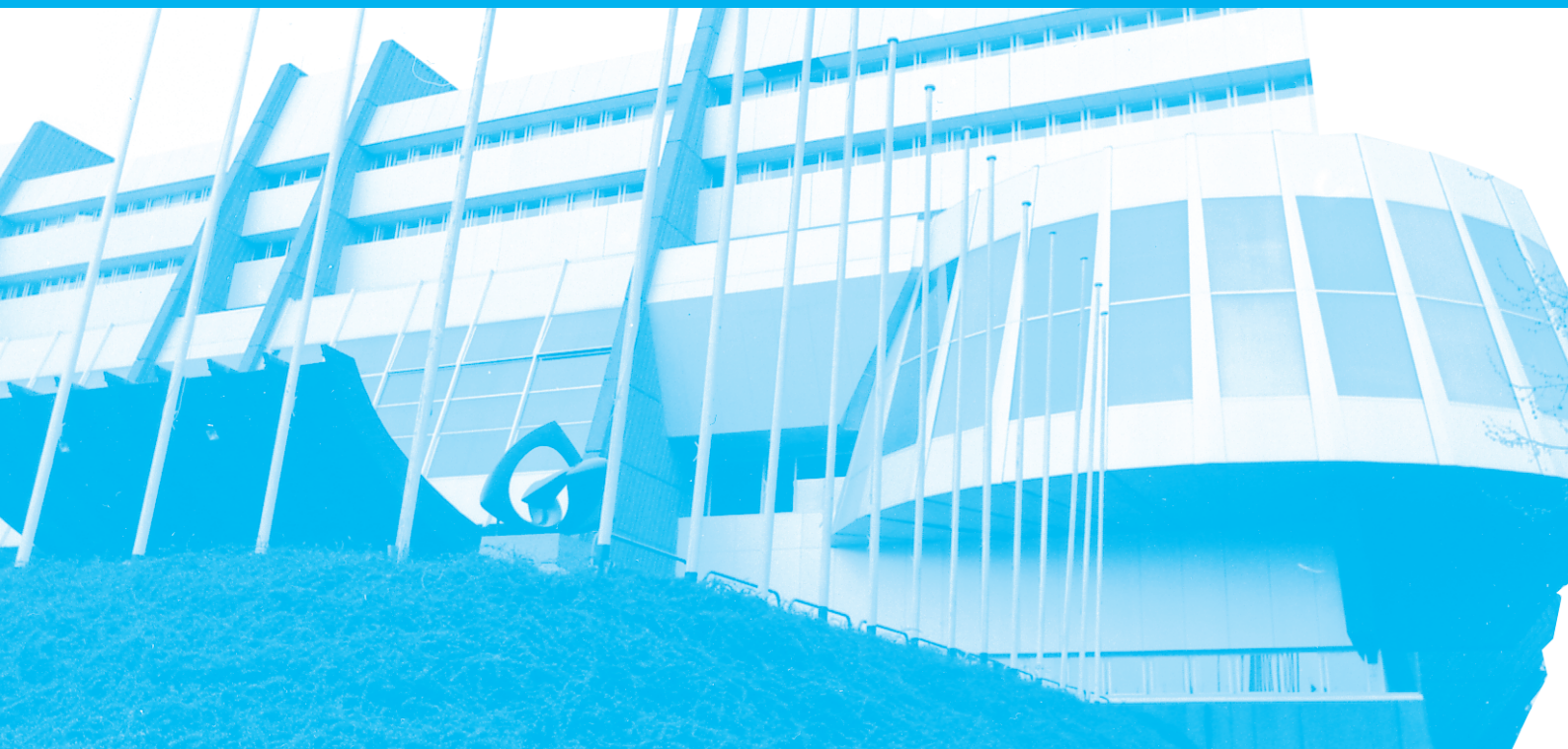


**Recommendations and resolutions  
adopted by the Parliamentary Assembly  
of the Council of Europe  
in the field of media  
and information society**



Strasbourg, 2016



**Recommendations and Resolutions  
adopted by the Parliamentary Assembly  
of the Council of Europe in the field of media  
and information society**

**Directorate General of Human Rights and the Rule of Law**

**Strasbourg, 2015**



# Recommendations and Resolutions of the Parliamentary Assembly of the Council of Europe in the fields of media and information society

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# Resolution 428 (1970)<sup>1</sup> containing a declaration on mass communication media and human rights

The Assembly,

1. Having considered the proceedings of the Symposium on human rights and mass communication media held in Salzburg in September 1968;
2. Expressing its satisfaction with the results of the Symposium which have contributed to the solution of problems in this field;
3. Having regard to its recommendation on mass communication media and human rights proposing that the Committee of Ministers take action on a number of specific points;
4. Considering that, besides action to be taken by the Council of Europe, certain principles affirmed at the Salzburg Symposium should be embodied in a special declaration,
5. Adopts the declaration on mass communication media and human rights hereafter:

## DECLARATION ON MASS COMMUNICATION MEDIA AND HUMAN RIGHTS

### A. STATUS AND INDEPENDENCE OF THE PRESS AND THE OTHER MASS MEDIA

1. The press and the other mass media, though generally not public institutions perform an essential function for the general public. In order to enable them to discharge that function in the public interest, the following principles should be observed:
2. The right to freedom of expression shall apply to mass communication media.
3. This right shall include freedom to seek, receive, impart, publish and distribute information and ideas. There shall be a corresponding duty for the public authorities to make available information on matters of public interest within reasonable limits and a duty for mass communication media to give complete and general information on public affairs.
4. The independence of the press and other mass media from control by the state should be established by law. Any infringement of this independence should be justifiable by courts and not by executive authorities.
5. There shall be no direct or indirect censorship of the press, or of the contents of radio and television programmes, or a news of information conveyed by other media such as news reels shown in cinemas. Restrictions may be imposed within the limits authorised by Article 10 of the European Convention on Human Rights. There shall be no control by the state of the contents of radio and television programmes, except on the grounds set out in paragraph 2 of that Article<sup>2</sup>.

1. *Assembly debate* on 23 January 1970 (18th Sitting) (see Doc. 2687, report of the Legal Affairs Committee).  
*Text adopted by the Assembly* on 23 January 1970 (18th Sitting).

2. Article 10 of the European Convention on Human Rights:

"1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This Article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.

2. The exercise of these freedoms, since it carries with it duties and responsibilities, maybe subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary."

6. The internal organisation of mass media should guarantee the freedom of expression of the responsible editors. Their editorial independence should be preserved.
7. The independence of mass media should be protected against the dangers of monopolies. The effects of concentration in the press, and possible measures of economic assistance require further consideration.
8. Neither individual enterprises, nor financial groups should have the right to institute a monopoly in the fields of press, radio or television, nor should government-controlled monopoly be permitted. Individuals, social groups, regional or local authorities should have - as far as they comply with the established licensing provisions - the right to engage in these activities.
9. Special measures are necessary to ensure the freedom of foreign correspondents, including the staff of international press agencies, in order to permit the public to receive accurate information from abroad. These measures should cover the status, duties and privileges of foreign correspondents and should include protection from arbitrary expulsion. They impose a corresponding duty of accurate reporting.

## B. MEASURES TO SECURE RESPONSIBILITY OF THE PRESS AND OTHER MASS MEDIA

It is the duty of the press and other mass media to discharge their functions with a sense of responsibility towards the community and towards the individual citizens. For this purpose, it is desirable to institute (where not already done):

- (a) professional training for journalists under the responsibility of editors and journalists;
- (b) a professional code of ethics for journalists; this should cover *inter alia* such matters as accurate and well balanced reporting, rectification of inaccurate information, clear distinction between reported information and comments, avoidance of calumny, respect for privacy, respect for the right to a fair trial as guaranteed by Article 6 of the European Convention on Human Rights;
- (c) press councils empowered to investigate and even to censure instances of unprofessional conduct with a view to the exercising of self-control by the press itself.

## C. MEASURES TO PROTECT THE INDIVIDUAL AGAINST INTERFERENCE WITH HIS RIGHT TO PRIVACY

1. There is an area in which the exercise of the right of freedom of information and freedom of expression may conflict with the right to privacy protected by Article 8 of the Convention on Human Rights<sup>3</sup> The exercise of the former right must not be allowed to destroy the existence of the latter.
2. The right to privacy consists essentially in the right to live one's own life with a minimum of interference. It concerns private, family and home life, physical and moral integrity, honour and reputation, avoidance of being placed in a false light, non-revelation of irrelevant and embarrassing facts, unauthorised publication of private photographs, protection against misuse of private communications, protection from disclosure of information given or received by the individual confidentially. Those who, by their own actions, have encouraged indiscreet revelations about which they complain later on, cannot avail themselves of the right to privacy.
3. A particular problem arises as regards the privacy of persons in public life. The phrase "where public life begins, private life ends" is inadequate to cover this situation. The private lives of public figures are entitled to protection, save where they may have an impact upon public events. The fact that an individual figures in the news does not deprive him of a right to a private life.
4. Another particular problem arises from attempts to obtain information by modern technical devices (wire-tapping, hidden microphones, the use of computers etc.), which infringe the right to privacy. Further consideration of this problem is required.
5. Where regional, national or international computer-data banks are instituted the individual must not become completely exposed and transparent by the accumulation of information referring even to his private life. Data banks should be restricted to the necessary minimum of information required for the purposes of taxation, pension schemes, social security schemes and similar matters.

3. Article 8 of the European Convention on Human Rights:

"1. Everyone has the right to respect for his private and family life, his home and his correspondence.

2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others."

6. In order to counter these dangers, national law should provide a right of action enforceable at law against persons responsible for such infringements of the right to privacy.
7. The right to privacy afforded by Article 8 of the Convention on Human Rights should not only protect an individual against interference by public authorities, but also against interference by private persons or institutions, including the mass media. National legislations should comprise provisions guaranteeing this protection.

# Recommendation 582 (1970)<sup>1</sup> on mass communication media and human rights

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The Assembly,

1. Having considered the proceedings of the Symposium on human rights and mass communication media held in Salzburg in September 1968 as a result of its Resolution 338 (1967) on press legislation;
2. Having regard to its declaration on mass communication media and human rights, which confirms the principle of independence of the press and other mass communication media and which states *inter alia* that these media perform an essential function for the general public<sup>2</sup>;
3. Convinced that the right to freedom of expression and information, including freedom to hold, seek, receive and impart information and ideas regardless of frontiers, and to publish and distribute them should be ensured to everyone, including the press and other mass media;
4. Considering that the right to freedom of expression and information is a right guaranteed by Article 10 of the European Convention on Human Rights, and that the right to privacy is guaranteed by Article 8 thereof;
5. Recalling that recent technological advances have enormously expanded the range of diffusion of ideas, words and images, and thereby augmented their impact on the individual;
6. Recalling further its Recommendation 509 (1968) on human rights and modern scientific and technological developments;
7. Believing that action by member states is necessary in order to secure the effective application of some of the principles embodied in its declaration on mass communication media and human rights,
8. Recommends that the Committee of Ministers:
  - (a) invite member states to encourage national and international professional organisations to draw up a professional code of ethics for journalists based on the principles embodied in the declaration on mass communication media and human rights, covering *inter alia* such matters as accurate reporting, rectification of inaccurate information, avoidance of calumny, respect for privacy, also taking into account all other relevant work on this subject, and respect for the right to a fair trial as guaranteed by Article 6 of the European Convention on Human Rights;
  - (b) instruct a committee of specialised experts to study the scope and the effects of press concentrations, and to make recommendations on possible measures of economic assistance;
  - (c) set up, in accordance with Resolution No. 3, on press legislation, of the 4th Conference of European Ministers of Justice held in 1966, a committee of specialised experts to study the possibilities of harmonisation of provisions of national press legislations such as the right of reply, seizure and confiscation of publications, and professional secrecy of journalists, to study the problems raised by the portrayal of violence by the mass media, and to make recommendations concerning press councils on the basis of the experience of those countries where press councils have already been set up;
  - (d) invite member states which have not already done so to encourage professional organisations to set up press councils, with the view of exercising self-control, such press councils being empowered to deal with instances of unprofessional conduct committed by any organ of the press in their state;

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1. *Assembly debate* on 23 January 1970 (18th Sitting) (see Doc. 2687, report of the Legal Affairs Committee).  
*Text adopted by the Assembly* on 23 January 1970 (18th Sitting).

2. See Resolution 428 (1970).

- (e) instruct the Committee of Experts on Human Rights to consider and make recommendations on:
- (i) the extension of the right of freedom of information provided for in Article 10 of the European Convention on Human Rights, by the conclusion of a protocol or otherwise, so as to include freedom to *seek* information (which is included in Article 19 (2) of the United Nations Covenant on Civil and Political Rights); there should be a corresponding duty on public authorities to make information available on matters of public interest, subject to appropriate limitations;
  - (ii) the protection of the status and freedom of foreign correspondents, including the staff of international press agencies, by the elaboration of an additional protocol to the European Convention on Human Rights or of a convention, or otherwise;
  - (iii) the establishment of an agreed interpretation of the right to privacy provided for in Article 8 of the European Convention on Human Rights, by the conclusion of a protocol or otherwise, so as to make it clear that this right is effectively protected against interference not only by public authorities but also by private persons or the mass media.

# Recommendation 747 (1975)<sup>1</sup> on press concentrations

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The Assembly,

1. Recalling its Resolution 534 (1972), on press concentrations;
2. Welcoming Resolution (74) 43, adopted by the Committee of Ministers on 16 December 1974, at the conclusion of the substantial and remarkable work accomplished by the Committee of Experts on Press Concentrations;
3. Reiterating its concern at the potential or actual threat to diversity in the press resulting from the sharing of the market by a diminishing number of newspapers or newspaper groups;
4. Convinced that diversity in the press, as a fundamental component of freedom of expression, is a prerequisite for a democratic political system;
5. Noting that the present economic juncture is producing particularly adverse effects on the state of the press, threatening the financial viability of all newspapers and the very survival of the weaker ones, and that therefore measures of public aid to the press may become more necessary;
6. Urging, in this context, the need to avoid arbitrary exclusion from governmental aid programmes of periodicals published by opposition forces;
7. Believing, however, that the predicament of the press can and must be remedied also with measures other than mere economic aid, and that in this respect the Council of Europe has a role to play in order to ensure co-ordination on the European level in the light of Article 10 of the European Convention on Human Rights;
8. Having considered the report of its Political Affairs Committee (Doc. 3536),
9. Recommends that the Committee of Ministers:
  - i. draw the attention of the governments of the member states to the importance that both the Committee of Ministers and the Assembly attach to the full implementation, within a short time, of the whole set of measures envisaged in Resolution (74) 43;
  - ii. consider the possibility of supporting national measures of economic assistance with measures taken at the European level such as:
    - a. the drafting of a model statute for newspaper editorial staff, guaranteeing the freedom of expression and information, with particular regard to the attempt by the ownership or trade unions to control the editorial staff;
    - b. the definition of the requirements of a responsible information policy in a democratic society;
    - c. the establishment of an information centre within the Council of Europe on the facts of the situation of press concentrations, which should:
      1. gather and divulge such information concerning each member country;
      2. continue observation and analysis of the trend towards press concentrations, including analysis of the evolution of the relationship between written and audio-visual information;
      3. establish close co-operation with press bodies and associations, with a view to:
        - making the press aware of all the means available for improving the situation by its own efforts;
        - making the public aware of the problems raised by press concentrations.

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1. *Assembly debate* on 23 January 1975 (19th Sitting) (see Doc. 3536, report of the Political Affairs Committee).  
*Text adopted by the Assembly* on 23 January 1975 (19th Sitting).

# Recommendation 748 (1975)<sup>1</sup> on the role and management of national broadcasting

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The Assembly,

1. Considering the work of the Munich Symposium on the role and management of telecommunications in a democratic society (24-26 June 1974);
2. Having noted the report of its Committee on Culture and Education on this subject (Doc.3520);
3. Aware of the present debates in many European countries on the management of broadcasting, and convinced that such management must preserve but can also enhance the democratic nature of European society;
4. Recalling the Symposium in Florence in 1973 on freedom of expression and the role of the artist in European society, and in particular its Recommendation 719 (1973) on the exercise of freedom of artistic expression;
5. Convinced, however, that, together with such freedom, individuals should be responsible for what they might broadcast, and also accountable before the laws and existing standards of their countries;
6. Recalling the Symposium in Salzburg in 1968 on human rights and mass communications, and its Resolution 428 (1970) and Recommendation 582 (1970) (with Doc. 2687), and welcoming Resolution (74) 26 of the Committee of Ministers which affirmed the right of reply by individuals to radio and television;
7. Regarding it as the duty of governments to ensure that the broadcasting media provide a full public service in the fields of 1. information, 2. culture and education, 3. debate and 4. artistic expression;
8. Believing that this service applies to the society of a country as a whole as well as to its minorities;
9. Holding that the state is only the trustee of the public interest, and that the interpretation of such interest must be flexible and be debated by the public itself rather than particular groups (however well intentioned), with some measure of institutionalised public control over what is broadcast;
10. Aware of the extensive and increasing penetration of society by the broadcasting media;
11. Stressing the importance of educating the public in the use of these media;
12. Recalling the work being done by its parliamentary Committee on Science and Technology on the democratic control of technological development, in particular in its recent symposium on science and the decision-making machinery of society;
13. Believing that there is room for considerably greater co-operation on a European level in broadcasting, both for the profitable exchange of ideas and expression and as a direct means of improving mutual understanding between European peoples;
14. Aware of the difficulty of financing broadcasting networks and concerned to ensure that there be no commercial motivation in programming (planning or content),

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1. *Assembly debate* on 23 January 1975 (18th Sitting) (see Doc. 3520, report of the Committee on Culture and Education).  
*Text adopted by the Assembly* on 23 January 1975 (19th Sitting).

15. Recommends that the Committee of Ministers:

- a. consider the “draft minimum requirements for national broadcasting” set out in the annex to this recommendation;
- b. invite member governments to consider holding an ad hoc conference of Ministers responsible for culture and education together with those responsible for telecommunications, in order to consider means of concerting a common European policy as regards the cultural and educational potential of broadcasting.

## ANNEX

### DRAFT MINIMUM REQUIREMENTS FOR NATIONAL BROADCASTING

- a. A full service for all the public, with:
  - i. Multiple choice of programming with due recognition of regional and minority interests, although not exclusively on any single channel;
  - ii. A high educational and cultural element;
  - iii. Control, by properly balanced programming, of cultural, commercial and also information-pollution;
  - iv. High content of co-ordination and exchange with other European broadcasting productions;
- b. Freedom of expression, with no governmental or institutional preliminary censorship. but subject to the following qualifications:
  - i. The right of reply
  - ii. Public accountability of producers for their productions before some organisation, in the first instance predominantly parliamentary, democratically representative of society;
  - iii. Accountability of producers, rather than institutions, before the laws in force in any particular state;
- c. The right of individual access to broadcasting in principle, though subject to the existing controls on quality and to the availability of relevant space;
- d. Recognition of viewers’ and listeners’ associations and proper opportunities for their opinions to be publicly debated;
- e. Instruction at all levels of education, and also via the media themselves, in the understanding of broadcasting (including advertising techniques and political propaganda);
- f. Research into both the technological and social aspects of broadcasting;
- g. Flexibility to introduce new techniques (such as viewer-selected superimposed subtitling);
- h. A special employment policy for those engaged in the media that recognises their particular responsibility towards ensuring a public service and the obligations this responsibility imposes upon them;
- i. The divorce of commercial interest from programme content and planning;
- j. Responsible control of broadcasting, whether directly by government or by the intermediary of licensed institutions



# Recommendation 749 (1975)

## European broadcasting

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Author(s): Parliamentary Assembly

Origin - Assembly debate on 23 January 1975 (18th Sitting) (see Doc. Doc. 3520, report of the Committee on Culture and Education). Text adopted by the Assembly on 23 January 1975 (19th Sitting).

