

## OSCE Human Dimension Implementation Meeting

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### Working session 2: Fundamental Freedoms I

#### 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. Major policy initiatives have been taken so far, in particular the Committee of Ministers' Declarations **on freedom of expression and information (1982)**, **on freedom of communication on the Internet (2003)**, and the **European Convention on Transfrontier Television<sup>1</sup>**, which is currently under revision, as well as 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 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

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<sup>1</sup> As at 29 August 2007, the Convention has been ratified by 30 Council of Europe member states and by one Council of Europe observer state and signed by 7 other countries.

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. On 31 January 2007, the Committee of Ministers adopted not only a **Recommendation Rec(2007)2 to member states on media pluralism and diversity of media content**, but also a **Declaration on protecting the role of the media in democracy in the context of media concentration**.

The group of specialists has been asked to elaborate, *inter alia*, a detailed proposal for a methodology for the monitoring of media concentration and, if possible, for measuring the impact of media concentration on media pluralism and content diversity. Furthermore, the group will examine the role of the media in promoting social cohesion and the integration of different communities.

### **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. It has prepared two draft instruments that were discussed in September 2007 by the Committee of Ministers – Guidelines on the protection of freedom of expression and information in times of crisis and Declaration on the protection and promotion of investigative journalism.

Moreover, the Council of Europe has supported, and continues to support, training activities to media professionals in situations of conflict or tension. The Committee of Ministers decided to set up an Internet-based discussion space where media professionals and other interested parties can exchange views on protecting freedom of expression and information in times of crisis and discuss the challenges to freedom of expression that they experience. This decision will soon be given effect.

### **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-PSM) 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 and a **Recommendation on the remit of public service media** was adopted in January 2007. The Group is currently preparing a compendium of best practices of public service media as regards promoting a wider democratic participation of individuals. It will also draft a document on the contribution of public service media in increasing the transparency of public authorities and facilitating their scrutiny.

### **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). The Group of Specialists on freedom of expression and information in times of crisis (MC-S-IC) is preparing proposals for the establishment of a web-based network to exchange information and co-ordinate initiatives which exist regarding the media's contribution to inter-cultural and inter-religious dialogue as well as for the setting up of an award for media which have made an outstanding contribution to conflict prevention or resolution, understanding and dialogue.

Further, the Group of Specialists (MC-S-PSM) will prepare a report on the contribution of public service media to the promotion of a culture of tolerance and to the integration of all communities and generations.

### **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) concerning media reporting 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, **training 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 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.

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, in response, a Group of Specialists on human rights in the Information Society (MC-S-IS) was established and 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. This was followed-up by a Council of Europe pan-European Forum on "Human Rights in the Information Society: Empowering children and young people", which took place in Yerevan, in October 2006.

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. As regards the latter, the Council of Europe, together with the French National Commission for UNESCO and UNESCO, held a Pan-European conference on ethics and human rights in the information society, in Strasbourg on 13 and 14 September 2007.

The Committee of Ministers in 2007 adopted a **Recommendation on promoting freedom of expression and information in the new information and communications environment**, in which it recommends member states to follow a number of guidelines on this issue in cooperation with the private sector, civil society and the media. State and non-state actors are encouraged to raise citizens' awareness of, and to improve their skills, when using the Internet and Information and Communication Technologies. The Committee of Ministers also encourages member states to promote affordable access to information technology infrastructures, in order to maximise the enjoyment of the right of the freedom of expression and information, and invites the operators in the private sector to acknowledge its evolving ethical roles and responsibilities.

Also in 2007, the Committee of Ministers adopted a **Recommendation on measures concerning the media coverage of election campaigns**, taking account of the

development of digital broadcasting services, on-line media and other electronic communication platforms,. The Recommendation introduces a new and updated definition of media in the context of their coverage of election campaigns which includes print media (newspapers, periodicals), media disseminated over electronic communications networks, such as broadcast media (radio, television and other linear audiovisual media services), online news services (such as online editions of newspapers and newsletters) and non-linear audiovisual media services (such as on-demand television). All media are encouraged to develop self-regulatory frameworks and incorporate self-regulatory professional and ethical standards regarding their coverage of election campaigns reflecting the particular roles and responsibilities of media in democratic processes.

