promoting cultural diversity](#)
- [Methodology for monitoring media concentration and media content diversity](#)
- [Member states' current practice regarding the democratic and social contribution of digital broadcasting](#)
- [The ways in which the public, in all its diversity, can be involved in consultative programming structures](#)

- Promoting social cohesion - The role of community media (2008) - [H/Inf \(2008\)13](#), version PDF
- Contribution of public service media in promoting social cohesion and integrating all communities and generations - [H/Inf\(2009\)5](#)

Media law, human rights and fight against terrorism

Terrorism has a devastating effect on the enjoyment of human rights, not only for the right to life, but also for other fundamental rights and freedoms that Council of Europe member states have undertaken to protect. Terrorism is not only a threat to the individual but also poses considerable threats to the state, democracy and the rule of law. Freedom of expression and information risk falling victim to terrorism, due to a climate of fear that terrorism can create or as a side effect of anti-terrorism legislation or measures. Since 2002, the Committee of Ministers of the Council of Europe has adopted a number of important standard-setting texts designed to assist member States in this respect.

Any interference with the freedom of expression and information must be prescribed by law and be a proportionate response to a pressing social need related to the limited exceptions set out in Article 10 of the European Convention on Human Rights, as interpreted by the European Court of Human Rights. However, concerns have been raised that, in some cases, anti-terrorism legislation restricting freedom of expression and information is too broad, fails to define clear limits to authorities' interference or lacks sufficient procedural guarantees to prevent abuse. Concerns have also been raised about undue restrictions on media professionals' access to information, interference with their rights to privacy and communications, the protection of journalistic sources and media reporting. Sometimes, restrictions have been reported to apply under anti-terrorist pretences without a legal basis and, in consequences, at variance with Council of Europe standards.

In that context, the Council of Europe organised two important conferences on Anti-terrorism legislation and its impact on freedom of expression and information, in Amsterdam in November 2008 and in Reykjavik in May 2009. Furthermore, at the 1st Council of Europe Conference of Ministers responsible for media and new communication services, Ministers adopted a **Resolution on Developments in anti-terrorism legislation in Council of Europe member states and their impact on freedom of expression and information**. They resolved, inter alia, to review national legislation and/or practice on a regular basis to ensure that any impact of anti-terrorism measures on the right to freedom of expression and information is consistent with Council of Europe standards, with a particular emphasis on the case law of the European Court of Human Rights.

Related publications

- [Speaking of Terror - A survey of the effects of counter-terrorism legislation on freedom of the media in Europe](#) [pdf, 1049KB] (2008) by David Banisar

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 in the coming years. Although they will help contribute to the plurality of views, opinions and cultures in Europe, they also raise new challenges 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.

The ways in which information is gathered, content is created and the methods by which both

are made available and sought have changed with technological developments. Users have ready access to, and create content for, means of mass communication which employ diversified communication platforms for both existing and newly developed media or comparable media-like mass-communication or information services. The relations between the media or other providers of those services and users or consumers have also evolved.

Like traditional media, new providers of media-like mass-communication services should also strive to promote and respect certain fundamental values. New modes of content creation and expression as well as seeking and imparting information in a mass-communication setting reinforce but may also challenge fundamental rights and freedoms. Existing media-related standards that were developed for traditional forms of mass communication may well apply to new services and service providers.

The question of the dignity of persons exposed to or affected by media or media-like services should be central to developing standards for those services. In this context, particular attention is paid to children and young people.

In this context, the Committee of Ministers adopted [Recommendation CM/Rec\(2009\)5 on measures to protect children against harmful content and behaviour and to promote their active participation in the new information and communications environment](#) to encourage public-private partnerships to create and facilitate confidence building environments for children on the Internet, the creation of a European trust-mark for new and existing online content labelling systems and, through the action of those actors that play a key role in children's lives, improved children's Internet literacy.

In order to help users to be empowered to participate actively in the new communication environments, aware of their rights and responsibilities and adequately protected from possible harm, the Council of Europe has been actively involved in media literacy and, more particularly, internet literacy. It has developed a range of tools such as the [Internet Literacy Handbook](#), available in printed form and online in several languages and [an online game for children \(www.wildwebwoods\)](#).

The Council of Europe is actively involved in the follow-up to the World Summit on the Information Society (WSIS), in particular the United Nations-led Internet Governance Forum (IGF) and the WSIS action lines follow-up on the media and on the ethical dimension of the information society.

Prior to its participation in the 4th Internet Governance Forum (Sharm Al Sheikh, Egypt, 15 to 18 November 2009), the Council of Europe is co-organising with the Swiss Government and the European Broadcasting Union (EBU) and a range of stakeholders from civil society and the private sector, the second edition of the European Dialogue on Internet Governance (EuroDIG), in Geneva on 14 and 15 September. EuroDIG will again bring European actors together to debate current European concerns and challenges raised by access to the Internet, online privacy, cybercrime, critical Internet resources, social networks and net neutrality ([www.eurodig.org](#)).

Related publications

- [A New Notion of Media?](#) - by Karol Jakubowicz
- [Internet Governance and critical Internet resources](#) - a report by the Council of Europe Secretariat
- Protecting children from harmful content – report by by Andrea Millwood Hargrave [H/Inf\(2009\)13](#)

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