The Assembly,

1. Recalling its Recommendation 748 (1975), on the role and management of national broadcasting, and in particular its belief that broadcasting can constitute an important means of furthering European unity ;
2. Aware of the service provided by Eurovision, but noting that the programmes accepted for this complex network are restricted in type (being important events or items of mass appeal) ;
3. Believing that the activity of many European organisations, and in particular that of the Assembly of the Council of Europe, is inadequately presented to the European public for want of immediate relevance, whereas the relevance of such activity would be significantly increased by a more general awareness on the part of the public ;
4. Recalling its Resolution 584 (1975), on the broadcasting of national parliamentary debate, and believing that the principle can apply no less to parliamentary debate on a European level, especially where, as in the Assembly of the Council of Europe, this debate is aimed at a genuine and open exchange of experience across the face of European democracy,
5. Recommends that the Committee of Ministers invite member governments :
  - a. to pursue a more active policy of programme exchanges between European states, where possible using subtitling rather than dubbing to surmount language difficulties ;
  - b. to promote on their own national networks regular and serious (rather than sensational) coverage of the current activities of the major European organisations ;
  - c. to hold consultations with a view to establishing in Strasbourg a centre to co-ordinate the preparation of basic material for such transmissions

# Recommendation 815 (1977) Freedom of expression and the role of the writer in Europe

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Author(s): Parliamentary Assembly

Origin - Assembly debate on 6 October 1977 (8th Sitting) (see Doc. 4012, Doc. 4012, report of the Committee on Culture and Education). Text adopted by the Assembly on 6 October 1977 (8th Sitting).

The Assembly,

1. Having considered the report on freedom of expression and the role of the writer in Europe presented by its Committee on Culture and Education (Doc. 4012) ;
2. Convinced of the important role of writer and of the writing profession in democratic society ;
3. Regretting the economic situation of full-time writers in member states, and in particular the inadequate social security benefits available to them ;
4. Noting that, despite constitutional guarantees for freedom of expression, the cost of publishing and other economic factors prevent this from being fully realised by many writers ;
5. Recalling its past concern for the position of writers in its Recommendation 512 (1968), on the Stockholm Conference on Intellectual Property, and Recommendation 719 (1973), on the exercise of freedom of artistic expression ;
6. Wishing to support and develop existing international agreements in this field, including the third basket of the Conference on Security and Co-operation in Europe and the several recommendations of Unesco, in particular those adopted at the Helsinki Conference of 1972 ;
7. Noting the 1st Congress of European Writers' Organisations, held in Berlin on 11-13 February 1977 ;
8. Believing that there is need for more information on the situation of writers in Europe, and for the wider public exchange of such information and experience ;
9. Believing also that changes in cultural policy and in the social situation in member states necessitate a review of the application to writers of the European Cultural Convention and the Social Charter of the Council of Europe, and recalling in this context the conclusions reached by the European Ministers with responsibility for Cultural Affairs, when meeting in Oslo in 1976, who stressed the need for an acceptable economic, social and juridical basis for the active participation in society of writers and others working in the cultural field,
10. Recommends that the Committee of Ministers invite the governments of the member states :  
to implement those conclusions reached by the European Ministers of Culture in Oslo in 1976 that concern writers, with particular reference to :
  - a. better use by the various sectors of society of the services and works which artists can provide, without forgetting, however, the nature of their vocation ;
  - b. better and more diversified remuneration for these services and works (e.g. remuneration for participation in social, educational and cultural activity in the broad sense, additional opportunities to secure commissions and employment), and recourse to contractual arrangements whenever the artist's work is at stake ;
  - c. bringing the welfare, unemployment and pension rights of professional artists as far as possible into line with those of other categories of workers, while paying due regard to the special conditions of creative work in the arts ;

- d. tax provisions allowing for the specific features of artistic production ;
- e. implementing and extending schemes for grants and other kinds of support for artists, especially for those working in fields which preclude them from earning sufficient immediate income ;
- f. including as part of cultural policy the protection of freedom of expression, the encouragement of innovation, and the integration of art in everyday life ;

to encourage and support the literature of ethnic minorities ;

11. Further recommends that the Committee of Ministers assist governments of the member states in the exchange of experiences in this field :

- a. by analysing the European Cultural Convention and the Social Charter, together with existing national legislation concerning writers, with a view to harmonising this legislation where practicable in specific fields, and with the general aim of setting up a European statute for writers ;
- b. by considering means of making special arrangements between member states to grant more extensive rights to authors in copyright and other fields than are conferred by existing international instruments, but without injury directly or indirectly to the diffusion of certain works which could not published in their authors' own country ;
- c. by issuing on a regular basis information on the situation of writers in member states.

# Recommendation 834 (1978)<sup>1</sup> on threats to the freedom of the press and television

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The Assembly,

1. Recalling its Recommendation 747 (1975), on press concentrations;
2. Reiterating its conviction that freedom of the press and television, as a fundamental component of freedom of expression, is a prerequisite for a democratic political system, and that therefore the Council of Europe must contribute to safeguarding such freedom;
3. Considering that problems of monopoly, of government interference and of abuse of proprietorial or trade union power raise such serious issues for the defence of freedom of the media that governments and parliaments in Europe should be encouraged to study and put into operation policies designed to assure the maximum freedom of comment for press and television;
4. Considering that there is an urgent need to bring legislation up to date with technological development in the field of media, notably as far as telecommunication by satellite is concerned;
5. Aware that press concentrations and monopolies, by reducing the number of newspapers and newspaper groups, especially in the present adverse economic juncture, reduce at the same time plurality of expression;
6. Aware that government interference (as opposed to state intervention required to protect and promote freedom of information in a democratic society) results in unfair treatment for opposition media, and produces biased information;
7. Considering that, in a free enterprise system, a mutually satisfactory balance must be found between trade unions' and employers' interests over the introduction of new technologies, which reduce the jobs available to printing workers;
8. Considering that journalists' trade unions, whose primary task it is to defend their members' professional interests, should perform their duties with special regard to the safeguard of the freedom of expression of individual journalists;
9. Drawing attention also to the possible influence of advertisers and sponsors on freedom of expression and in particular on the content of newspaper articles and broadcasts;
10. Welcoming the fact that, in the framework of the intergovernmental programme of the Council of Europe, a committee of experts has special responsibility to deal with questions relating to the mass media;
11. Aware, however, of the different national conditions in the field of the media, and of the consequent difficulty of elaborating comprehensive legal instruments at the European level,
12. Calls for the enactment of restrictive national legislation on press monopolies and concentrations, recognising that freedom of the press cannot be governed by the rules of free enterprise alone, and providing *inter alia* for publicity of ownership and balance sheets of newspapers;
13. Recognises that measures of public economic aid to the press may be necessary to assure the financial viability of all newspapers and the very survival of the weaker ones, and that in this respect, without prejudice to existing legislation in certain Council of Europe member states, any form of selective aid should be attributed only by an independent body;

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1. *Assembly debate* on 27 and 28 April 1978 (7th and 8th Sitings) (see Doc. 4090, report of the Political Affairs Committee).  
*Text adopted by the Assembly* on 28 April 1978 (8th Sitting).

14. Believes that a pluralistic approach to electronic broadcasting of information should be enhanced by establishing more independent channels, thus breaking up monopolies;
15. Believes that programme and management independence of state television can be enhanced by the establishment of specialised parliamentary committees and consultative bodies representing various social groups, such as employers' associations and trade unions, viewers' associations, intellectual institutions, authors, artists, actors and consumers;
16. Calls for the enactment of national legislation, where still missing, governing broadcasts by satellite and by cable, as well as by local radio and television stations;
17. Believes that statutes for the editorial staff of both written and audio-visual media, to be drafted nationally on the basis of guidelines set by the Council of Europe, could contribute to guaranteeing freedom of expression and information, with particular regard to attempts by the ownership or the trade unions to restrict freedom of comment of the journalists;
18. Recommends that the Committee of Ministers:
  - i. transmit the above proposals to the Committee of Experts on the Mass Media, with a request that they study them within the framework of their programme;
  - ii. keep the Assembly regularly informed of the progress and results of the work of the Committee of Experts on the Mass Media;
  - iii. until such time as statutes on the mass media have been drafted, invite those governments that supervise the media to take all necessary steps to ensure that all political, social and cultural forces have access to the media on fair and equitable terms.

# Recommendation 862 (1979)<sup>1</sup> on cinema and the state

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The Assembly,

1. Noting the report of its Committee on Culture and Education on cinema and the state (Doc. 4306) and taking account of the results of the symposium on this subject held by the committee in Lisbon from 14 to 16 June 1978;
2. Recalling its Order No. 341 (1973) and earlier symposia on “Freedom of expression and the role of the artist” (Florence 1973), “Telecommunications” (Munich 1974) and “The democratic renewal of the performing arts” (Athens 1976);
3. Regarding the cinema as an important cultural factor and means of artistic expression and as an industry and commercial activity;
4. Aware of the crisis affecting the cinema in most European countries;
5. Stressing that member governments have a duty to provide a sounder legal, economic and administrative basis for the revitalisation of the cinema and the development of film-making of real artistic quality;
6. Believing that the failure of many existing systems of aid makes a study of the problem necessary on the European level in order to promote new policies for the development of the cinema on the national level;
7. Insisting on the independence of film-making as an art, and on the importance of the diversity, in national and cultural terms, of the film in Europe, and that this diversity finds means for its expression and diffusion;
8. Stressing the importance of alternative non-commercial circuits, such as film clubs and municipal cinemas in community centres;
9. Welcoming the efforts, made by UNESCO to assist member states in the field of the storage, conservation and restoration of films and calling attention to the need for further work to be carried out by Council of Europe member states in these fields and also that of documentation;
10. Welcoming the setting-up of a “European Film Office” at present limited to two member states, as a clearing house for film information and hoping that all European states will be able to participate;
11. Recalling its Recommendation 850 (1979) on European cultural co-operation and the need to co-ordinate the activities of European organisations working in the cultural field;
12. Welcoming Resolution No. III on cultural industries adopted by the European Ministers with responsibility for cultural affairs meeting in Athens in October 1978;
13. Appreciating the work of the Council for Cultural Co-operation in fields related to cinema, and expressing its support for the conference to be held in Strasbourg on the state’s role vis-à-vis the culture industries.
14. Recommends that the Committee of Ministers instruct an appropriate committee to prepare, in consultation with the interested professional and other groups, recommendations to governments for the elaboration of new cinema policies covering the following particular points:

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1. *Assembly debate* on 11 May 1979 (8th Sitting) (see Doc. 4306, report of the Committee on Culture and Education).  
*Text adopted by the Assembly* on 11 May 1979 (8th Sitting).

## **A. ON THE NATIONAL LEVEL**

- i. practical measures for the stimulation of film production and the encouragement of new talent and exchanges of experience;
- ii. introduction of secondary school children to the cinema;
- iii. means of selective state aid for the promotion of quality work rather than automatic aid;
- iv. establishment of film clubs and of municipal cinemas in local community centres as an addition to the commercial circuits;
- v. taxes and fees imposed on cinema in relation to those imposed on other shows;
- vi. possibilities of co-operation, on equitable terms, between the cinema and television;
- vii. making the cinema more easily accessible to all, for instance by reductions in admission charges especially for the young and elderly;
- viii. organisation of the storage, conservation and restoration of films;
- ix. increasing cultural budgets to enable film policies to be properly implemented;
- x. ways of solving the problems facing the cinema in the context of audio-visual policy as a whole and with particular attention to technological developments.

## **B. ON THE EUROPEAN LEVEL**

- i. agreements between European producers on film financing and measures to encourage the co-ordination of films of European origin both in Europe and throughout the world;
- ii. development of the "European Film Office" for collecting, co-ordinating and circulating documentation on the cinema throughout Europe;
- iii. efforts to co-ordinate policies for the whole audio-visual field;
- iv. encouragement for the greater use of sub-titling rather than dubbing;
- v. study on the diversification of film distribution, with constant stress on the importance of the individuality of film-making in Europe.

# Recommendation 926 (1981)<sup>1</sup> on questions raised by cable television and by direct satellite broadcasts

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The Assembly,

1. Having considered the report of its Legal Affairs Committee (Doc. 4756), and the opinion of its Committee on Culture and Education (Doc. 4782);
2. Considering that new technological developments, such as direct broadcasting satellites, cable television as well as distribution by cable, will have a considerable impact on the national broadcasting systems in Council of Europe member states;
3. Welcoming the fact that satellite broadcasting systems imply a multiplication of radio and television programmes, and will present excellent opportunities for the development of a permanent European co-operation on radio and television programmes;
4. Recalling its many reports on the mass media, and in particular its Recommendation 747 (1975) on press concentrations, 748 (1975) on the role and management of telecommunications in a democratic society, and 834 (1978) on threats to the freedom of the press and television;
5. Recalling from this last recommendation especially:
  - i. the consideration “that freedom of the press and television, as a fundamental component of freedom of expression, is a prerequisite for a democratic political system, and that therefore the Council of Europe must contribute to safeguarding such freedom”;
  - ii. the call “for the enactment of national legislation, where still missing, governing broadcasts by satellite and by cable, as well as by local radio and television stations”;
  - iii. the belief “that statutes for the editorial staff of both written and audio-visual media, to be drafted nationally on the basis of guidelines set by the Council of Europe, could contribute to guaranteeing freedom of expression and information...”;
6. Considering that Austria, Belgium, Canada, Denmark, Italy, the Netherlands, Spain, Switzerland and the United Kingdom are co-operating, under the supervision of the European Space Agency, to launch a European broadcasting satellite (*L-Sat*) in 1985;
7. Considering that France and the Federal Republic of Germany have already decided to institute operational broadcasting services using national satellites, whereas others such as Italy and the United Kingdom are studying the possibility of doing so;
8. Considering that Sweden is studying the launching of *Tele-X*, an experimental preoperational satellite, in 1986, and that the five Nordic countries are considering a joint system for radio and television broadcasting, the so-called *Nordsat* project;
9. Considering that a number of private companies are planning to transmit commercial television programmes with direct broadcast satellites in two or three years’ time;

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1. Assembly *debate* on 2 October 1981 (12th Sitting) (see Doc. 4756, report of the Legal Affairs Committee).  
*Text adopted by the Assembly* on 7 October 1981 (17th Sitting).



10. Considering that the World Administrative Radio Conference (WARC) of 1977 reached agreement on the principle of national areas of coverage for satellite transmissions with minimum overlap on the territory of other countries, but that, nevertheless, a considerable “spill-over” is inevitable;
11. Considering that, as a consequence of the “spill-over”, satellite television programmes, although directed at one of a number of central and western European states, may also be captured in at least 25 million homes outside national territory;
12. Considering that, in accordance with the WARC decisions, no satellite broadcasts may take place without prior agreement of the state at which territory the broadcasts are primarily directed;
13. Considering that as a result of these developments the following dangers may arise:
  - i. national legislation may be undermined, as Council of Europe member states will have difficulty in applying their national laws to foreign television programmes;
  - ii. the intellectual property rights of authors, composers and performing artists may be affected especially by cable television;
  - iii. the independence of programme-makers vis-à-vis the state and commercial interests may be more severely threatened than at present, and thus the exercise of the freedom of expression may be further impeded;
  - iv. the same programmes may be broadcast to a large part of Europe and, mainly through the deterioration of the financial resources of existing broadcasting organisations and through the competition for viewers, the intellectual and cultural pluriformity in Council of Europe member states may decline;
14. Considering that, in view of these dangers and of the rapid technological developments, it is necessary and urgent that European states cooperate to solve the legal problems raised by the transmission of television programmes through satellites and cable networks;
15. Considering that the measures to be taken both at national and international level should be on the broadcasting rather than on the receiving end, and that they may include the following:
  - i. safeguards for the application of national legislation for the protection of public health and morals, and for the application of penal law;
  - ii. effective measures to guarantee that advertisers will comply with national and international provisions;
  - iii. if television channels are sold to commercial companies or to foreign countries, they should be made subject to the same regulations as domestic broadcasting organisations;
16. Recalling Resolution No. III on cultural development and the electronic media, of the 3rd Conference of European Ministers with responsibility for Cultural Affairs (Luxembourg, (1981));
17. Desirous to protect adequately the rights of authors, composers and performing artists;
18. Considering that further measures to be taken should safeguard:
  - i. the independence of those responsible for the programmes vis-à-vis the state;
  - ii. the independence of those responsible for the programmes vis-à-vis capital suppliers and advertisers;
  - iii. the clear separation between programmes and advertising;
  - iv. the integrity of commercial information by strict interdiction of hidden or misleading advertising and of subliminal messages;
19. Considering that, in order to increase or safeguard pluriformity of television broadcasts, it may be indicated:
  - i. to take measures to guarantee the access of all political, social and cultural forces to the electronic media on fair and equitable terms;
  - ii. to study the desirability and the possibilities of additional financing of broadcasting companies and television programmes by public means;
20. Recalling the European Agreement for the prevention of broadcasts transmitted from stations outside national territories (1965);

21. Considering that the Council of Europe, embracing nearly all free and democratic countries in Europe, is particularly well-suited to deal with these questions, and that it has already studied the framework of its Steering Committee on the Mass Media and its subordinate committees which deal with the technological, economic, social, legal and human rights aspects,

22. Recommends that the Committee of Ministers:

- a. instruct the Steering Committee on the Mass Media to study, in consultation with the other steering committees involved, the problems raised by cable television and by direct satellite broadcasting, in view of arriving at a European agreement:
  - i. on securing the artistic independence of programme-makers vis-à-vis the state and commercial interest;
  - ii. on concrete legal co-operation, possibly in the form of a convention;
  - iii. on measures to educate the public, and especially young people, to appreciate and evaluate the media in question;
  - iv. on copyright and royalty questions;
  - v. on a code of standards regarding programme content, acceptable also to broadcasting organisations;
- b. invite the member governments to scrutinise their national broadcasting and cable legislation to see whether it is in line with the principles mentioned above and adapt it if necessary.

# Recommendation 952 (1982)<sup>1</sup> on international means to protect freedom of expression by regulating commercial advertising

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The Assembly,

1. Considering that freedom of expression is a fundamental right laid down in the constitutions of most Council of Europe member states and in the European Convention on Human Rights;
2. Considering that Article 10 of this convention reads as follows:

“1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This article shall not prevent states from requiring the licensing of broadcasting, television or cinema enterprises.

2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.”;
3. Considering that freedom of expression is a right which should enable individuals and groups to express themselves, but that due regard should be had to the rights of others;
4. Noting that, in accordance with the jurisprudence of the European Commission of Human Rights, the protection conferred by Article 10 is not normally withheld from statements of a commercial nature, but that the level of protection may be less than that accorded to the expression of political ideas with which the values underlying the concept of freedom of expression in the convention are chiefly concerned;
5. Desirous to counteract any abuses of human rights;
6. Considering that appropriate advertising is an essential element of the market economy;
7. Considering, however, that commercial advertising is often very intrusive, and that children especially may not possess adequate protection against its influence;
8. Considering that commercial advertising sometimes strives for the sale of goods and services which are dangerous to health or undesirable for other reasons;
9. Considering, in this respect, that there is, for instance, an alarming increase in the use of alcohol by youth in many of our member countries;
10. Referring to its Recommendation 716 (1973), on the control of tobacco and alcohol advertising, and on measures to curb consumption of these products;
11. Considering that mass media, especially in view of modern technical developments, such as cable television and direct television broadcasts by satellites, are not limited by national boundaries, but that they are frequently heard, watched or read in several of our member countries;

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1. *Assembly debate* on 1 and 2 October 1982 (12th, 13th and 14th Sittings) (see Doc. 4940, report of the Legal Affairs Committee).  
*Text adopted by the Assembly* on 2 October 1982 (14th Sitting).