In view of the 2nd Internet Governance Forum (Rio de Janeiro from 12 – 15 November 2007), the Committee of Ministers adopted a **Recommendation on measures to promote the public service value of the Internet**. The Recommendation aims to respond to users' expectations that Internet services should be accessible, affordable, safe, reliable and continuous by inviting member states to adopt national policies protecting human rights, pluralism, cultural diversity and democracy. It calls on member states to enable a greater number of people to have access to the internet, to support online freedom of expression and information and to engage in international legal efforts to reinforce security and protect international law on the Internet.

In its [Declaration on protecting the dignity, security and privacy of children on the Internet](#), adopted in February 2008, the Committee of Ministers asks member states to work together to explore the feasibility of removing or deleting content created by children and traces of their online activities within a reasonably short period of time, if such content and traces can cause them prejudice.

The Committee of Ministers adopted in March 2008 a new [Recommendation on measures to promote respect for freedom of expression and information with regard to Internet filters](#). **This Recommendation aims at** striking a balance between freedom of expression and information and protection of children against harmful content on the Internet. The appended guidelines contain specific guidance to member states emphasising the importance of empowering users to understand and effectively use filters.

During 2008, the Council of Europe has cooperated closely with the Interactive Software Federation of Europe (ISFE) and the European Internet Service Providers Association (EuroISPA) in developing two sets of **Guidelines for producers of online games and Internet service providers** respectively. The guidelines aim to encourage respect for and promote privacy, security and freedom of expression for users when, for example, accessing the Internet, using e-mail, participating in chats or blogs, or playing online games. This new approach to the Council of Europe's work is based on the principle that every stakeholder in society - the private sector included - has a role to play in promoting respect for human rights within its sphere of activity.

In preparation for its participation in the 3rd Internet Governance Forum (Hyderabad; 3 to 6 December 2008), the Council of Europe is to host and organise, together with a range of stakeholders from civil society, the private sector and governments, a European Dialogue on Internet Governance (EuroDIG.org) which will bring European actors together to discuss the main themes for the 3rd IGF, in particular the security, privacy, and openness on the Internet, universal access to the Internet, and the management of critical Internet resources.

### **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. Monitoring of media coverage of election campaigns has also on occasion been organised. For a full list of these activities, please consult the Council of Europe Activities Database: <http://www.dsp.coe.int/HR/media/>.

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 various programmes co-funded by the Council of Europe and the European Union (e.g. in Armenia, Azerbaijan, Georgia, Ukraine and Serbia). Regular exchanges of information take place with the OSCE in the implementation of these programmes. 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.

These activities included, for example, our regional conference on “Media Freedom and Ethics: A European Dimension in the Professional Education and Training of Journalists” organised in Baku on 29 and 30 November 2006. The conference brought together journalism trainers from Azerbaijan, Georgia and Ukraine as well as members of the Council of Europe’s Parliamentary Assembly to share best practices with international experts on ways of teaching media ethics. In addition, the possibilities of European cooperation between journalist schools were explored. The results of the conference were taken into account for the drafting of the **Recommendation 1789 (2007)<sup>1</sup> of the Parliamentary Assembly of the Council of Europe on the professional education and training of journalists**.

Within the framework of the Council of Europe Action Plan to support the Parliamentary elections in Armenia, we organised a Round table on fairness, balance and impartiality in the coverage of elections, a Training Seminar on Media Professionalism during Election Campaigns and provided expert comments on a draft code of conduct for Armenian media.

In December 2006, we organised an assessment mission in Tirana in response to a request from the Speaker of the Albanian Parliament. The objective was to assess the scope of the reform needed to bring media-related legislation in Albania in line with European standards as well as the possible joint assistance by the Council of Europe and the European Commission. The OSCE Mission in Tirana was kept informed of the process and the Council of Europe delegation had a special meeting with OSCE staff to discuss potential coordination and cooperation.

The Council of Europe and the OSCE Spillover Monitor Mission to Skopje, are also cooperating in the organisation of a regional conference on the need and prospects for transition to converged regulatory authorities in South-Eastern Europe. The conference has just taken place in Skopje on 1 and 2 October 2007.

The Council of Europe and the OSCE Missions in Kyiv, Baku, Yerevan and Belgrade cooperate effectively and organize regular meetings in order to avoid overlap or duplication of activities.

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