12. Considering that there is a danger of cultural messages, opinions and information being mixed with advertising, and that, as a consequence, the exercise of the right to freedom of expression may be undermined;
13. Considering, for that reason, that any action aimed at protecting freedom of expression by regulating commercial advertising is bound to fail unless it is taken up at international level;
14. Convinced that all action aimed at regulation or prohibition should be accompanied by a policy including measures such as better education of the young, strengthening of consumer associations and better use of leisure time;
15. Recalling its recent Recommendation 926 (1981) on questions raised by cable television and by direct satellite broadcasts;
16. Stressing the importance of:
  - i. the clear separation between programmes and advertising on the electronic media (see Recommendation 926, paragraph 18.iii);
  - ii. effective measures to guarantee that advertisers will comply with national and international provisions (see Recommendation 926, paragraph 15.ii);
  - iii. safeguards for the application of national legislation in the field of health, morals, public order, protection of children, etc.;
17. Considering that the overwhelming majority of newspapers and periodicals in our member states are dependent on a steady flow of advertisements without which they would not be able to exist;
18. Referring to the International Code of Advertising Practice of the International Chamber of Commerce;
19. Welcoming the work of the Council of Europe's Intergovernmental Steering Committee on the Mass Media;
20. Considering that this committee should, as a matter of urgency, study and propose adequate international measures, in particular:
  - i. co-operation and co-ordination in respect of commercial advertising, especially on radio and television;
  - ii. prohibition of misleading, hidden and subliminal advertising or messages;
  - iii. promotion of the conditions under which a pluriform supply of information can exist;
  - iv. introduction of a binding code of conduct for commercial advertising which should, in particular, take account of the effect of advertising on children, not be contrary to the process of emancipation, and promote as well as confirm the separation of advertising from information or opinions,
21. Recommends that the Committee of Ministers, in the light of Article 10 of the European Convention on Human Rights, instruct the Steering Committee on the Mass Media to examine international means to protect freedom of expression by regulating commercial advertising, especially on radio and television, and to make concrete proposals, possibly through the conclusion of a European convention.

# Recommendation 963 (1983) Cultural and educational means of reducing violence

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Author(s): Parliamentary Assembly

Origin - Assembly debate on 28 January 1983 (28th Sitting) (see Doc. 5013. report of the Committee on Culture and Education). Text adopted by the Assembly on 28 January 1983 (28th Sitting).

The Assembly,

## A. INTRODUCTION

1. Having noted the report of its Committee on Culture and Education (Doc. 5013) ;
2. Taking note of the Hearing on violence held by that Committee in Assisi from 1 to 3 September 1982 on the occasion of the 800th anniversary of the birth of St. Francis ;
3. Gravely concerned at the occurrence of violence in modern society, in particular terrorism, but also delinquency, vandalism and rape ;
4. Suspicious in principle of some of the justifications advanced for direct physical violence, but recognising that those in authority on certain occasions have to use varying acceptable degrees of force for the protection of society, of lives and of property ;
5. Believing that violence in modern society is related to the stresses exercised on human nature by external factors of a social, economic and cultural character ;
6. Recalling the report of its Committee on Culture and Education on war toys (Doc. 4742) and the resolution adopted on this subject by the European Parliament on 13 September 1982 ;

## B. REGARDING TERRORISM

7. Recalling its Recommendations 916 (1981) and 941 (1982) on the defence of democracy against terrorism in Europe ;
8. Considering that terrorism is a permanent challenge to fundamental democratic values, and may well prompt states to take legislative, judicial or administrative measures (such as keeping records on individuals for the purposes of prevention, restrictions on personal freedoms, etc.) that may pervert the very character of democracy ;
9. Aware of the fact that combating terrorism may, because of the growth of politically motivated crimes and offences, create imbalances in the arsenal of penalties, and disrupt prison systems ;
10. Convinced that the symbolic, spectacular or revolting nature of terrorism and the exaggerated reflection sometimes given of it by the media helps it achieve a social impact out of all proportion to the resources it deploys and even to its ultimate goal, something which distinguishes it from ordinary violence ;
11. Noting that terrorism imitates the methods, means and language of warfare without triggering off the usual collective defence mechanisms ;
12. Conscious that terrorism is moreover a factor of major cultural destabilisation and can undermine the individual's confidence in the values, interests or institutions under attack ;

13. Considering that measures to suppress terrorism must be based on an analysis of its causes,
14. Recommends that the Committee of Ministers invite member governments :
  - a. to take the necessary steps to alert communities in which terrorism is breeding to the serious threat it presents to democracy and freedoms ;
  - b. to make available in all member countries a "White Paper on democracy and terrorism", a work which would be prepared by the Council of Europe and based on the European Convention on Human Rights, international agreements and member states' constitutions, and whose purpose would be to demonstrate the fact that terrorism is a major European problem imperilling democracy and to proclaim Europe's determination to combat political violence ;
  - c. to foster studies of the cultural and social causes of the growth of terrorism by giving thought to the setting up of an independent European Foundation for the study of terrorism ;

### C. REGARDING THE MEDIA

15. Concerned at the increasing tendency towards emphasis on violence in the media, and in particular on its portrayal in the visual media (television, video, film, advertising, comics, or still photography) ;
16. Conscious that prolonged exposure to such media violence can have a direct cumulative effect on young children and a minority of adults, and a growing effect on the accepted values of society ;
17. Welcoming the recent Declaration by the Committee of Ministers on freedom of expression (1982), and recalling Article 10 of the European Convention on Human Rights (1950) and the United Nations Convention for the Repression of Obscene Publications (1947) ;
18. Concerned that artistic freedom should not be used as an alibi for purely commercial interests ;
19. Believing that national legislative or voluntary restrictions are becoming increasingly impracticable in the light of direct broadcasting by satellite and other technological developments, and drawing attention to the fact that the production, distribution and sale of media software has already progressed beyond the control of individual states ;
20. Stressing the urgency of co-ordinated action involving European states, broadcasting institutions and commercial audio-visual concerns,
21. Recommends that the Committee of Ministers :
  - a. request the broadcasting organisations to co-operate on the elaboration of codes of conduct or guidelines covering the portrayal of violence, including terrorism, that can apply to as broad an area in Europe as possible, and where necessary provide autonomous supplementary structures to enable the effective elaboration of such common codes ;
  - b. encourage the elaboration of similar guidelines for other media such as films, written material, video and new forms of visual media that may be developed ;
  - c. encourage the establishment in each member state of a. independent monitoring of broadcast and other visual media through viewer associations and other bodies, b. closer consultation between the public and the programme makers, and c. public accountability for media content whether to parliament, to the courts or to public opinion, and envisage at a subsequent stage closer co-ordination between member states on these aspects ;
  - d. arrange for the regular publication of an up-to-date survey of existing guidelines, legislation and administrative structures regarding the media in all member states ;
  - e. ask member governments :
    - 21.5.1. to sponsor further independent research into the effects of the media ;
    - 21.5.2. to consider introducing legislation to ensure that media violence involving individuals is condemned alongside incitement to racial hatred or obscenity ;
    - 21.5.3. to take the appropriate measures to ensure that broadcasting companies give particular attention to means of protecting sensitive people, especially children, from prolonged exposure to media violence ;

- 21.5.4. to make clear to the press and to the audio-visual media their special responsibility as regards the dissemination of models of political violence, and therefore make proper understanding of the effects of the media a necessary part of the qualification of all personnel employed in the media field ;

## **D. REGARDING SPORT**

22. Concerned with the continued presence of violence in sport and with the growth of violence associated with sport on local, national and international levels ;
23. Welcoming the action already taken by the sports federations to reduce violence in sport by modifying the rules of individual and team games, with special reference to violent sports such as boxing, and by increasing the authority of refereeing ;
24. Questioning, however, the efficacy of existing sanctions, in particular in top-level professional sport, and believing that responsibility lies as much with trainers and management as with individual players ;
25. Believing that concerted action by the public authorities and the sporting bodies is necessary to control violence associated with sport, and that the media could help in this action, and stressing the positive role to be played by responsible supporters' clubs ;
26. Welcoming the activity of the International Alliance for Non-Violent Sport and for Fair Play, and noting the results of the symposium organised by the Alliance in Monte-Carlo on 16 and 17 November 1982 ;
27. Recalling the Council of Europe's European Sport for All Charter, and reaffirming its belief in the ideals and values of sport, especially Olympic sport as expressed in its Resolution 738 (1980), on the Olympic Games and the outlook for their future ;
28. Believing that it is necessary to reaffirm and re-establish these positive values of sport and fair play as a direct contribution to solving the problem of violence in modern society ;
29. Recalling the resolution on violence associated with sport, adopted by the Conference of European Ministers responsible for Sport in London 1978, and hoping that the ministers concerned will reconsider urgently the question of violence and sport,
30. Recommends that the Committee of Ministers :
  - a. ask the Steering Committee for the Development of Sport to give consideration to effective European Intergovernmental co-operation on violence and sport, including the elaboration of a European convention, or other forms of European agreement on the introduction of specific legislation in member states ;
  - b. co-ordinate such activity with other sectors through the steering committees responsible for mass media, culture and education, and criminal matters ;
  - c. support the Campaign of the International Alliance for Non-Violent Sport and for Fair Play ;

## **E. POSITIVE APPROACHES, AND IN PARTICULAR EDUCATION**

31. Stressing the power of example of parent, teacher or state, and noting also the role played by the churches, youth organisations and other disinterested institutions in encouraging young people to participate in social goals ;
32. Underlining the need for schools constantly to readjust to the changing patterns of modern society, and noting the conclusions reached by the Council for Cultural Co-operation project on "Preparation for life" ;
33. Insisting on the importance of the proper preparation of children to understand the messages put across by the media, and noting the positive contribution of the media in presenting society as condemning and rejecting violence ;
34. Wishing to ensure that the systematic teaching of non-violent behaviour is an integral part of all compulsory education, and welcoming the proposal by the Quaker Council for European Affairs to conduct a study on existing models in Europe of such education ;
35. Hoping that the Standing Conference of European Ministers of Education will pay close attention to the contribution education can make to encouraging constructive, non-violent behaviour,

36. Recommends that the Committee of Ministers :
- a. associate the Council for Cultural Cooperation with study of models of education for non-violent behaviour and co-operation ;
  - b. invite member governments or, through them, the local or regional authorities responsible for education :
    - 36.2.1. to review the content of existing school and university curricula in order to avoid thoughtless glorification of conflict and violence, and to introduce in schools the systematic teaching of non-violent behaviour ;
    - 36.2.2. to encourage the introduction in certain European universities of the study of terrorism ;
    - 36.2.3. to make available for use in schools, for example in the context of history lessons, material highlighting the odious and regressive nature of political violence and denouncing the ideologies that provoke and manipulate such violence ;
    - 36.2.4. to make it possible for young people to opt out of experiments involving violence to living animals should they object to these on grounds of conscience, without prejudice to their subsequent careers ;
    - 36.2.5. to ensure that schools adhere to non-violent approaches with regard to their own internal problems and that they avoid any recourse to violent punishment ;
    - 36.2.6. to encourage real participation in school life by allowing the gradual development of pupil responsibility and the continued involvement of parents, and by permitting the school and its community to fulfil its indispensable educational role ;
    - 36.2.7. to introduce into the school curriculum the critical understanding of the media, and to provide the necessary in-service and preparatory training of teachers ;
    - 36.2.8. to ensure a proper place for sport (both individual and team sports) in schools, with particular stress on the principles of fair play.



# Resolution 820 (1984)<sup>1</sup> on relations of national parliaments with the media

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The Assembly,

1. Considering that relations between parliaments and the media have many aspects, namely:
  - i. parliaments of the member countries often examine the media policy of their governments;
  - ii. parliaments are sometimes represented on the boards of television and radio companies, or are in various forms - involved in the monitoring of the activities of these companies;
  - iii. parliaments need media coverage to disseminate knowledge of their activities to a wider public;
2. Considering, however, the limited audience for parliamentary news among viewers and readers;
3. Considering the limited number of newspapers that give extensive and detailed information on the activities of parliaments;
4. Noting that the electronic media, in particular television, tend to cover only important parliamentary events;
5. Stressing the need for parliaments, while respecting their traditions and rules of procedure, as well as the freedom of the press, to make use of all possibilities for adequate media coverage of their work,
6. Expresses the view that, where media coverage of parliamentary events<sup>1</sup> is concerned:
  - a. the electronic media should consider:
    - i. broadcasting programmes on parliamentary work at fixed times;
    - ii. if several channels are available, giving in one of them a certain priority to a parliamentary news programme;
    - iii. giving wider publicity to question time in parliaments, when high-ranking members of government are present;
    - iv. setting up a specialised unit for parliamentary affairs;
    - v. increasing their efforts to explain to the audience the basic facts of parliamentary life (committee work, absenteeism, etc.);
  - b. the press - particularly nation-wide and major regional newspapers - should consider:
    - i. instituting posts of parliamentary correspondents;
    - ii. giving more coverage to parliamentary work which has only limited coverage in other media;
    - iii. devoting series of articles to the basics of parliamentary life, about which only a limited number of readers know the essential facts;
    - iv. publishing more articles of an educative nature on democratic institutions, in particular parliaments;
  - c. national parliaments should:
    - i. contemplate, if the budgetary situation permits, appointing a number of parliamentary information officers;

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1. *Assembly debate* on 7 May 1984 (1st Sitting) (see Doc. 5084, report of the Committee on Parliamentary and Public Relations).  
*Text adopted by the Assembly* on 7 May 1984 (1st Sitting).

- ii. contemplate arranging press briefings by the Speaker or a spokesman on the agenda of parliament;
- iii. study the possibilities of access by journalists to parliament, bearing in mind security and the working conditions of members;
- iv. ensure that minimum facilities for journalists are available (press rooms, press gallery, meeting rooms), and produce, if possible, press reviews, analyses of electronic media coverage, newsletters on parliamentary work, brochures explaining the organisation and functioning of parliament (possibly in several languages);
- v. provide, as far as possible, adequate radio and television services (studios, recording and editing equipment, broadcasting facilities);
- vi. produce films or audio-visual material on their functioning;
- vii. record parliamentary debates on magnetic tapes, where possible, for use by radio and television companies.

# Recommendation 996 (1984) Council of Europe work relating to the media

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Author(s): Parliamentary Assembly

Origin - Assembly debate on 2 and 3 October 1984 (18th, 19th and 20th Sittings) (see Doc. 5288, report of the Committee on Culture and Education). Text adopted by the Assembly on 3 October 1984 (20th Sitting).

The Assembly,

1. Having noted the resolutions on culture and communications technology, and on the distribution of video-cassettes portraying violence and brutality, adopted by the European Ministers responsible for Cultural Affairs in Berlin in May 1984 ;
2. Sharing the ministers' view that "technological innovation, with all the opportunities and dangers it entails, is producing fundamental changes in communication networks, making communications a major vehicle of further economic and cultural development and greater mutual understanding" ;
3. Aware also of "the need to preserve and develop local, regional and national cultural identities at a time when frontiers are being opened up and production systems are being reorganised as a consequence of the introduction of new technologies" ;
4. Recalling its Recommendation 963 (1983), on cultural and educational means of reducing violence, and Recommendation 964 (1983), on a European award for non-violence, and welcoming the fact that the ministers in Berlin were equally concerned with media violence ;
5. Noting that the ministers for culture meeting within the Council of the European Communities in Luxembourg in June 1984 placed very similar emphasis on the need for concerted European action in the media field ;
6. Noting also the proposals made by the European Parliament in its resolution on the market of violent and horrific video-cassettes ;
7. In consequence therefore regretting all the more the over-cautious response of the Committee of Ministers to Recommendations 963 and 964, regarding the media,
8. Recommends that the Committee of Ministers reconsider this response in the light of the positions adopted in Berlin and Luxembourg, and on the basis of closer co-ordination of the thinking of the Steering Committee for the Mass Media and of the Council for Cultural Co-operation ;
9. Supports the request of the ministers in Berlin for an intensification of co-operation between Council of Europe member states, and stresses in particular the need for action relating to :
  - a. the production and distribution of European programmes ;
  - b. copyright and other legal questions relating to the media ;
  - c. the quality of programme content and measures to regulate the distribution of video-cassettes portraying violence and brutality likely to have a pernicious influence on children and adolescents.

# Recommendation 1037 (1986)<sup>1</sup> on data protection and freedom of information

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The Assembly,

1. Bearing in mind that democracies are characterised by the distribution and circulation of a maximum amount of information within society;
2. Aware of the contribution made by the Committee of Ministers to the promotion of a free circulation of information within society in adopting Recommendation No. R (81) 19, on access to information held by public authorities, as well as its Declaration on the freedom of expression and information of 29 April 1982, which declared that the pursuit of an open information policy in the public sector, including access to information, is among the objectives of member states;
3. Having regard also to Recommendation 854 (1979), on access by the public to government records and freedom of information, and Recommendation 582 (1970), on mass communication media and human rights, of the Parliamentary Assembly, stating that the rights provided for by Article 10 of the European Convention on Human Rights should be extended “to include freedom to seek information... (with) a corresponding duty on public authorities to make information available on matters of public interest subject to appropriate limitations”;
4. Recognising that the principle of freedom of information/access to official information has been introduced by many national, federal and state legislatures of member states of the Council of Europe as well as elsewhere;
5. Having particular regard to the legislation of Denmark, France, the Netherlands, Norway and Sweden, on access to official information, as well as of Australia, Canada and the United States;
6. Recalling that a right to have access to official information may be restricted in the interests of the protection of privacy;
7. Believing therefore that the protection of privacy influences the amount of information which can circulate in society;
8. Recalling in this context the basic data protection principles set out in the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data, of 28 January 1981, which impose limitations on the collection, storage, use and communication of personal information;
9. Aware of the fact that the convention of 28 January 1981, which has now entered into force, confers a right of access to personal data only, and that this right is reflected in the data protection laws of Austria, Denmark, France, the Federal Republic of Germany, Iceland, Luxembourg, Norway, Sweden and the United Kingdom;
10. Convinced however that the coexistence of access to official information legislation and data protection legislation may come into conflict especially where they are administered separately by different organs and under different criteria;
11. Conscious of the fact that certain countries have sought to avoid conflicts by legislating for access to official information and data protection at the same time, and have therefore shown that the concepts are not mutually distinct but form part of the overall information policy in society, Canada, the province of Quebec (Canada) and the state of Hesse (Federal Republic of Germany) being cases in point;

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1. *Text adopted by the Standing Committee, acting on behalf of the Assembly, on 3 July 1986.*  
See Doc. 5572, report of the Legal Affairs Committee.

12. Considering that new technological developments may render obsolete existing legislation, and that the Council of Europe should therefore continue to give a lead and provide guidelines for the national legislators concerning the problems raised by new technologies,
13. Recommends that the Committee of Ministers instructs the Committee of experts on data protection:
  - a. to identify criteria and principles according to which data protection and access to official information could be reconciled;
  - b. to prepare an appropriate legal instrument setting out such criteria and principles;
14. Invites the governments of member states which have not yet done so to ratify the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data.

# Recommendation 1067 (1987)<sup>1</sup> on the cultural dimension of broadcasting in Europe

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The Assembly,

1. Having considered the report by its Committee on Culture and Education (Doc. 5782) and the opinion of its Legal Affairs Committee (Doc. 5800);
2. Recalling its Recommendation 926 (1981) on questions raised by cable television and by direct satellite broadcasts, and Recommendation 996 (1984) on Council of Europe work relating to the media;
3. Recalling the Declaration on the Freedom of Expression and Information adopted by the Committee of Ministers in 1982.
4. Drawing attention to the profound changes in the mass media field, and in particular in that of television, as a result of the introduction of new transmission techniques by satellite and cable, in conjunction with rapidly increasing commercialisation both in public broadcasting and through privatisation;
5. Noting that such developments may have potentially positive effects, in particular through:
  - a. increasing the opportunities and opening up new fields for cultural creation and expression;
  - b. broadening the range of programmes;
  - c. assisting awareness of other European languages and cultures;
6. Believing however that such changes also carry serious cultural risks, notably:
  - a. the encouragement of passive consumption of broadcast material;
  - b. the reduction in programme diversity and the erosion of socially accepted standards of behaviour;
  - c. the undermining of the cultural identity of smaller countries and minor language groups, and of the cultural diversity of Europe as a whole;
  - d. lack of respect for copyright and neighbouring rights;
  - e. economic and thereby cultural dependence on outside (largely commercial) factors;
7. Recognising that advertising provides an important occasion for artistic creation and is often of high quality, but at the same time wishing to prevent advertising destroying, for example by inappropriate juxtaposition or interruption, the cultural value of the programme it accompanies;
8. Insisting on the need for an effective reassertion by governments of the public service nature of broadcasting (whether public or private), and of the political, educational and cultural roles of the mass media, and believing that greater emphasis should be placed on the mass media as a means of creative expression, cultural diversity and communication throughout Europe;
9. Believing that, as a general principle, both public and private broadcasting should be subject to the same rules;
10. Stressing the importance for member states to concert policies and, when relevant, harmonise legal arrangements relating to the mass media, but in a manner that will respect national differences and also the independence of professional broadcasting bodies;

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1. *Assembly debate* on 8 October 1987 (18th Sitting) (see Doc. 5782, report of the Committee on Culture and Education, and Doc. 5800, opinion of the Legal Affairs Committee).  
*Text adopted by the Assembly* on 8 October 1987 (18th Sitting).

11. Repeating its concern, expressed in Recommendation 963 (1983) on cultural and educational means of reducing violence, that artistic freedom should not be used as an alibi for purely commercial interests;
12. Recalling its Recommendation 862 (1979) on cinema and the state, and stressing the need for closer co-ordination of mass media policies with those of other means of cultural expression;
13. Recalling also its Recommendation 928 (1981) on the educational and cultural problems of minority languages and dialects in Europe, and Recommendation 1043 (1986) on Europe's linguistic and literary heritage, and stressing the role that the cinema and mass media can play in promoting linguistic diversity and widening cultural appreciation;
14. Recalling its Recommendation 1018 (1985) on private sponsorship of the arts, and Recommendation 1059 (1987) on the economics of culture, and believing that considerably more resources should be channelled from the enormous profits made in the mass media business into direct encouragement of original production and the development of new and more varied talent;
15. Believing also that the governments of member states should review the fiscal incentives available to promote the re-investment of profits made in the mass media business in original domestic production and the development of new and more varied talent;
16. Recalling the long-standing concern of the Council for Cultural Co-operation and the Conference of European Ministers responsible for Cultural Affairs with the interaction between cultural policy and the communication media, and welcoming the proposal made by the ministers in Sintra (September 1987) for developing practical measures to promote European cultural diversity, taking into account the development of the communication technologies;
17. Having noted the texts adopted by the 1st European Ministerial Conference on Mass Media Policy (Vienna, December 1986), and welcoming in particular the direct request addressed by the Vienna conference to the Committee of Ministers for the rapid preparation, within the Council of Europe framework, of binding legal instruments on certain crucial aspects of transfrontier broadcasting;
18. Stressing the need for the participation of the European Community bodies in this initiative;
19. Underlining the need for speed in this area, in order to keep pace with technological advance and avoid cultural policies being dictated by such advances,
20. Recommends that the Committee of Ministers:
  - a. finalise and open for signature, early in 1988, a binding legal instrument on basic standards for trans-frontier broadcasting by both public and private bodies, with a view to the possibility of its entering into force before the 2nd European Ministerial Conference on Mass Media Policy in Stockholm in November 1988, and set up an effective mechanism (including the representation of broadcasting bodies) to monitor the implementation of this instrument;
  - b. provide for the subsequent inclusion into such an instrument of binding agreements or additional protocols in other fields mentioned in the following paragraphs;
  - c. adopt a declaration on public responsibility for the mass media and the public service nature of broadcasting, with particular reference to the role of television in stimulating awareness of different cultures and developing the diversity of cultural and linguistic identities;
  - d. draw up proposals for maintaining and encouraging the linguistic diversity of the mass media, for example by:
    - i. joint production funds on which minor language nations may also draw;
    - ii. the inclusion of minor language interviews in news bulletins;
    - iii. the development of improved techniques for subtitling and the provision of dubbing on an optional basis;
    - iv. ensuring the right for national languages, and where appropriate minor local and regional languages, to be carried on national, regional and local networks;
  - e. recognise advertising as a valid field of creative expression, but give consideration to means of ensuring that it does not shock or affect the cultural integrity of the programmes it may accompany;

- f.* accelerate and intensify its work on guidelines for reducing violence, brutality and pornography, with reference to national legislation, not only on videograms, but also with reference to broadcasting in general;
- g.* encourage increased participation by women in broadcasting (especially in the fields of production and programming);
- h.* encourage media education, for example by:
  - i.* the introduction of school courses on critical appreciation of the media and audiovisual production;
  - ii.* the information of adults (and not only parents) as to developments in the mass media field;
- i.* promote the use of the mass media in education and in particular in line with the objectives of the Council of Europe in such fields as human rights, tolerance and equality between the sexes;
- j.* encourage the development of international concertation to promote the production and distribution of audiovisual works in Europe within the framework of overall cultural policies, including:
  - i.* training programmes, for example the setting up of training centres for those working in the broadcasting profession, and trainee exchange schemes;
  - ii.* protection of copyright and neighbouring rights;
  - iii.* the closer co-ordination of media policies, and in particular the relationship between cinema and television;
  - iv.* mechanisms of direct and indirect support for audiovisual creativity;
  - v.* special emphasis on co-production in the making of musical and other non-verbal programmes;
- k.* maintain and encourage a continuing dialogue between all partners (government, media, the public and interested non-governmental bodies) with a view to developing, by means of a series of suitable instruments, the basis for the free exchange of mass media material and professional experience between Council of Europe member countries, between Western and Eastern Europe, and between Europe and other parts of the world;
- l.* conduct periodic reviews of international co-operation and research relating to broadcasting.



# Resolution 900 (1988)

## Access to the audiovisual media during election campaigns

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Author(s): Parliamentary Assembly

Origin - Assembly debate D 5 May 1988 (7th Sitting) (see Doc. 5766, report of the Committee on Parliamentary and Public Relations, Rapporteur : Mr Guerra ; Doc. 5866Doc. 5866, complementary report ; and Doc. 5798, opinion of the Legal Affairs Committee (Rapporteur : Mr Rodota'). Text adopted by the Assembly on 5 May 1988 (7th Sitting).

The Assembly,

1. Considering that the principles of true democracy can be upheld only if there is respect for human rights, and in particular for freedom of expression and information which is a fundamental component of those democratic principles ;
2. Recalling the information report on public opinion polls presented by its Committee on Parliamentary and Public Relations (Doc. 5449) ;
3. Considering that the Council of Europe guarantees the right to freedom of expression and information in Article 10 of the Convention for the Protection of Human Rights and Fundamental Freedoms ;
4. Considering that the Parliamentary Assembly of the Council of Europe has on many occasions stressed the need to guarantee freedom of expression as an essential right in every democratic society ;
5. Considering that it is more necessary than ever, when elections are being held, to safeguard political pluralism and equality of opportunity which should include a right to reply between all political groups and parties ;
6. Aware that political pluralism, equality of opportunity and free access to radio and television during election campaigns are possible only if genuine democratic controls operate over these media ;
7. Aware of the vital role which these media play during elections as a means of directly influencing the electorate ;
8. Considering that, in order to safeguard democratic principles, these media must be independent ;
9. Convinced that free, democratic elections require public media as the only guarantee of equality of opportunity and the free access of all political parties to the media,
10. Invites the governments of the member states to ensure that :
  - a. the democratic principles set forth above on access of political parties and political groups to the media during election campaigns are guaranteed ;
  - b. genuine equality of opportunity is clearly established during elections for all political parties, whose treatment must be in keeping with their social and political representativeness, which should be assessed essentially on the basis of the votes obtained at the previous elections by universal suffrage to legislative assemblies ;
  - c. there is a clear recognition of the fact that freedom of expression in free and democratic elections can only be secured through mass media that are diversified and independent ;
  - d. pluralism of information is guaranteed in the public media so that the population can be objectively informed about all the political options presented to it in elections ;
11. Instructs its Committee on Parliamentary and Public Relations, in co-operation with the Legal Affairs Committee and the Political Affairs Committee, to enlarge the scope and detail of their investigation of access to audiovisual media to cover periods when elections are not taking place, so that objectivity and impartiality may be permanently assured.

# Recommendation 1077 (1988)

## Access to transfrontier audiovisual media during election campaigns

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Author(s): Parliamentary Assembly

Origin - Assembly debate on 5 May 1988 (7th Sitting) (see Doc. 5766, report of the Committee on Parliamentary and Public Relations, Rapporteur : Mr Guerra ; Doc. 5866, complementary report ; and Doc. 5798, opinion of the Legal Affairs Committee, Rapporteur : Mr Rodota'). Text adopted by the Assembly on 5 May 1988 (7th Sitting).

The Assembly,

1. Considering the principles set forth in its Resolution 900 (1988) ;
2. Considering the impact on a democratic society of the far-reaching changes affecting the mass communication media, particularly as a result of the development of transfrontier communications,
3. Recommends that the Committee of Ministers envisage drawing up European principles governing political parties' access to transfrontier radio and television, particularly during election periods.

# Recommendation 1096 (1989)

## European convention on transfrontier television

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Author(s): Parliamentary Assembly

Origin - Assembly debate on 1 February 1989 (21st and 22nd Sittings) (see Doc. 6003, report of the Legal Affairs Committee, Rapporteur : Mr Van Der Sanden). Text adopted by the Assembly on 1 February 1989 (22nd Sitting).

The Assembly

1. Recalling the fact that the European Ministers on Mass Media Policy have twice - in 1986 and 1988 - called unanimously for the rapid preparation, within the Council of Europe, of binding legal instruments on certain crucial aspects of transfrontier broadcasting ;
2. Recalling Assembly Recommendation 1067 (1988) on the cultural dimension of broadcasting in Europe ;
3. Reiterating its attachment to freedom of expression and information as defined in Article 10 of the European Convention on Human Rights ;
4. Stressing the urgency of achieving a framework for transfrontier broadcasting in Europe ;
5. Recognising the achievement of the Steering Committee on the Mass Media in preparing a draft European convention on transfrontier television which was transmitted to the Committee of Ministers in June 1988 ;
6. Regarding the conclusions of the European Ministerial Conference on Mass Media Policy, which was held in Stockholm on 23 and 24 November 1988, as a solemn undertaking by all member governments to resolve the outstanding issues in the draft convention, and welcoming the unanimous request for the Committee of Ministers to complete its work on the convention early in 1989 ;
7. Welcoming also the clear conclusion of the European Council held in Rhodes in December 1988 that the Community's efforts should be deployed in a manner consistent with the Council of Europe convention,
8. Requests the Committee of Ministers urgently to bring its work to an immediate conclusion, to open the convention for signature forthwith and to call for ratification at the earliest possible date.

# Recommendation 1098 (1989)<sup>1</sup> on East-West audiovisual co-operation

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The Assembly,

1. Noting the interim report of its Committee on Culture and Education (Doc. 5997) on the Colloquy “Cinema and television: the audiovisual field as a vector of communication between Eastern and Western Europe”, organised in Orvieto from 26 to 28 October 1988 by the committee as its contribution to European Cinema and Television Year;
2. Recalling its Recommendation 862 (1979) on cinema and the state, and its Recommendations 926 (1981) on questions raised by cable television and by direct satellite broadcasts, 996 (1984) on Council of Europe work relating to the media, and 1067 (1987) on the cultural dimension of broadcasting in Europe;
3. Recalling also its recent reports relating to East West co-operation and in particular Recommendation 1075 (1988) on European cultural co-operation and Resolution 909 (1988) on East-West relations (General policy of the Council of Europe);

## OPEN DIALOGUE AND EXCHANGES

4. Believing that the audiovisual field represents an essential area for communication and co-operation between countries, peoples and persons in Eastern and Western Europe, and that this is particularly relevant in view of the current positive political moves towards more open dialogue and of technological developments such as direct broadcasting by satellite;
5. Welcoming the increasing readiness of the Soviet Union and certain other East European countries to participate in open discussion of audiovisual questions, as in the Orvieto Colloquy, and to enter into specific bilateral and possibly multilateral agreements;
6. Aware of the existing exchange of audiovisual material, either bilaterally or through film festivals or through such bodies as EBU and OIRT, but believing that a serious information gap still persists and that it is important to encourage a far greater flow of information, material and persons between Eastern and Western Europe;
7. Noting also that the current flow of audiovisual material is preponderantly from West to East, and believing that special efforts are necessary to balance this tendency through improvements both in the production of East European material and in its distribution in the West (facilities for subtitling or dubbing and training in marketing techniques);
8. Stressing the role played by contacts at all levels in this field and the need for the development of networks for circulating audiovisual material and information about it;
9. Noting, in addition, other means of improving contacts and the exchange of information, such as:
  - telebridges,
  - exchange of persons (artists or technicians),
  - genuine co-productions;

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1. *Assembly debate* on 2 February 1989 (23rd Sitting) (see Doc.5997, report of the Committee on Culture and Education, Rapporteur: Mrs Morf).  
*Text adopted by the Assembly* on 2 February 1989 (23rd Sitting).

## ROLE OF THE STATE

10. Convinced that audiovisual creativity and the flow of information should be free from economic and commercial constraints, as also from political control and censorship;
11. Believing that the state continues to play an essential role in the maintenance of cultural standards and therefore in assisting production and in ensuring free flow;
12. Welcoming the fact that the European Convention on Transfrontier Television is in principle to be opened to non-member countries, and calling on countries in Eastern Europe to consider developing their audiovisual policies and practice in a manner that could facilitate their adherence in due course to this basic framework;
13. Stressing, however, the need for ongoing intergovernmental co-operation in order that this framework can be widened to encompass the whole of the audiovisual field;

## SPECIFIC AREAS FOR CO-OPERATION

14. Noting as of particular East-West relevance the advantages of intergovernmental co-operation in specific technical areas such as:
  - a. the compilation of European audiovisual legislation;
  - b. statistics on production, distribution (and programme flow) and audiences;
  - c. the cataloguing of archive material;
  - d. the development of technologies (for example multilingual broadcasting and HDTV (high definition television));
15. Noting that education and training are also a key area in which East-West audiovisual co-operation could be usefully developed, notably through:
  - a. distance teaching, especially in scientific subjects or the visual arts;
  - b. audiovisual literacy, especially research, teacher training and exchanges;
  - c. the training of technicians, and the exchange of techniques, technology and persons;
16. Emphasising also the need for continuing international co-operation for the protection of literary and artistic property (copyright), as well as neighbouring rights, through the drawing up and effective implementation throughout Europe of regulations concerning these questions and including that of audiovisual piracy;

## EUROPEAN CO-OPERATION

17. Believing that it is in the interests of the quality and cultural diversity of audiovisual production throughout Europe (both East and West) that cooperation in this field should be on as wide a European basis as possible;
18. Convinced that special emphasis should be placed on the East-West dimension in all European audiovisual co-operation, whether on the level of the Council of Europe (in such projects as "Eurimages") or in activities of the European Community (the MEDIA project and European Film Distribution Office), or in the recently proposed "Audiovisual EUREKA";
19. Believing, however, that the Council of Europe is the most suitable institution in Europe for developing East-West audiovisual co-operation;
20. Noting that the Committee of Ministers has considered "debate in the widest European parliamentary forum to be indispensable for the strengthening of the European cultural identity and the development of co-operation in the largest possible European geographical area" (reply to Recommendation 1075);
21. Calling on its Committee on Culture and Education to pursue and develop the contacts that were made on the occasion of the Orvieto Colloquy, and to continue to develop proposals for co-operation in the audiovisual field in the light of further colloquies and in the context of a more general review of questions raised by European Cinema and Television Year;

22. Noting the large extent to which the proposals for European co-operation made at the last European Ministerial Conference on Mass Media Policy (Stockholm, 23 and 24 November 1988) meet the conclusions of the Orvieto Colloquy,

23. Recommends that the Committee of Ministers give immediate consideration to the establishment of a suitable framework for East-West audiovisual co-operation, in the first place by making the fullest possible use of the European Cultural Convention, but also by working towards a more specific instrument.

# Resolution 937 (1990)<sup>1</sup> on telecommunications: the implications for Europe

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The Assembly,

1. Convinced that the telecommunications sector is ideal ground for establishing a link between nations, and that such co-operation can operate in the matter of standards and the creation of telecommunications infrastructures;
2. Welcoming the efforts made by the European Community with a view to harmonising telecommunications networks and opening up the services market in its twelve member states, and convinced that this harmonisation should also benefit not only other Council of Europe member states but the whole of the European continent;
3. Considering that European telecommunications standards are, in large measure, prepared by the European Conference of Postal and Telecommunications Administrations (CEPT) which brings together the member countries of the Council of Europe as well as Yugoslavia, the Vatican City and the Principality of Monaco;
4. Welcoming co-operation with some East European countries, which was eased by the relaxation in 1988 of the Cocom rules on telecommunications equipment;
5. Considering that some developing countries, and in particular those in Africa, are still at a severe disadvantage because of their weak telecommunications structures;
6. Considering that the technical infrastructure most suited to the development of the African continent is an integrated telecommunications system which includes a satellite component, and whose feasibility study is being undertaken under the auspices of an inter-agency co-ordinating committee (IACC) in which the International Telecommunication Union (ITU) is the lead agency, associating the African countries and ten international and intergovernmental regional organisations;
7. Anxious that the telecommunications equipment sector should remain one of Europe's economic strengths;
8. Convinced that the success of this sector largely depends on standardisation, research and the opening up of public contracts;
9. Convinced that the growth of a new, important economic sector dealing with "value-added services" depends on present developments in telecommunications, and that the emergence of "new businesses" in such a sector can play an effective part in the creation of new jobs;
10. Convinced that "high-definition television" will be of vital importance to industry over the next decade;
11. Considering that the availability of, and equal access to, basic telecommunications services already contribute substantially to the well-being of populations, conditioning their economic development, and that the improvement of telecommunications in the developing countries will have a positive impact on the whole of the world economy;
12. Aware that regional disparities in telecommunications infrastructures accentuate regional imbalances;
13. Welcoming the European Community's initiatives in connection with telecommunications development on a regional level, as given practical effect in the "Special Telecommunication Action for Regional Development" (STAR) programme;

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1. *Assembly debate* on 31 January 1990 (26th Sitting) (see Doc. 6151, report of the Committee on Science and Technology, Rapporteur: Mr Fourré).  
*Text adopted by the Assembly* on 31 January 1990 (26th Sitting).

14. Welcoming the pragmatic and flexible system of financing the EUREKA programme;
15. Convinced that telecommunications are an outstanding medium for the development of education and vocational training, both in developing countries and those with scattered populations and in industrial countries;
16. Convinced that communications technology allows a restructuring of the employment sector (teleworking, teleshopping) and presents opportunities for harmonising social conditions;
17. Considering that telecommunications, audiovisual techniques and integrated broadband communications contribute to the spread of information and culture;
18. Aware of the interaction between technical media and cultural creation, influenced, *inter alia*, by the development of cable television, direct broadcasting by satellite and the emergence of high-definition television;
19. Convinced that direct broadcasting by satellite can be a source of information independent of the institutional sources;
20. Convinced that monopolies over complete communications channels, particularly where the medium is identified with the message, carry potential risks of cultural domination and, therefore, that pluralism and freedom of information are the best guarantees of democracy,
21. Invites the governments of member states:
  - a. to ensure that the development of new communications media contributes to improving the individual's freedom of information and to strengthening democracy;
  - b. to ensure pluralist use of the networks and to make sure the medium is separated from the message in the provision of communications media;
  - c. to encourage the creation of independent programmes on telecommunications networks and cable networks by preventing programming monopolies;
  - d. to support schemes to develop educational and vocational training programmes using the full range of techniques and media: telematics, television, cable, radio and satellite;
  - e. to support the setting up of a high-power data transmission network linking together scientific research centres in Europe;
  - f. to assist in developing employment by encouraging the ripple effect in the telecommunications sector and, in particular, by promoting the creation of small and medium-sized businesses offering "value-added services";
  - g. to extend harmonisation rules on the provision of open networks and the opening up of the market for value-added telecommunications services within member states;
  - h. to encourage telecommunications and broadcasting system standardisation on a global basis so as to facilitate the rapid introduction and development of new techniques, thereby providing manufacturers, operators and consumers with worldwide opportunities and corresponding economies of scale;
  - i. to strengthen the European telecommunications equipment industry by giving priority to the development of integrated services digital networks (ISDN), and through standardisation, research and the opening up of public contracts within member countries;
  - j. to take steps to introduce common standards for direct broadcasting by satellite;
  - k. to promote the expansion of the pan-European mobile telecommunications network groupe système mobile (GSM);
  - l. to support the adoption of a common standard for high-definition television in Europe;
  - m. to promote the creation of an internal market for high-definition television covering all the media: cable, hertzian wave and satellite;
  - n. to take steps to correct regional disparities within member states, so that the essential telecommunications services are equally accessible to all and that the basis for an economic upturn is secured;
  - o. to study the implementation of a regional levelling-up programme along the lines of the European Community's STAR programme and financed in the same way as the EUREKA programme;



- p.* to initiate consultation with a view to extending the rules governing standardisation and the provision of networks to East European countries;
- q.* to respond favourably to the applications of East European countries wishing to join the European Conference of Postal and Telecommunications Administrations (CEPT);
- r.* to back international telecommunications programmes designed to assist the developing countries and, in particular, the promotion of a regional telecommunications satellite for Africa, involving the maximum number of states in the region and bringing all existing initiatives together.

# Recommendation 1122 (1990)<sup>1</sup> on the revival of the countryside by means of information technology

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1. The Assembly considers that new information and communication technologies offer new opportunities for the strengthening and revival of rural regions across Europe. The achievement of a new harmony between urban centres and the countryside through the application of such technologies would not only meet the aspirations of an increasing number of Europeans to improve the quality of their life and environment by living and working in the countryside, but would also benefit family life, and reduce the strain on transport systems and the environment, easing life in the cities. One successful implementation model for the achievement of such changes is the Swedish “telecottage” project.
2. The Assembly notes with satisfaction the important contributions that the Council of Europe has made to the preservation and development of rural Europe and its environmental and cultural diversity, in particular through the European Campaign for the Countryside organised in 1987 and 1988, and by work in the environmental field. The Council of Europe should continue its work in favour of rural regions, *inter alia* by promoting the application of new information and communication technologies.
3. Consequently, the Assembly recommends that the Committee of Ministers invite the governments of member states, the European Community, the European Space Agency and OECD:
  - a. to work out strategies for the application of new information and communication technology in rural areas, within the framework of a general development plan which gives special emphasis to rural development and to decentralisation in the fields of work and economy;
  - b. to establish policies for the telecommunication sector in line with rural development objectives and the specific needs of the countryside. This should specifically apply to price policies for telecommunication services, policies for telecommunication infrastructures, equipment and availability;
  - c. to provide for the testing of and experimentation with different models (infrastructure, equipment and user programmes), to satisfy the specific needs of existing and future clients and operators in rural communities. The Swedish “telecottage” model, which has also been tested in other European countries, as well as other experiences, should serve as a source of inspiration for this work;
  - d. to create and strengthen well-adapted training and education on the use of new information and communication technologies in rural regions, in particular for rural youth;
  - e. to give special attention to the problem of helping existing small and medium-sized enterprises in all sectors to make rapid use of these new technologies for the improvement of their performance and competitiveness;
  - f. to design development policies which will facilitate the creation of new employment opportunities and new enterprises in the information and communication technology sector in rural regions. This could include the decentralisation of public and private service institutions and companies, and of public administrations;
  - g. to implement employment policies which will favour part-time work in rural areas through the use of telecommunication technologies where complete decentralisation of workplaces may not be possible.
4. Bearing in mind its Recommendation 1110 (1989) on distance teaching, the Assembly recommends that the Committee of Ministers include in the intergovernmental programme of activities a project designed to assist member states in introducing the aforesaid policies.

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1. *Assembly debate* on 2 February 1990 (29th Sitting) (see Doc. 6160, report of the Committee on Agriculture, Rapporteur: Mr Lanner). *Text adopted by the Assembly* on 2 February 1990 (29th Sitting).

# Resolution 957 (1991)<sup>1</sup> on the situation of local radio in Europe

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1. Freedom of expression and information is a human right secured by Article 10 of the European Convention on Human Rights, and a fundamental aspect of democracy.
2. Radio broadcasting has a major part to play in the development of culture and the freedom to form opinions.
3. The Assembly considers that local radio is an ideal potential means of fostering freedom of expression and information, the development of culture, the freedom to form and confront opinions, and active participation in local life.
4. Member states not yet having done so should accordingly permit local radio to exist.
5. However, the disorderly proliferation of local radio stations could have the effect of disrupting the airwaves and thus even represent an air traffic hazard. It may also impair programme quality.
6. Member states which already have regulations in this area should therefore ensure that they are observed, particularly as regards the use of airwaves.
7. In allocating frequencies and issuing broadcasting licences to local radio stations, member states should ensure that the following criteria are observed:
  - i. objectiveness;
  - ii. quality in preference to quantity;
  - iii. diversity in respect of information, culture and entertainment, and plurality in the ideas conveyed.
8. As far as the contents of their programmes are concerned, local stations should be independent both from the political authority and from the press, publishing companies and financial consortia; moreover, the exercise by local radio networks of a monopoly in broadcasting at any level is best avoided.
9. In order to ensure their independence, their sources of finance should be diversified.
10. They may receive subsidies from central, regional and local government and also resort to advertising, provided that this does not exceed a specified percentage of broadcasting time.
11. The content of the programmes presented by local radio should meet the following requirements:
  - i. the quality of local radio must be of the same standard as for public radio;
  - ii. a certain standard of professionalism must be provided;
  - iii. local radio should observe the public service code of ethics and in particular the principles set forth by the European Parliament in its report of 21 April 1989 on radio broadcasting, namely:
    - “a. objectivity, integrity and impartiality in the presentation of news;
    - b. the separation of news from opinion, the naming of those who express opinions and freedom of expression, within the limits laid down by the law of each member state;

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1. *Assembly debate* on 31 January 1991 (24th Sitting) (see Doc. 6343, report of the Committee on Legal Affairs and Human Rights, Rapporteur: Mr Columberg; and Doc. 6344, opinion of the Committee on Culture and Education, Rapporteur: Mr Soell).  
*Text adopted by the Assembly* on 31 January 1991 (25th Sitting).

- c. respect for political, religious, social, cultural and linguistic diversity;
- d. respect for the dignity, reputation and private life of individuals and for all rights and liberties recognised under international treaties signed by the member states or recognised by the Assembly;
- e. the protection of young people and children;
- f. respect for principles of equality, thus excluding discrimination on the grounds of race, culture, sex or religion."

12. Where it does not exist, co-ordination between the authorities of frontier regions should be established in order to achieve a harmonious allocation of airwaves, provide conditions for fair competition and foster mutual knowledge of regional cultures.

13. A body responsible for supervising the application of all the principles set out above should be established in each country.

# Recommendation 1147 (1991)<sup>1</sup> on parliamentary responsibility for the democratic reform of broadcasting

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1. The Committee on Culture and Education held its 2nd Colloquy on East-West Audiovisual Co-operation in Prague, in October 1990, on the subject of parliamentary responsibility for the democratic reform of broadcasting.
2. The situation of broadcasting and the approach to it is changing in both Eastern and Western Europe. In the West we witness the impact of new technologies, new forms of commercial involvement and the trans-frontier dimension of broadcasting; whereas in the East political changes have washed away forty years of totalitarian ideology leaving behind a legal void. This situation leads to the present review of broadcasting throughout Europe.
3. Radio and television have a tremendous impact on public opinion. In a democracy, broadcasters have considerable power as a result of freedom of expression and the absence of censorship and must be accountable for their policies. Parliaments, which represent regional, political and cultural currents of opinion, and are guided by long-term national interest, must have the ultimate responsibility not only for setting up the legal frameworks within which radio and television are organised, but also for making provisions for guaranteeing their implementation.
4. There is no single solution for organising radio and television. Models vary from country to country and are subject to an ongoing process of adjustment. Much can, however, be learnt from past mistakes. Central and East European countries should be involved in European co-operation and discussion on these questions. Assistance should also be made available on both bilateral and multilateral levels to each country in the process of working out the model that suits best its particular situation and constraints.
5. The basic problem facing the new democracies in Central and Eastern Europe is the search for an audiovisual system to replace the former centralised, politically controlled, media. However, the alternative should not be unbridled privatisation and complete liberalisation, as they could lead to ruinous competition for exclusivity rights or even monopoly. To prevent this, the legal void left by the collapse of the totalitarian systems must urgently be filled with the notions of public service broadcasting (as distinct from public ownership), pluralism, independence and balance.
6. Other problems that are common to most Central and East European broadcasting systems are:
  - i. The evolution of the legal, organisational and financial structures for broadcasting is out of step with the development of democratic society and the market economy in these countries.
  - ii. Their present economic situation and the small size of the market do not allow advertising to play a major role in the financing of broadcasting.
  - iii. There are linguistic and minority realities.
  - iv. There is a lack of qualified professionals, especially at management level, to replace existing radio and television staff compromised by having subscribed to earlier ideologies.
  - v. Their equipment is obsolete or badly serviced.
  - vi. They lack outlets in Western Europe.

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1. *Assembly debate* on 22 April 1991 (1st Sitting) (see Doc. 6405, report of the Committee on Culture and Education, Rapporteur: Mrs Grendelmeier).  
*Text adopted by the Assembly* on 22 April 1991 (1st Sitting).

7. Aware of these problems, the Assembly believes it helpful to identify the following basic principles that parliaments throughout Europe should take into account when revising broadcasting legislation in a democratic society:

- i. The role of a broadcasting system is to provide information, education and entertainment to as wide an audience as possible, in conformity with the principles of the free flow of information, freedom of expression and human rights.
- ii. The information and education roles of broadcasting are those of a public service providing public goods. It should be recognised that under appropriate circumstances the function of public service broadcasting may be fulfilled by publicly or privately organised entities. It is for parliament to set objectives, to vote broadcasters the necessary funds to reach these objectives, and to verify that they are effectively attained. It is for the state or government to provide the means and mechanisms for executing these decisions and it is for the professionals to produce programmes that satisfy these requirements. Ideally, the audiovisual landscape should be mixed and include a public service sector, a commercial sector and a local or regional component.
- iii. Market forces alone, however, cannot be relied upon to ensure public service broadcasting. Purely commercial and public service objectives are opposites: the former is to make money, and therefore the companies need programmes; the latter is to provide a service in the form of programmes, and therefore the broadcasters need money. Public service broadcasting should avoid direct competition for higher audience ratings to the detriment of programme quality.
- iv. In the fulfilment of their aims, radio and television should be accountable to a body independent of broadcasting and of the government, where relevant regional, political, social and cultural currents of opinion are represented, and which is itself accountable (however indirectly) to parliament.
- v. This body should ensure transparency in the ownership and management of broadcasting, and guard against harmful media concentrations.
- vi. It should ensure pluralism at least at the level of the overall media landscape.
- vii. It should also monitor programme standards. Guidelines or codes of conduct for presenting news, political views, violence, etc. should be drawn up in advance by parliament in concertation with broadcasters, reconciling broadcasters' rights to freedom of expression with the right of the public to receive information. Responsibility should replace censorship.
- viii. Regional broadcasting has an important role to play within a national system, and in particular when it includes the right of minorities to express themselves. It should be protected in order to preserve regional identity and the cultural heritage, although the additional financial difficulties should not be overlooked.
- ix. Broadcasters should be guaranteed independence whatever their sources of funding, and in particular by the diversification of these sources, including licence fees, advertising, subscriptions and the sale of services, and in addition direct state subsidies, if they are necessary, at national or regional level.
- x. In an increasingly interactive media landscape it is useful to take account of the principles laid out in the European Convention on Transfrontier Television.

8. The Prague colloquy was a parliamentary contribution to a global approach in parallel with expert assistance provided by the Council of Europe at the intergovernmental level to the drafting of new legislation by Central and East European states. The Assembly therefore recommends that the Committee of Ministers give high priority to the continuation of this activity.

9. Co-operation, involving contacts and, where appropriate, exchanges, should indeed continue at all levels - parliamentary, governmental and professional - as new systems cannot be invented at a stroke and new ways of thinking need time to develop.

# Resolution 1003 (1993)<sup>1</sup> on the ethics of journalism

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The Assembly affirms the following ethical principles for journalism and believes that they should be applied by the profession throughout Europe.

## NEWS AND OPINIONS

1. In addition to the legal rights and obligations set forth in the relevant legal norms, the media have an ethical responsibility towards citizens and society which must be underlined at the present time, when information and communication play a very important role in the formation of citizens' personal attitudes and the development of society and democratic life.
2. The journalist's profession comprises rights and obligations, freedoms and responsibilities.
3. The basic principle of any ethical consideration of journalism is that a clear distinction must be drawn between news and opinions, making it impossible to confuse them. News is information about facts and data, while opinions convey thoughts, ideas, beliefs or value judgments on the part of media companies, publishers or journalists.
4. News broadcasting should be based on truthfulness, ensured by the appropriate means of verification and proof, and impartiality in presentation, description and narration. Rumour must not be confused with news. News headlines and summaries must reflect as closely as possible the substance of the facts and data presented.
5. Expression of opinions may entail thoughts or comments on general ideas or remarks on news relating to actual events. Although opinions are necessarily subjective and therefore cannot and should not be made subject to the criterion of truthfulness, we must ensure that opinions are expressed honestly and ethically.
6. Opinions taking the form of comments on events or actions relating to individuals or institutions should not attempt to deny or conceal the reality of the facts or data.

## THE RIGHT TO INFORMATION AS A FUNDAMENTAL HUMAN RIGHT - PUBLISHERS, PROPRIETORS AND JOURNALISTS

7. The media's work is one of "mediation", providing an information service, and the rights which they own in connection with freedom of information depends on its addressees, that is the citizens.
8. Information is a fundamental right which has been highlighted by the case-law of the European Commission and Court of Human Rights relating to Article 10 of the European Convention on Human Rights and recognised under Article 9 of the European Convention on Transfrontier Television, as well as in all democratic constitutions. The owner of the right is the citizen, who also has the related right to demand that the information supplied by journalists be conveyed truthfully, in the case of news, and honestly, in the case of opinions, without outside interference by either the public authorities or the private sector.
9. The public authorities must not consider that they own information. The representativeness of such authorities provides the legal basis for efforts to guarantee and extend pluralism in the media and to ensure that the necessary conditions are created for exercising freedom of expression and the right to information and precluding censorship. Moreover, the Committee of Ministers is aware of this fact, as demonstrated by its Declaration on the Freedom of Expression and Information adopted on 29 April 1982.

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1. *Assembly debate* on 1 July 1993 (42nd Sitting) (see Doc.6854, report of the Committee on Culture and Education, Rapporteur: Mr Núñez Encabo).  
*Text adopted by the Assembly* on 1 July 1993 (42nd Sitting).

10. When dealing with journalism it must be borne in mind that it relies on the media, which are part of a corporate structure within which a distinction must be made between publishers, proprietors and journalists. To that end, in addition to safeguarding the freedom of the media, freedom within the media must also be protected and internal pressures guarded against.
11. News organisations must consider themselves as special socio-economic agencies whose entrepreneurial objectives have to be limited by the conditions for providing access to a fundamental right.
12. News organisations must show transparency in matters of media ownership and management, enabling citizens to ascertain clearly the identity of proprietors and the extent of their economic interest in the media.
13. Inside the news organisation, publishers and journalists must co-exist, bearing in mind that the legitimate respect for publishers' and owners' ideological orientations is limited by the absolute requirements on truthful news reporting and ethical opinions. This is essential if we are to respect the citizens' fundamental right to information.
14. These requirements are such that we must reinforce the safeguards of the journalist's freedom of expression, for they must in the last instance operate as the ultimate sources of information. In this connection we must legally expand and clarify the nature of the conscience clause and professional secrecy *vis-à-vis* confidential sources, harmonising national provisions on this matter so that they can be implemented in the wider context of democratic Europe.
15. Neither publishers and proprietors nor journalists should consider that they own the news. News organisations must treat information not as a commodity but as a fundamental right of the citizen. To that end, the media should exploit neither the quality nor the substance of the news or opinions for purposes of boosting readership or audience figures in order to increase advertising revenue.
16. If we are to ensure that information is treated ethically, its target audience must be considered as individuals and not as a mass.

## THE FUNCTION OF JOURNALISM AND ITS ETHICAL ACTIVITY

17. Information and communication as conveyed by journalism through the media, with powerful support from the new technologies, has decisive importance for the development of the individual and society. It is indispensable for democratic life, since if democracy is to develop fully it must guarantee citizens participation in public affairs. Suffice it to say that such participation would be impossible if the citizens were not in receipt of the information on public affairs which they need and which must be provided by the media.
18. The importance of information, especially radio and television news, for culture and education was highlighted in Assembly Recommendation 1067. Its effects on public opinion are obvious.
19. It would be wrong to infer from the importance of this role that the media actually represent public opinion or that they should replace the specific functions of the public authorities or institutions of an educational or cultural character such as schools.
20. This would amount to transforming the media and journalism into authorities or counter-authorities ("mediocracy"), even though they would not be representative of the citizens or subject to the same democratic controls as the public authorities, and would not possess the specialist knowledge of the corresponding cultural or educational institutions.
21. Therefore journalism should not alter truthful, impartial information or honest opinions, or exploit them for media purposes, in an attempt to create or shape public opinion, since its legitimacy rests on effective respect for the citizen's fundamental right to information as part of respect for democratic values. To that end, legitimate investigative journalism is limited by the veracity and honesty of information and opinions and is incompatible with journalistic campaigns conducted on the basis of previously adopted positions and special interests.
22. In journalism, information and opinions must respect the presumption of innocence, in particular in cases which are still *sub judice*, and must refrain from making judgments.
23. The right of individuals to privacy must be respected. Persons holding office in public life are entitled to protection for their privacy except in those cases where their private life may have an effect on their public life. The fact that a person holds a public post does not deprive him of the right to respect for his privacy.



24. The attempt to strike a balance between the right to respect for private life, enshrined in Article 8 of the European Convention on Human Rights, and the freedom of expression set forth in Article 10, is well documented in the recent case-law of the European Commission and Court of Human Rights.
25. In the journalist's profession the end does not justify the means; therefore information must be obtained by legal and ethical means.
26. At the request of the persons concerned, the news media must correct, automatically and speedily, and with all relevant information provided, any news item or opinion conveyed by them which is false or erroneous. National legislation should provide for appropriate sanctions and, where applicable, compensation.
27. In order to harmonise the application and exercise of this right in the member states of the Council of Europe, we must implement Resolution (74) 26 on the right of reply - Position of the individual in relation to the press, adopted by the Committee of Ministers on 2 July 1974, and also the relevant provisions of the European Convention on Transfrontier Television.
28. In order to ensure high-quality work and independence on the part of journalists, they must be guaranteed decent pay and proper working conditions and facilities.
29. In the relations which the journalist must maintain in the course of his duties with the public authorities or the various economic sectors, care should be taken to avoid any kind of connivance liable to affect the independence and impartiality of journalism.
30. In journalism, controversial or sensational items must not be confused with subjects on which it is important to provide information. The journalist must not exploit his duties for the principal purpose of acquiring prestige or personal influence.
31. In view of the complexity of the process of providing information, which is increasingly based on the use of new technologies, speed and conciseness, journalists must be required to have appropriate professional training.

#### **RULES GOVERNING EDITORIAL STAFF**

32. Within the newspaper business, publishers, proprietors and journalists must live side by side. To that end, rules must be drawn up for editorial staff in order to regulate professional relations between the journalists and the publishers and proprietors within the media, separately from the normal requirements of labour relations. Such rules might provide for the setting up of editorial boards.

#### **SITUATIONS OF CONFLICT AND CASES OF SPECIAL PROTECTION**

33. In society, situations of tension and conflict sometimes arise under the pressure of factors such as terrorism, discrimination against minorities, xenophobia or war. In such circumstances the media have a moral obligation to defend democratic values: respect for human dignity, solving problems by peaceful, tolerant means, and consequently to oppose violence and the language of hatred and confrontation and to reject all discrimination based on culture, sex or religion.
34. No-one should remain neutral *vis-à-vis* the defence of democratic values. To that end the media must play a major role in preventing tension and must encourage mutual understanding, tolerance and trust between the various communities in regions where conflict prevails, as the Secretary General of the Council of Europe has set out to do with her confidence-building measures in the former Yugoslavia.
35. Having regard to the very specific influence of the media, notably television, on the attitudes of children and young people, care must be taken not to broadcast programmes, messages or images glorifying violence, exploiting sex and consumerism or using deliberately unsuitable language.

#### **ETHICS AND SELF-REGULATION IN JOURNALISM**

36. Having regard to the requisite conditions and basic principles enumerated above, the media must undertake to submit to firm ethical principles guaranteeing freedom of expression and the fundamental right of citizens to receive truthful information and honest opinions.
37. In order to supervise the implementation of these principles, self-regulatory bodies or mechanisms must be set up comprising publishers, journalists, media users' associations, experts from the academic

world and judges; they will be responsible for issuing resolutions on respect for ethical precepts in journalism, with prior commitment on the part of the media to publish the relevant resolutions. This will help the citizen, who has the right to information, to pass either positive or negative judgment on the journalist's work and credibility.

38. The self-regulatory bodies or mechanisms, the media users' associations and the relevant university departments could publish each year the research done *a posteriori* on the truthfulness of the information broadcast by the media, comparing the news with the actual facts. This would serve as a barometer of credibility which citizens could use as a guide to the ethical standard achieved by each medium or each section of the media, or even each individual journalist. The relevant corrective mechanisms might simultaneously help improve the manner in which the profession of media journalism is pursued.

## Recommendation 1215 (1993)<sup>1</sup> on the ethics of journalism

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1. The Assembly recalls its work in the field of the media, and in particular its Resolution 428 (1970) containing a declaration on mass communication media and human rights and its Recommendation 963 (1983) on cultural and educational means of reducing violence.
2. Further to the criticism of the role played by the media during the Gulf war, the Committee on Culture and Education organised a parliamentary hearing on the ethics of journalism in Helsinki on 26 June 1991, at which a number of concerns were expressed.
3. Since 1970 the Parliamentary Assembly, and also other institutions such as the European Parliament (Resolution of 16 September 1992 on media concentration and diversity of opinions), have been pressing for the elaboration of ethical codes for journalism. However, existing texts dealing with the matter have insufficient international scope and their practical effectiveness therefore remains very limited.
4. European citizens from the different Council of Europe member states increasingly share the same media facilities within a common European information area.
5. The Assembly consequently recommends that the Committee of Ministers:
  - i. ask governments of member states to see that legislation guarantees effectively the organisation of the public media in such a way as to ensure neutrality of information, plurality of opinions and gender balance, as well as a comparable right of reply to any individual citizen who has been the subject of an allegation;
  - ii. study, in co-operation with the competent non-governmental organisations such as the International Federation of Journalists (IFJ), the prospects for setting up, within the Council of Europe, a European mechanism for information verification, taking the form of a European media ombudsman, with sufficient international representativeness where possible drawn from, and having a mode of operation and function similar to, the corresponding national self-regulatory bodies or mechanisms;
  - iii. foster the setting up of citizens' media associations and encourage schools to provide media education;
  - iv. adopt a declaration on the ethics of journalism along the lines of Assembly Resolution 1003 (1993) and promote the implementation of these basic principles in the member states of the Council of Europe.

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1. *Assembly debate* on 1 July 1993 (42nd Sitting) (see Doc. 6854, report of the Committee on Culture and Education, Rapporteur: Mr Núñez Encabo).  
*Text adopted by the Assembly* on 1 July 1993 (42nd Sitting).

# Recommendation 1228 (1994)<sup>1</sup> on cable networks and local television stations: their importance for Greater Europe

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1. The Parliamentary Assembly notes that the development of cable networks, satellite broadcasts and local television stations can foster democracy in the countries of central and eastern Europe.
2. It further observes the development under way in other countries, particularly in the United States, where closer links are being established among telephone and information companies and cable operators.
3. Having examined the situation of cable networks in Europe, the Parliamentary Assembly observes that the level of development of these networks differs from one country to another. Each country has its own problems, particularly on the technical front, but also in respect of legislation and management. Awareness of the importance of the technological, industrial, economic and cultural issues is necessary for the protection of European interests.
4. The Assembly has regard in this context to:
  - i. its Recommendation 1098 (1989) on east-west audiovisual co-operation;
  - ii. its Recommendation 1110 (1989) on distance teaching;
  - iii. its Resolution 937 (1990) on telecommunications: the implications for Europe;
  - iv. its Resolution 957 (1991) on the situation of local radio in Europe;
  - v. its Recommendation 1147 (1991) on parliamentary responsibility for the democratic reform of broadcasting;and also to:
  - vi. the European Convention on Transfrontier Television (of 5 May 1989);
  - vii. Resolution 253 (1993) on the regional dimension of the European audiovisual area of the Standing Conference of Local and Regional Authorities of Europe (CLRAE).
5. The Assembly considers that the creation of the European Audiovisual Observatory - now a reality, as proposed by the Committee of Ministers in Resolution (92) 70 - responsible for collecting data on the various forms of communication, is an important step, since availability of legal, economic and programme-related information to professional circles will ensure a more open market.
6. The Assembly, therefore, requests the Committee of Ministers of the Council of Europe to invite the Steering Committee on the Mass Media (CDMM):
  - i. to carry out a survey of cable networks and local television stations in the countries of central and eastern Europe, which findings should assist, in particular, in:
    - a. support for the efforts of cable networks and local television stations in central and eastern Europe through the provision of production and post-production material in exchange for programmes;

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1. *Assembly debate* on 24 January 1994 (1st Sitting) (see Doc. 6977, report of the Committee on Science and Technology, Rapporteur: Mr Bartodziej).  
*Text adopted by the Assembly* on 24 January 1994 (1st Sitting).

- b. the development of technological exchanges;
  - ii. to examine ways of encouraging public service broadcasters in central and east European countries to be attentive to the advantages to be gained from cable and other technologies;
  - iii. to work out proposals as to how the west European countries, in particular public broadcasters in the latter, can be encouraged to help public broadcasters in the central and east European countries to equip themselves with these new technologies ;
  - iv. to set up its own special structure with the following terms of reference:
    - a. helping the countries of central and eastern Europe to frame their national legislation on copyright and neighbouring rights, considering that the introduction in each country of structures for collecting and distributing the royalties accruing from these rights would boost the creation of national or local productions and develop employment in this sector;
    - b. ensuring that national legislation embody protection of certain individual rights and compliance with programming standards, particularly in respect of advertising and identification of sponsors;
  - v. to step up its training programmes for professionals in the fields of management, programming, production, technology and ethics of journalism, particularly by means of courses and seminars in western Europe on such subjects as exchanges of technology and programmes and the organisation of co-productions (on the Eurimages model);
7. The Assembly recommends that the Committee of Ministers:
- i. speed up its work as regards the opening for signature of the draft European convention relating to questions of copyright law and neighbouring rights;
  - ii. examine the specific problems of local and regional television services in central and eastern Europe as key elements in the strengthening of democracy. The proposal in CLRAE Resolution 253 for establishing an "observatory or network of regional television services" should be considered in the framework of the European Audiovisual Observatory which has been operating since 1 August 1993.
8. The Assembly also requests the Committee of Ministers to invite the governments of member states:
- i. to support the audiovisual products of the countries of central and eastern Europe by making a set of concrete proposals concerning the purchase of rights and the copying and subtitling of audiovisual products, and by upholding the principle of lowering the cost of communication and broadcasting by satellite;
  - ii. to facilitate the use of cable networks as an ideal vehicle and a natural extension of education and vocational training, whose economic viability could be secured with only a limited number of viewers. A list of training products might be included in an international catalogue;
  - iii. to promote the creation of integrated television, communications and information structures in order to ensure that the facilities provided achieve immediate profitability and to avoid the creation of parallel networks;
  - iv. to invest in the production of advanced technologies, such as digital systems and optical fibre cables.

## Recommendation 1276 (1995)<sup>1</sup> on the power of the visual image

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1. We are increasingly surrounded and influenced by images: photography and cinema, but also television, video and computers. Visual images are becoming increasingly powerful. So powerful is this surge in visual imagery that we are now confronted with the concept of “virtual reality” with the further risks of manipulation of images portraying news and information that it entails.
2. Technology is evolving quickly and visual images cross borders unhindered. The proliferation of satellites, cable and video games, and the developments in digital or interactive television, virtual images, new television advertising techniques and electronic communication superhighways are such that “the rules of the game” have to be reviewed. Even if responsibilities remain the same, supervising the respect of such responsibilities becomes increasingly problematic.
3. Visual images record reality but they also convey stereotypes. In some cases images undermine written messages and are used to by-pass advertising regulations. Most people do not know how to “read” visual images and this can lead to misinterpretation and manipulation. However real they may seem, images should not be taken for reality.
4. In central and eastern Europe people were brainwashed and manipulated by visual images for a very long time. Today the simplistic notion that all that was censored during the communist period, including violence and pornography, was what came from the West (and therefore was good), is still very much alive.
5. The instant availability of pictures from all over the planet plays an important role in changing the way in which people watch television. On the one hand we are led to believe that we are watching “history in the making”; on the other hand, the relative importance of events is imposed on us. Such availability often influences editorial judgements on what should constitute a news bulletin and determines the order of priority.
6. One of the major influences in the nature of television programming has been the substantial increase in television channels which developed as a result of specific legislative initiatives during the 1980s and subsequently. With the increase of television stations competing for the same sources of funds it was inevitable that many tended to cater to the lowest common denominator.
7. Society has been active in teaching children how to read and write, in fighting illiteracy, but interpreting visual images is also part of literacy and this continues to be mainly overlooked. Most of us still believe in the images we see, for instance in news bulletins. On the other hand, television screens have become the “electronic baby-sitters” of today: too many children spend too much time in front of them.
8. Questions of society such as the absence of a family environment and the increase in violence, together with increasing evidence that, under certain circumstances, a direct relation may exist between viewing violence and acting violently, prompts the call for tighter controls over violence on television screens and to a better protection for children against such violence.
9. Twelve years after adopting Recommendation 963 (1983) on cultural and educational means of reducing violence, the Assembly reaffirms its concern at the increasing tendency towards emphasis on violence in the media, and in particular on its portrayal in the visual media: television, video, film, advertising, photography and computer programmes. The problems identified then have since gained in acuteness and most of what was recommended is still topical, and much more urgent.

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1. *Assembly debate* on 30 June 1995 (24th Sitting) (see Doc. 7314, report of the Committee on Culture and Education, rapporteur: Mr Berg).  
*Text adopted by the Assembly* on 30 June 1995 (24th Sitting).

10. Freedom of expression, a fundamental human right enshrined in Article 10 of the European Convention on Human Rights, should be ensured together with the responsibility it carries. In certain instances the limitation of freedom of expression can be justified in terms of its reconciliation with the need to protect other rights and freedoms, with special reference to children.

11. The Assembly would therefore propose the following set of basic principles and recommends that the Committee of Ministers take them into account when policy-making in the field of visual image or when advising member governments about such policy-making:

- i. self-regulation and adoption of codes of conduct by television programme makers, news editors, film makers and makers and distributors of video films, video games and computer programmes should be strongly emphasised, subject only to national laws on privacy where appropriate;
- ii. visual literacy and media awareness should be promoted from the earliest possible stages of school education;
- iii. teacher training for visual literacy and media awareness should be promoted at all levels of school education;
- iv. emphasis should be put on the responsibility of homes and parents for television programmes watched by their children; television must not take the place of parents or diminish the time that ought to be spent assisting their children's development;
- v. research should be developed on possible links between violence on the screen and violent behaviour;
- vi. professionals should be made more aware of the influence of their work on viewers and the public in general and especially with the development of new technologies (from subliminal advertising to virtual reality);
- vii. the creation of associations of viewers, readers and consumers in general should be encouraged and complaint systems should be set up wherever they do not yet exist;
- viii. the funding of public service television should be given an appropriate and secure framework in order to enable it to offer an alternative of high quality programmes without recourse to commercial sources;
- ix. an evening time threshold before which scenes of sex or violence may not be transmitted on television should be implemented either by self-regulation and codes of conduct or by licence conditions;
- x. means should be found to encourage high quality television programme production in Europe;
- xi. the above-mentioned measures should be co-ordinated on as broad a European level as possible.

12. The Assembly also asks the Committee of Ministers to follow-up the implementation of measures to counteract violence on television (in close co-operation with broadcasters) and of educational measures in the field of media awareness.

# Recommendation 1277 (1995)<sup>1</sup> on migrants, ethnic minorities and media

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1. Immigration and the presence of ethnic minorities are integral parts of the European identity. Large communities of immigrant origin have now settled permanently in our societies and contribute to their wealth and diversity.
2. Media presentation of subjects connected with immigrants and ethnic minorities has a significant influence on public opinion. Although the media constitute an important means of combating racist and xenophobic views, prejudices and preconceived ideas, they can also have a role in the emergence or strengthening of such views.
3. Migrants and ethnic minorities are entitled to be portrayed comprehensively and impartially in the media. This is a pre-condition if all citizens are to take a more rational view of immigration and multi-culturalism and accept persons of immigrant origin or members of ethnic minorities as their equals. An objective image can primarily be achieved through a responsible approach by media professionals and improved media access for migrants and ethnic minorities on all levels. The Assembly considers it of prime importance that the media and the competent authorities should do their utmost to attain these objectives.
4. The media are also an important means of informing migrants about their host country, its culture and its language and contribute to forging links between them and the host society. They likewise allow migrants to keep in touch with their country of origin and give them a means of expression and of communication with members of their community.
5. The Assembly therefore recommends that the Committee of Ministers:
  - i. through the relevant bodies of the Council of Europe, encourage media professionals' associations to prepare, in so far as they have not already done so, codes of conduct laying down the ethical principles that should guide the work of these professionals;
  - ii. provide institutional and financial backing for the creation of a pan-European prize to be awarded annually to media professionals or organs which have distinguished themselves in the fight against intolerance and racism, for example by giving an objective and balanced picture of migrants or ethnic minorities;
  - iii. instruct the European Committee against Racism and Intolerance (ECRI) to pay particular attention to member states' legislation and policy for combating racism and intolerance in the media;
  - iv. invite the member states:
    - a. to enforce vigorously the legislation prohibiting incitement to racism and fascism in the media or, where necessary, to enact or reinforce such legislation;
    - b. to further the education and labour market access of persons belonging to immigrant communities or ethnic minorities;
    - c. to establish, in co-operation with the media industry, teaching and training programmes designed for persons of immigrant origin or belonging to ethnic minorities so as to give them a genuine chance of a career in the various media sectors;

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1. *Assembly debate* on 30 June 1995 (24th Sitting) (see Doc. 7322, report of the Committee on Migration, Refugees and Demography, rapporteurs: Mrs Aguiar and Mr Vázquez).  
*Text adopted by the Assembly* on 30 June 1995 (24th Sitting).



- d.* to encourage the organisation of seminars and training courses for media professionals on the subject of intercultural education, and the teaching, in journalism schools, of questions of ethics relating to the problem of intolerance;
- e.* to evaluate the quality of media output on migrant and ethnic-minority matters from time to time and award prizes to outstanding examples of media coverage of this area;
- f.* to encourage both public and private media to play a responsible role in combating racism and xenophobia through objective coverage of migrant and ethnic minority issues and the provision of opportunities for the balanced involvement of representatives of migrant and ethnic communities in mainstream radio and television programmes;
- g.* to ensure that official public relations services provide full, unbiased information on subjects connected with migrants and ethnic minorities;
- h.* to assist the production and broadcasting of programmes on intercommunity relations and immigration, including programmes in migrants' own languages;
- i.* to encourage action by local media to improve migrant integration into, and participation in the local community;
- j.* to promote, through the Eurimages Fund and the European Convention on Cinematographic Co-Production, the co-production of films with producers from immigrant communities' countries of origin, including films dealing with migrants and ethnic minorities;
- k.* to ratify, if this has not already been done, the European Convention on Transfrontier Television.

# Recommendation 1314 (1997)

## New technologies and employment

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Author(s): Parliamentary Assembly

Origin - Assembly debate on 30 January 1997 (7th Sitting) (see Doc. 7713, report by the Committee on Science and Technology, rapporteur: Mr Beaufays; and Doc. 7727, opinion by the Social, Health and Family Affairs Committee, rapporteur: Baroness Hooper). Text adopted by the Assembly on 30 January 1997 (7th Sitting).

1. The new technologies are generally held responsible for major economic and social changes taking place in our societies, in particular the negative consequences such as unemployment. However, the dynamic relationships between technology and employment are complex: the quality of employment has tended to improve but technology's quantitative effect has been more uncertain.

2. Often these relationships are described as a form of "creative destruction", which means that initially the introduction of a new technology may lead to social and economic upheavals. The positive effects are felt only much later and result from the dissemination and widespread use of several innovations linked to the new technology. These knock-on effects are known as "technological clusters".

3. In reality, the effect on employment is only one of the numerous features of the new technologies. Their mass introduction utterly transforms the organisation of production and labour, the functioning of economic and financial institutions, the education system, and so on. The success achieved by the introduction of a new technology therefore depends to a large extent on the length of time needed for society to reorganise and adapt. Periods of expansion and growth only follow once this new "techno-economic" or "techno-social" model has been implemented.

4. Like steam, electricity and the automobile which have profoundly altered our societies, a new revolution is now under way. This revolution is tied up with the history of computers and, having radically transformed industrial life (robotics) and services (computerised office equipment), it is now reaching fever pitch with the introduction of new information and communication technologies (ICT).

5. More than any other new technology being developed (biotechnologies, new materials, and so on) ICT have the potential to bring about a radical transformation by bypassing space and time in disseminating information. In a world economy based on knowledge, it is obvious that ICT are particularly tailored to needs, which means that they are full of promise. However, their effects are still few and far between.

6. As far as the putative effects of ICT on employment are concerned, reactions vary from optimistic euphoria to complete scepticism. Despite the often reassuring declarations from the Commission of the European Union and OECD, at present, ICT possibilities are under-exploited and the multimedia industry, on which so many hopes are pinned, does not seem to be a sufficiently strong source of growth.

7. It must be concluded that, regardless of their quantitative effects on employment in the short and medium term, ICT must also be appraised in respect of their qualitative impact on tomorrow's working patterns. Although there is no doubt that the ICT hold promise of a rich harvest of attractive and interesting jobs for many Europeans, they may also create exclusion among those who find it difficult to switch from working in a "real" world to working in a "virtual" world.

8. The action to be taken by the authorities concerning the relationship between new technologies and employment is doubly difficult: on the one hand, there is no simple response, and the overall strategy must be multidimensional and include structural, macro-economic, educational and other policies. On the other hand, a sensible balance must be struck between a strong tradition of ethics and social solidarity, a feature of European society, and the urgent need for the system to adapt itself. It should be recognised that saving condemned jobs "at any cost" is only treating the symptom and slowing down the process of creative destruction. A general principle, however, should be to concentrate on developing technologies that create jobs rather than those that may lead to job losses.

9. The authorities nevertheless have the possibility and the duty to act as a catalyst in co-ordinating the introduction of new technologies and developing human resources. The Assembly therefore asks the Committee of Ministers to invite the governments of the member states to take inspiration from the following measures which, although not an exhaustive list, represent the vital elements for integrating the new technologies and, in particular, switching to an information society as smoothly as possible:

- i. improve access to knowledge and its diffusion, strengthen the links between industry, universities and research bodies;
- ii. encourage the redirection of the whole education system in order to prepare the younger generation for the new conditions and new methods for organising work (recycling, half-time working, home working, flexitime working, and so on), for the greater importance of services and the increased value of creative and non-repetitive activities, in particular to strengthen education and training in science and technology in schools in order to prepare the public better for the upheaval created by technological advances and facilitate their occupational adaptation in the future;
- iii. ensure that basic education bridges the gap between the sciences and humanities, concentrates on abilities to learn and encourages a positive attitude to retraining for alternative employment;
- iv. adapt health infrastructures to the evolution of illnesses, such as stress, related to the new technologies;
- v. revise legislation relating to employment conditions and pay in order to take account of the impact in particular of new information and communication technologies on working conditions (the new cottage industries);
- vi. greatly improve diagnostic tools in order to gauge the performance of research and development nationally and create machinery to improve the evaluation of the current or projected effects of new technologies; this forecasting exercise (technology watch) must be carried out very early in the process in order to avoid mismatches between technological development and the maintenance or improvement of social standards;
- vii. start a Europe-wide dialogue to compare experiences and draw up an inventory of "good practices" (of successful cases) of management and structural adaptation concerning the impact of new technologies;
- viii. implement incentives to encourage better organisational measures in businesses, including their human resource strategy, and create the infrastructures needed to optimise the application of ICT and their beneficial side-effects for competitiveness and, by extension, their potential spin-off for job creation;
- ix. assist the innovative and job-creation capacity of small and medium-sized businesses by facilitating their access to international innovation networks, in particular those businesses whose technology has a high expansion potential;
- x. take advantage of work relocation possibilities offered by new ICT in their job creation policies in disadvantaged areas, nationally and Europe-wide;
- xi. encourage regional and local authorities to play a constructive role in installing information highways, thereby influencing spatial planning and social and economic policy, in particular by taking part in job-creation, professional mobility, electronic trading, and, in so doing, generally mobilising the assets of their respective region or city;
- xii. set up an appropriate framework for industrial dialogue and collective bargaining adapted to the new working methods introduced by the new ICT, taking special account of the following factors:
  - a. social relationships must be remodelled to avoid dangers of exclusion or fragmentation of the community as a result of the current developments; public authorities must monitor this carefully;
  - b. the traditionally vertical pattern of professional sectors and branches, determining social relations, but no longer corresponding to the new reality, must be reviewed and rectified;
  - c. the new jobs and duties created by the ICT, such as teleworking, working in virtual teams, and so on, must be given a clear and stable status, and their effects on company and family life must be studied

10. The Assembly recommends that the Committee of Ministers instruct the appropriate intergovernmental steering committee to examine in depth whether the advent of the new ICT and the measures called for should not lead to a re-evaluation of working time.

# Resolution 1120 (1997)<sup>1</sup> on the impact of the new communication and information technologies on democracy

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1. In view of the technical, political and cultural changes currently under way, the Assembly feels it should help to identify the opportunities opened up by the new communication and information technologies (NCITs) for meeting the needs of our societies more fully. The developments and applications of the NCITs should afford real social benefit. They must serve the promotion of freedoms, foster the self-fulfilment of citizens and their more effective participation in public affairs, stimulate economic development and employment, facilitate social and cultural progress and advance education and the acquisition of knowledge. They must be harnessed to the interests of man, social progress, democracy and peace.
2. The Assembly wishes to stress the positive challenges of the development of the new communication and information technologies. These open up huge possibilities, for instance in the field of education, and can also play an important role in the promotion of democracy as they make it possible for contacts and the exchange of ideas without censorship by undemocratic authorities.
3. In this context, the Assembly considers it essential:
  - i. to find ways of averting the following risks: a reduction in political choice, the manipulation of consciences, the commercialisation and fragmentation of political messages, a surfeit of opinion polls, the marginalisation of parliamentary procedures, social discrimination, the monitoring of citizens and the drift towards an instantaneous but devalued form of democracy;
  - ii. to take account of the new prospects offered by the NCITs for developing interactivity as a remedy for the passiveness characterising those who merely observe events. The NCITs provide an opportunity to create a new type of two-way communication and develop a new concept, "electronic citizenship";
  - iii. to decide what belongs in the public sphere and what should be subjected to market forces.
4. Consequently, the Assembly calls upon national parliaments to promote policies which take account of the following requirements:
  - i. *at the legal level:*
    - a. taking legislative action in order to ensure the most effective use of these technologies for the benefit of the public and to reconcile technological progress with respect for democratic principles and human rights;
    - b. avoiding the introduction of complex and unworkable rules which would hamper the evolution and development of the NCITs necessary for the common good. Whenever it is necessary to regulate, the proportionality principle must be applied so as to strike a proper balance between the measures taken and the objectives pursued, between respect for freedoms, the protection of privacy and the fight against crime;

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1. *Assembly debate* on 22 April 1997 (11th Sitting) (see Doc. 7772, report of the Committee on Parliamentary and Public Relations, rapporteur: Mr Masseret; and Doc. 7805, opinion of the Committee on Legal Affairs and Human Rights, rapporteur: Mr Rodeghiero). *Text adopted by the Assembly* on 22 April 1997 (11th Sitting).

ii. *at the political level:*

- a. organising training in the NCITs from the earliest age in the public and private education system. The necessary funds should be made available to ensure that the public sector has all the appropriate resources. This is a prerequisite of equal opportunity for all citizens, regardless of their social status;
- b. providing universally accessible and affordable computer facilities that cover all the possibilities offered by national and international networks;
- c. endowing national parliaments and decentralised authorities with the equipment needed for developing consultations between elected representatives and citizens, thereby ensuring increased participation by the latter in political decision-making;
- d. promoting appropriate national legislative measures so as to set a legal framework for the preservation of private data, the protection of young people and respect for ethical rules and human rights;
- e. ensuring respect for the confidentiality of automated private and personal data, in particular by applying the Council of Europe Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (ETS No. 108) and Committee of Ministers Resolutions Nos. (73) 22 and (74) 29 on protection of the privacy of individuals vis-à-vis electronic data banks, Recommendation No. R (94) 13 on measures to promote media transparency, and Recommendation No. R (95) 4 on the protection of personal data in the area of telecommunication services, with particular reference to telephone services.

5. The Assembly also requests national parliaments to inform it annually of any steps taken or being prepared in connection with the various situations created by the NCITs, so that they may be presented and discussed at interparliamentary conferences organised by the Committee on Parliamentary and Public Relations.

# Recommendation 1332 (1997)<sup>1</sup> on the scientific and technical aspects of the new information and communications technologies

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1. The Parliamentary Assembly, aware of the challenge posed to society by the extremely rapid development of the new information and communication technologies, has addressed various aspects of this matter on numerous occasions. It is aware that changes in this field succeed one another at a phenomenal rate and that therefore any ad hoc approach may well become obsolete before its effects are even felt.
2. It considers that the changes brought about by the new information and communication technologies will affect almost all areas of society and will have social, economic, cultural, ethical, legal and other consequences. The main fields of application of the new information and communication technologies include education and training, health and the ageing population, public authorities, the environment and transport.
3. It recalls Recommendation 1324 (1997) on the contribution of the Parliamentary Assembly to the 2nd Summit of Heads of State and Government of the Council of Europe, which asks the summit to decide that the Council of Europe's legal instruments be reviewed and that, where appropriate, new legal instruments (conventions) be drafted in the light of the development of the new information and communication technologies and its consequences for European society.
4. It considers that finding answers to the scientific and technological questions covered in the present recommendation would be a necessary step towards solving other problems posed by the new information and communication technologies.
5. To help bridge the gap between the extent of development of the new information and communication technologies and society's readiness for them, the Assembly recommends that the Committee of Ministers:
  - i. analyse its work programme, taking into account the changes brought about by the new information and communication technologies in all fields of its activity;
  - ii. support and reinforce the work of the European Ministerial Conference on Mass Media Policy, which is to hold its fifth meeting in Thessaloniki on 11 and 12 December 1997, in particular with regard to the new information and communication technologies, human rights and democratic values, as well as efforts to harmonise the relevant legislation in Europe and at international level;
  - iii. invite governments of Council of Europe member states and the European Union to pursue, in cooperation with private companies, research institutes and non-governmental organisations, their scientific and technological efforts by implementing, *inter alia*, the following measures:
    - a. developing and adapting technologies to facilitate the development of teleworking, including for senior citizens and people with disabilities, while at the same time introducing regulations which, *inter alia*, will help avoid the isolation of workers;
    - b. developing computerised medical systems and telemedicine systems;
    - c. developing technological solutions that will allow the general public and companies to have electronic access to public services;

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1. *Assembly debate* on 23 June 1997 (17th Sitting) (see Doc. 7832, report of the Committee on Science and Technology, rapporteur: Mr Frey).  
*Text adopted by the Assembly* on 23 June 1997 (17th Sitting).

- d. developing telematic systems for the monitoring and analysis of environmental data;
- e. developing advanced telematic systems for the field of transport;
- f. facilitating the installation of the hardware necessary to use the new information and communications technologies in all education and training institutions;
- g. encouraging the development of multimedia applications and new teaching methods based on simulation and virtual reality at all levels of the education and training system, including aspects relating to cultural and linguistic diversity;
- h. facilitating general access to all services created by the new information and communication technologies, for example by fiscal measures, and encouraging in particular the development of interactive multimedia services;
- i. fostering interoperability between networks by stepping up international co-operation in the field of standardisation and particularly by encouraging the International Telecommunications Union to continue its work in this area;
- j. encouraging and investing in the development of digital technologies and high-speed networks and in new direct transcontinental links, particularly to the United States;
- k. assisting with the setting up of hardware and software manufacturing companies in all European countries and especially in countries in transition - which have a highly skilled workforce available at competitive rates - while supporting the development of communication-system infrastructures, emphasising their digitisation;
- l. developing a specific privacy technology, particularly by encouraging more intensive research in information cryptography in order to provide a satisfactory level of security for data transmitted on the network, which will encourage the development of electronic trade and the security of all other personal information;
- m. promoting the key technologies of the information society, which include communication and network technologies, software and system technologies, mobile communication technologies, including the use of satellites, interfaces using different means of expression (for example voice) and microelectronics;
- n. gearing the development of generic technologies and basic research towards real-time, large-scale simulation and visualisation technologies, virtual-presence technologies, technologies for the creation of very high-performance computers and super-intelligent networks, and the creation of advanced high-speed networks for research;
- o. supporting the development of filtering technologies which, combined with the adaptation of current legislation for conventional communication systems, will encourage the self-regulation of network operators at international level;
- p. maintaining or setting up - and supporting the funding of - national research centres for communication and information systems, especially as liberalisation is likely to reduce the efforts devoted to research by telecommunications operators, and paying particular attention to compliance with standards set by the scientific patents system;
- q. encouraging through every possible means, including financial, the creation of virtual centres of scientific research providing electronic access to sophisticated and expensive research equipment;
- r. monitoring in particular the implementation of their scientific and technological policies so that these policies do not harm democratic values in Europe, but instead consolidate their development.

# Resolution 1142 (1997)<sup>1</sup>

## on parliaments and the media

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1. The Assembly is aware of the difficulties that the parliamentary institution faces in preserving its position as the cornerstone of democracy. The citizens in most European countries do not feel involved enough, or at all, in the ongoing debates in their parliaments and are not aware of their agendas or activities.
2. Communication is vital for bridging the gap between elected representatives and citizens. Parliaments should therefore promote better co-operation with the media, in order to enhance public dialogue with the citizens.
3. However, for reasons of profitability, most mass media follow certain criteria, driven, for example, by the need to entertain or to focus on spectacular events, which makes it difficult for parliamentary activities to gain media coverage.
4. Moreover, the lesser ability of parliaments in numerous European countries to take the initiative and make policy decisions as compared with governments causes the media to neglect parliaments in favour of governments, resulting in a loss of credibility for those parliaments.
5. By the very nature of their work, parliaments cannot react to events with the same promptness as governments. Nor are the lengthy parliamentary procedures, which are essential for the careful scrutiny of bills, in keeping with the faster dissemination of news through modern communications technologies.
6. The role of parliaments as central political fora for debates has been weakened in recent years. This is because the media promote short and unconventional debates and comments.
7. The media landscape is highly complex. Alongside the sensationalist media which jeopardise the development of a constructive public dialogue, quality newspapers and magazines and serious public radio and television services continue objectively to cover a wide range of news, including parliamentary news. They ensure that high standards are maintained by meeting, as best they can, the basic aims of the media: to inform, to comment, means with which to develop critical judgement.
8. However, their emphasis on quality can be undermined by market forces, and media diversity, so necessary to the proper functioning of democracy, finds itself challenged. Parliaments should therefore consider measures aimed at preserving the role of quality media.
9. Without adaptation to modern communication methods, parliaments could easily see their activity overtaken by other mediators using new means of expression for the will of the people. Therefore, parliaments need to keep up with the realities of a global communication society.
10. Extensive use of the new information technologies should therefore be considered as an important “ingredient” of the policy pursued by parliamentary communication services in the interests of public debate. This requires, however, high levels of investment that cannot immediately be borne by all parliaments.
11. The Assembly invites national parliaments to urgently consider measures aimed at:
  - i. ensuring greater openness of parliamentary work, including committee meetings, and to consider this question not only as a matter of communication policy but also as an important political priority with direct implications for the functioning of democracy;
  - ii. making better use of classic communication methods and new information technologies, in particular:
    - a. by providing the best possible working conditions for the media and especially for parliamentary correspondents;

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1. *Text adopted by the Standing Committee, acting on behalf of the Assembly, on 7 November 1997.*  
See Doc. 7905, report of the Committee on Parliamentary and Public Relations, rapporteur: Mr Lekberg.



- b. by ensuring the speedy dissemination of information about debates, *inter alia*, by rapidly publishing the minutes and verbatim reports of proceedings;
  - c. by creating on-line services for direct electronic communication with the public and with journalists;
  - d. by providing full access to parliamentary documents, so that public debate can be encouraged before the vote on a bill;
- iii. taking advantage of the advice of experts in communication;
  - iv. making legal texts more accessible to non-specialist readers;
  - v. taking the necessary steps to place themselves more in focus for political debate identifying, for instance, areas in which procedures can be streamlined to speed up decision making;
  - vi. encouraging, within information and communication services, the assembly of information packs presenting laws and describing their specific features for the journalistic and professional circles most closely concerned;
  - vii. organising seminars for journalists on parliamentary work with a view to familiarising them with legislative procedures and parliamentary proceedings and to improving their knowledge on relations between parliaments and international institutions. Journalists from local and regional newspapers and magazines should receive special attention;
  - viii. creating communication networks on the Internet, enabling citizens to communicate interactively with both parliamentarians and parliamentary information services;
  - ix. devising means of encouraging the creation of independent television channels devoted to parliamentary work, as is the case in several European countries, in the United States and in Canada;
  - x. assisting, through fiscal or other means, those media which strive to provide high-quality news on a fully independent basis and which are threatened with extinction by market forces.

# Resolution 1165 (1998)<sup>1</sup>

## Right to privacy

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1. The Assembly recalls the current affairs debate it held on the right to privacy during its September 1997 session, a few weeks after the accident which cost the Princess of Wales her life.
2. On that occasion, some people called for the protection of privacy, and in particular that of public figures, to be reinforced at the European level by means of a convention, while others believed that privacy was sufficiently protected by national legislation and the European Convention on Human Rights, and that freedom of expression should not be jeopardised.
3. In order to explore the matter further, the Committee on Legal Affairs and Human Rights organised a hearing in Paris on 16 December 1997 with the participation of public figures or their representatives and the media.
4. The right to privacy, guaranteed by Article 8 of the European Convention on Human Rights, has already been defined by the Assembly in the declaration on mass communication media and human rights, contained within Resolution 428 (1970), as “the right to live one’s own life with a minimum of interference”.
5. In view of the new communication technologies which make it possible to store and use personal data, the right to control one’s own data should be added to this definition.
6. The Assembly is aware that personal privacy is often invaded, even in countries with specific legislation to protect it, as people’s private lives have become a highly lucrative commodity for certain sectors of the media. The victims are essentially public figures, since details of their private lives serve as a stimulus to sales. At the same time, public figures must recognise that the special position they occupy in society - in many cases by choice - automatically entails increased pressure on their privacy.
7. Public figures are persons holding public office and/or using public resources and, more broadly speaking, all those who play a role in public life, whether in politics, the economy, the arts, the social sphere, sport or in any other domain.
8. It is often in the name of a one-sided interpretation of the right to freedom of expression, which is guaranteed in Article 10 of the European Convention on Human Rights, that the media invade people’s privacy, claiming that their readers are entitled to know everything about public figures.
9. Certain facts relating to the private lives of public figures, particularly politicians, may indeed be of interest to citizens, and it may therefore be legitimate for readers, who are also voters, to be informed of those facts.
10. It is therefore necessary to find a way of balancing the exercise of two fundamental rights, both of which are guaranteed by the European Convention on Human Rights: the right to respect for one’s private life and the right to freedom of expression.
11. The Assembly reaffirms the importance of every person’s right to privacy, and of the right to freedom of expression, as fundamental to a democratic society. These rights are neither absolute nor in any hierarchical order, since they are of equal value.

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1. *Assembly debate* on 26 June 1998 (24th Sitting) (see Doc. 8130, report of the Committee on Legal Affairs and Human Rights, rapporteur: Mr Schwimmer; Doc. 8147, opinion of the Committee on Culture and Education, rapporteur: Mr Staes; and Doc. 8146, opinion of the Social, Health and Family Affairs Committee, rapporteur: Mr Mitterrand).  
*Text adopted by the Assembly* on 26 June 1998 (24th Sitting).

12. However, the Assembly points out that the right to privacy afforded by Article 8 of the European Convention on Human Rights should not only protect an individual against interference by public authorities, but also against interference by private persons or institutions, including the mass media.

13. The Assembly believes that, since all member states have now ratified the European Convention on Human Rights, and since many systems of national legislation comprise provisions guaranteeing this protection, there is no need to propose that a new convention guaranteeing the right to privacy should be adopted.

14. The Assembly calls upon the governments of the member states to pass legislation, if no such legislation yet exists, guaranteeing the right to privacy containing the following guidelines, or if such legislation already exists, to supplement it with these guidelines:

- i. the possibility of taking an action under civil law should be guaranteed, to enable a victim to claim possible damages for invasion of privacy;
- ii. editors and journalists should be rendered liable for invasions of privacy by their publications, as they are for libel;
- iii. when editors have published information that proves to be false, they should be required to publish equally prominent corrections at the request of those concerned;
- iv. economic penalties should be envisaged for publishing groups which systematically invade people's privacy;
- v. following or chasing persons to photograph, film or record them, in such a manner that they are prevented from enjoying the normal peace and quiet they expect in their private lives or even such that they are caused actual physical harm, should be prohibited;
- vi. a civil action (private lawsuit) by the victim should be allowed against a photographer or a person directly involved, where paparazzi have trespassed or used "visual or auditory enhancement devices" to capture recordings that they otherwise could not have captured without trespassing;
- vii. provision should be made for anyone who knows that information or images relating to his or her private life are about to be disseminated to initiate emergency judicial proceedings, such as summary applications for an interim order or an injunction postponing the dissemination of the information, subject to an assessment by the court as to the merits of the claim of an invasion of privacy;
- viii. the media should be encouraged to create their own guidelines for publication and to set up an institute with which an individual can lodge complaints of invasion of privacy and demand that a rectification be published.

15. It invites those governments which have not yet done so to ratify without delay the Council of Europe Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data.

16. The Assembly also calls upon the governments of the member states to:

- i. encourage the professional bodies that represent journalists to draw up certain criteria for entry to the profession, as well as standards for self-regulation and a code of journalistic conduct;
- ii. promote the inclusion in journalism training programmes of a course in law, highlighting the importance of the right to privacy vis-à-vis society as a whole;
- iii. foster the development of media education on a wider scale, as part of education about human rights and responsibilities, in order to raise media users' awareness of what the right to privacy necessarily entails;
- iv. facilitate access to the courts and simplify the legal procedures relating to press offences, in order to ensure that victims' rights are better protected.

# Resolution 1191 (1999)<sup>1</sup>

## Information society and a digital world

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*(Extract from the Official Gazette of the Council of Europe  
– May 1999)*

1. The Parliamentary Assembly draws attention to the growing importance of the information society and digital world that are being created by the rapidly developing information and communication technologies.
2. The establishment of a proper balance between the various components of the digital world is the main challenge to be met for the democratic development of the information society.
3. Given the complex relationships between the expanding digital world and the emerging information society, it is important to ensure improvement in the quality of the information and communication technologies, while pursuing the aim of increased well-being for citizens.
4. Consequently, the Assembly, recalling its Recommendation 1332 (1997) on the scientific and technical aspects of the new information and communication technologies, calls on member governments and the European Union to:
  - i. establish European education networks using the existing Web infrastructure and, where feasible, the method of virtual classes to educate people quickly on the most recent developments in the digital world;
  - ii. make sure that access to such networks will be open to all, if necessary by the introduction of fiscal or other relevant measures;
  - iii. assess, in close co-operation with industry, professional associations and cultural organisations, the feasibility of promoting, through appropriate measures, systems of networking between simple individual terminals and shared, reliable computers with a powerful processing capacity;
  - iv. facilitate technological developments favourable to the expansion of electronic commerce;
  - v. support the development and the deployment of broad-band communication channels (including wire-less communication);
  - vi. ensure the interoperability of digital libraries, in order to maintain diversity and unconstrained access to the cultural and scientific heritage of nations across borders, and across linguistic or cultural barriers;
  - vii. improve continuously the legal and organisational framework of virtual enterprises and define procedures for managing and operating them, thus fostering the creation of new opportunities for economic growth and employment;
  - viii. give support to interdisciplinary teams of specialists, working to improve intelligent data handling systems (recommended systems);
  - ix. study the use of new information and communication technologies as part of the promotion of electronic democracy through improved direct contacts between voters and their elected representatives;

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1. Text adopted by the Standing Committee, acting on behalf of the Assembly, on 26 May 1999. See Doc. 8400, report of the Committee on Science and Technology, rapporteur: Mr Cherribi.

- x. pass laws and make intensive studies on reforming law enforcement agencies, in order to check the inevitable flood of information technology crimes, while, at the same time, encouraging the use of the new information and communication technologies, and promote ethics and codes of good conduct;
- xi. support, in co-operation with industry, research on such issues as data security, digital signatures, "watermarking" of digital information to trace copyright violations and coding to protect against obscene and offensive materials;
- xii. encourage data retrieval and storage ("warehousing") to gather information present in the digital world, and needed for the identification of various complex multi-dimensional relationships (natural disasters, social transformations, etc.);
- xiii. encourage research and development of strategies for preventing, locating, eliminating and/or tolerating possible faults occurring in various components of the digital world;
- xiv. work out scenarios and procedures for coping with crises resulting from impending faults, of which the most imminent manifestation is the millennium bug;
- xv. review the status of preparations for the millennium bug, and in particular, consider individual responsibilities at various levels and create crisis units to handle emergencies should they appear;
- xvi. support research and development in non-technical disciplines concerning the digital world and the information society such as new economics resulting from the changed nature of work, new paradigms of educational, ethical, sociological and philosophical issues resulting from the changing style of human life;
- xvii. promote the establishment of standards for collaborative computing, with particular emphasis on those standards related to the end-user interface, administrative procedures, communication media and protocols.

# Recommendation 1407 (1999)<sup>1</sup>

## Media and democratic culture

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*(Extract from the Official Gazette of the Council of Europe-  
April 1999)*

1. The Assembly stresses that the media are vital for the creation and the development of a democratic culture in any country. They provide people with information which influences the process of shaping opinions and attitudes and of making political choices.
2. Therefore, the media must be free, pluralistic and independent, and at the same time socially accountable. These are also the conditions for establishing widespread credibility. The Assembly recalls, in this respect, its Resolution 1003 (1993) on the ethics of journalism.
3. Free media cannot thrive in an undemocratic country. It is therefore the role of politicians to ensure that the political and legal conditions are met so as to enable, on the one hand, media to perform freely and, on the other, to guarantee individual freedoms and other fundamental human rights.
4. Sheer quantity of information, especially in a situation of strong media concentration, does not by itself provide variety and quality. Neither does intensification of communication necessarily make people more able and better qualified to take decisions or to influence decision-making processes.
5. The media situation in Europe varies from one country to another, depending on cultural traditions, economic might, the strength of democratic institutions and the level of professionalism. However, with the opening up of practically all the countries of the continent, with the intensification of co-operation and integration between them and with the emergence of new information technologies, the media are increasingly facing the same sort of problems. These problems require the same sort of co-ordinated approaches.
6. Media independence remains one of the most difficult issues. Even where democratic traditions are deeply entrenched, the right to voice both facts and opinions is sometimes limited. Methods vary from the mild hindering of access to information, through state monopolies on paper or on distribution, refusal to grant radio and TV licences (or imposing excessive restrictions on them) and legal prosecution, to closing down newspapers, television and radio stations, physical intimidation and violence.
7. The delicate relationship between freedom of expression and the citizen's right to objective, undistorted information is another chronically difficult issue. The media can still be used as an instrument for settling scores, both political and personal. The increasing commercialisation and competition in the media sector pushes even serious media towards "standardisation" and sensationalism, preference for "infotainment" and an excessive emphasis on crime and violence.
8. Public service broadcasting (which should not be confused with state owned media) has traditionally been considered as a guarantee that all segments of the public, including minority groups, are provided with programmes that are impartial and varied, free of government or partisan interference, comprising information, education, culture and entertainment. In reality, though, it is often subject to political and economic pressures and to increasing competition from commercial broadcasting, which is becoming cheaper and more readily available due to the new information technologies.

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1. *Assembly debate* on 29 April 1999 (15th Sitting) (see Doc. 8355, report of the Committee on Culture and Education, rapporteur: Mr Jarab).

*Text adopted by the Assembly* on 29 April 1999 (15th Sitting).

9. Bearing in mind that the democratic culture of a society cannot be imposed but that conscious and sustainable efforts are necessary to develop it so that it can respond appropriately to new challenges, the Assembly recommends that the Committee of Ministers:

- i. monitor closely the state of freedom of the press in European member and non-member countries, so as to:
  - a. exert moral and political pressure upon governments which violate freedom of expression;
  - b. defend and protect journalists who are victims of such violations.
- ii. develop further its assistance and co-operation programmes for the reform of media legislation, in particular:
  - a. the drafting of clear guidelines for public access to information and the functioning of government press services, and ensuring that those guidelines are followed at all levels;
  - b. the elaboration of guidelines concerning the right to privacy and the disclosure of information about holders of political or public office, following the proposals in Assembly Resolution 1165 (1998) on the right to privacy;
  - c. methodological and practical assistance to member and non-member countries which may need it in ensuring fair coverage by the media during election campaigns;
- iii. ensure the application of legislation and rules for the protection of freedom of expression and of other fundamental human rights, including the rights of children, in accordance with the principles of the Council of Europe, in particular Article 10 of the European Convention on Human Rights;
- iv. enhance the media aspects of its programmes on education for democratic citizenship and on the development and consolidation of democratic stability;
- v. continue its assistance in developing public service broadcasting in central and eastern Europe along the lines of its Recommendation No. R (96) 10 and carry on monitoring developments in this sector Europe-wide;
- vi. encourage the development of self-regulatory mechanisms in the media, for instance by collecting examples of good practice and raising awareness of them, and establish a special framework for information on regulation and self-regulation concerning new communications and information services;
- vii. pay greater attention to the question of media independence in the context of market competition and globalisation, namely by:
  - a. considering ways of ensuring editorial independence in countries where the economic conditions do not allow media enterprises to function independently;
  - b. carrying on work on media concentrations, providing practical assistance to member countries along the lines of its relevant recommendations and placing emphasis on questions of transparency concerning ownership and funding;
- viii. foster education on the media and by the media, for example by encouraging the appropriate authorities in member states to:
  - a. provide educational and training opportunities for journalists aiming at the highest standards of professionalism and ethical conduct;
  - b. develop media (traditional and electronic) literacy as part of school curricula along the lines set out in Recommendation 1276 (1995) on the power of the visual image, for instance by acquainting students with codes of conduct for journalists and by encouraging the making of school newspapers and broadcasts in co-operation with professional journalists;
- ix. ensure better co-ordination between the different Council of Europe bodies involved in co-operation and assistance programmes in the media field and step up co-operation with media associations, independent bodies such as press complaints commissions and other relevant non-governmental organisations, including those organised by and speaking for media consumers;
- x. promote better co-operation and complementarity between the media programmes of international organisations, in particular the European Union, UNESCO and the OSCE.

# Recommendation 1466 (2000)<sup>1</sup>

## Media education

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1. With the advent of the information society, the individual of today lives immersed in a world of media messages. Seemingly, there are no limits to the amount of information available.
2. However, new challenges are arising. Firstly, the new media offer countless sources of information and in an unprecedented way allow anyone to send messages out into the public space. It is becoming increasingly difficult to orient oneself in the huge mass of information. Problems derive not merely from the sheer mass, but from the very nature of communications. Media reality is not the “real” reality. But, in a world dominated by media culture, the boundaries between fact and fiction often become blurred.
3. For many children and young people, modern media and especially the Internet are more than just a means of learning about the world. They are their world, their “virtual reality”, where everything, the best and the worst, can be done and undone. Young people often are much more eager than adults to handle new technologies and are more at ease with them, whilst their discerning capacities and their ability to make value-based judgements are not yet well developed.
4. Teachers and parents are often helpless when trying to reconcile their own living and professional experience with the media experience of their children. Many adults find it increasingly difficult to cope with the pervasive change brought about by modern communications.
5. On a broader scale, the media, by their nature, are capable of influencing attitudes and behaviour in society. There is enough evidence in Europe that free and independent media are a real power in promoting democratic change, while in the hands of totalitarian forces they can become tools for inciting ethnic hatred and imposing stereotypes. It is also often claimed that there is a strong link between the increase in violence in society and the violent images conveyed by television, the Internet or computer games.
6. Globalisation and media convergence, along with all the formidable possibilities that they offer, also give rise to new concerns: the overflow of information; uniformisation caused by the unequivocal dominance of one language and one culture over the new media; and increasing commercialisation. There is also a serious risk of a new form of social exclusion for those who cannot communicate through the media and/or are unable to assess its content critically.
7. European democracies have many tools at their disposal to respond to the challenges posed by this changing society. The present situation, however, shows that there is an urgent need also to develop more decisive and radical educational measures promoting active, critical and discerning use of the media: in other words, developing media education.
8. Media education can be defined as teaching practices which aim to develop media competence, understood as a critical and discerning attitude towards the media in order to form well-balanced citizens, capable of making their own judgements on the basis of the available information. It enables them to access the necessary information, to analyse it and be able to identify the economic, political, social and/or cultural interests that lie behind it. Media education teaches individuals to interpret and produce messages, to select the most appropriate media for communicating and, eventually, to have a greater say in the media offer and output.
9. Media education allows people to exercise their right to freedom of expression and right to information. It is not only beneficial for their personal development, but also enhances participation and interactivity in society. In this sense it prepares them for democratic citizenship and political awareness.

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1. *Assembly debate* on 27 June 2000 (19th Sitting) (see Doc. 8753, report of the Committee on Culture and Education, rapporteur: Mrs Isohookana-Asunmaa).  
*Text adopted by the Assembly* on 27 June 2000 (19th Sitting).



10. Although media education is part of the curriculum in several European countries, its practical application is still problematic, even as far as the traditional media are concerned. Qualified teachers and teaching material are the basic elements in media education and therefore constant attention should be paid to both initial and continuing teacher education. Uncertainty also persists as to the place media education should have in the curriculum, the methodology of teaching, the objectives pursued and the evaluation of the results. Furthermore, most schools have not yet adapted to an educational pattern where both pupils and teachers place themselves in the situation of learners.

11. Media education should be aimed both at the adults of today and of the future. It should not only allow them to keep up with the pace of modern development, but also help them to perform better their role as parents. In this sense it is vital to develop media education as part of the concept of life-long learning. Such non-formal education should be given more means and the work of the relevant NGOs should be facilitated in line with Assembly Recommendation 1437 (2000) on non-formal education.

12. It is also essential to seek the co-operation and the involvement of media professionals. They should in particular be encouraged to produce high quality educational and cultural programmes.

13. The Assembly therefore recommends that the Committee of Ministers:

- i. consider media education as an important area for the work of its competent bodies in the fields of education for democratic citizenship, new information technologies and non-formal education, along the lines set up in the above-mentioned Assembly recommendation;
- ii. ensure a co-ordinated, inter-sectoral approach to this issue;
- iii. examine existing practices in media education in member states with a view to promoting the most successful of them;
- iv. promote an integrated European approach to media education, possibly through the creation of an international office for media education, responsible for co-ordination and networking, in close co-operation with other international organisations such as the European Union and UNESCO.

14. The Committee of Ministers should also call on governments and the appropriate authorities of member states to:

- i. encourage the elaboration and the development of media literacy programmes for children, adolescents and adults;
- ii. promote the elaboration and the development of teacher training programmes in the field of media education;
- iii. involve educational bodies, parents' organisations, media professionals, Internet service providers, NGOs, and so on, in an active dialogue on these issues;
- iv. examine ways of sustaining an offer of educational programmes by the different media that is satisfactory in both quantitative and qualitative terms, and of promoting media education in them.

# Recommendation 1506 (2001)<sup>1</sup>

## Freedom of expression and information in the media in Europe

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1. The Assembly believes that free and independent media are an essential indicator of the democratic maturity of a society. The right to freedom of expression and information is intrinsically linked to the citizens' right to know, which is a prerequisite for making well-informed decisions. The possibility to express freely ideas and opinions enhances public dialogue and therefore stimulates the development of the democratic process in society.

2. Now that there are forty-three member states in the Council of Europe, almost all the continent is covered by the provisions of the European Convention on Human Rights and its Article 10 which guarantees everybody freedom of expression, including "freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers". Rapid progress towards democratisation in that respect is expected in the Federal Republic of Yugoslavia and in Bosnia and Herzegovina. Belarus remains the country where the deeds of the authorities most blatantly go against the values and principles in the media field defended by the Council of Europe.

3. As was stated in Assembly Recommendation 1407 (1999) on media and democratic culture, enormous progress in the field of freedom of expression and information has been achieved in central and eastern Europe since the fall of communism. However, serious and unacceptable violations of this freedom are still committed in a number of countries. At the same time new challenges arise and they have to be faced by the whole of Europe.

4. Censorship is still practised and in its most appalling form, violence and murder. Journalists continue to die, not only when covering events on the battlefield, but also, and more often, in the course of their work when trying to throw light on darker sides of the society such as corruption, financial abuse, drug trafficking, terrorism or ethnic conflict. Most perpetrators of such crimes have not been caught and brought to justice, which casts serious doubts on the independence of the judiciary and as to the real willingness of the authorities to disclose the truth. The Assembly has recently drawn attention to this problem in the case of Ukraine in its Resolution 1239. Azerbaijan, Russia, Turkey and Ukraine are the countries where the greatest number of journalists have been subject to physical aggression over the last years.

5. Governments continue to use provisions in legislation, such as defamation, and regulations pertaining to territorial integrity, national security or public order, in order to harass undesired critics. Prison sentence for defamation is still practised in several former communist countries and in Greece, and also features in the criminal codes of other western legislations, although no longer applied there. In Turkey, several journalists are still imprisoned or have been brought to trial, most having been sentenced for or accused of having links with terrorist groups. Elsewhere, even where libel has been decriminalised, disproportionately heavy fines often deter free expression and lead to self-censorship. A very high number of court trials also characterises the transition of new democracies from the "one party, one truth" system to pluralism of opinions.

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1. *Assembly debate* on 24 April 2001 (10th Sitting) (see Doc. 9000, report of the Committee on Culture, Science and Education, rapporteur: Mr Hegyi).  
*Text adopted by the Assembly* on 24 April 2001 (10th Sitting).

6. In several countries access to official information is to a great extent left to the discretion of the authorities. Particularly unacceptable are the restrictions imposed on access to information in areas of conflict such as Chechnya, despite many Assembly appeals to the Russian authorities to guarantee free access to journalists, and on sensitive issues such as, in Turkey, the latest hunger strikes. Some aspects of the information policy of Nato during the Kosovo war also deserve criticism.

7. Attacks against freedom of expression can take many other forms, such as threats, intimidation, arbitrary closure of media outlets, power cuts, bomb alerts, police searches and confiscation of material, damage of printing facilities or television and radio transmitters, heavy taxes, monopolies on paper and distribution, unequal conditions for state media as opposed to other media and pressure on advertisers.

8. Administrative harassment is also commonplace in several former communist countries, especially through tax and other financial regulations. Such practices, for instance in Russia, are currently used in an apparent attempt to bring all nationwide television stations under governmental control. The Assembly expresses particular concern about the recent developments in Russia – the forceful seizure of the only independent nationwide television channel NTV, the closure of the newspaper “*Segodnya*” and sacking of the journalists of the magazine “*Itogy*”. The attacks on the freedom of expression and mass media in Russia, undertaken with the participation of the authorities, run counter to the basic principles of the Council of Europe and constitute a significant violation of Article 10 of the European Convention on Human Rights.

9. Precarious economic conditions and a low level of democratic culture represent in themselves a serious threat to freedom of expression since they make the media an easy prey to mighty political, economic and other interests. Instead of performing their role of a public watchdog, the media become instruments for settling scores and are transformed into mercenaries acting upon orders.

10. Independence of public service broadcasting and the need to provide a genuinely independent regulatory authority for the broadcasting sector, as prescribed in Recommendation Rec (2000) 23 of the Committee of Ministers, remain a serious challenge for almost all former communist countries and is not completely taken for granted even in established democracies. This was well illustrated during the recent events concerning Czech public television and Bulgarian national radio. In Hungary only the ruling parties are represented on the television and radio boards, despite the constant complaints of two opposition parties. The problem is rooted in the fact that the smallest opposition party requires double the representation on the media boards compared to the leading opposition party, which has ten times more MPs. Recently a new law on radio and television was adopted in Croatia without taking into account the reservations of the Council of Europe in that respect. It is equally important to establish a fair and transparent licensing procedure, as can be witnessed in the case of the problems that private broadcasters in Azerbaijan are facing.

11. Throughout Europe, freedom of expression and information is facing new challenges resulting from the ongoing process of globalisation of the media market along with the revolution provoked by the convergence between broadcasting, computing and telecommunications. The current market restructuring, leading to new alliances and mergers between traditional media companies and new service providers, might lead to further concentration and vertical integration of multimedia corporations and thus restrict media pluralism. The Committee of Ministers, in its Recommendation (99) 1, stressed that states should promote political and cultural pluralism by developing their media policy in line with Article 10 of the European Convention on Human Rights.

12. A pluralist and independent media system is also essential for democratic development and a fair electoral process. It is thus essential to eliminate oligopolism in the media, and to ensure that the media are not used to gain political power, especially in countries where a mixed public-private system would enable political movements, supported by the private sector, to control all information after elections, especially through radio and television.

13. There is a growing trend for the media to be considered as a purely commercial product rather than a specific cultural and democratic resource. Even if certain journalists are willing to live with it, this trend puts the majority of them under unacceptable pressure to sacrifice quality journalism to “infotainment” and therefore restricts freedom of expression and information. The merciless competition between media enterprises puts increasing pressure on editorial boards to ensure immediate coverage, at the expense of in-depth analysis and research. Cuts in editorial budgets and new ownership policies result in a decline of editorial standards and to increasing reliance on freelance journalists and consequent damage to professional responsibility. Investigative journalism is becoming unprofitable. Sensational stories and “advertorials” or “Big Brother”-style programmes are replacing independent editorials. On the other hand, employed journalists are censored and often limited in expression by their employers – owners or chiefs of wireless media

companies, editors of newspapers – when they impose their own views and political or commercial interest upon the journalist’s personality, name and professional responsibility.

14. Taking into account these considerations, the Assembly considers that freedom of expression and information is and will remain a major challenge for democracy in Europe and should continue to be a primary concern for the Council of Europe.

15. In this respect, the Assembly reiterates its position, stated in Recommendation 1407 (1999) on media and democratic culture, that the Council of Europe should “exert moral and political pressure upon governments which violate freedom of expression”. The Assembly will pursue this issue, and on a country-by-country basis. It regrets the fact that the Committee of Ministers has still failed to provide a satisfactory reply to the recommendation, and this in a period when it is striving to acquire a stronger political presence in Europe.

16. Therefore the Assembly recommends that the Committee of Ministers:

- i. consider as a priority the defence of freedom of expression and information in member and candidate states;
- ii. set up a more efficient system of defending freedom of expression and information in Europe, involving all relevant sectors of the organisation that deal with this issue and allowing it to increase pressure on governments;
- iii. make public the findings of its monitoring procedure in the field of personal and editorial freedom of expression, formulate on this basis specific recommendations to individual member states and make these states publicly accountable for their implementation;
- iv. ensure that the expertise provided by the Council of Europe in the field of media legislation is duly taken into account by member states, particularly on points challenging attempts at political control over the media;
- v. instruct its relevant bodies to step up work on challenges to freedom of expression and information and to media pluralism and diversity stemming from globalisation and from the further development of the information society;
- vi. enhance public debate within its specific bodies on necessary changes and improvements in the field of freedom of expression and information in member countries;
- vii. provide the necessary means for the implementation of assistance programmes and make governments better aware of the urgent need for voluntary contributions;
- viii. ensure co-ordination and complementarity of the above-mentioned activities with other international institutions, and in particular the OSCE Representative on Freedom of the Media, the European Union and UNESCO, as well as with relevant press freedom NGOs, journalism associations and trade unions;

17. The Assembly considers it necessary that the Monitoring Committee pay special attention to the freedom of expression and mass media in Council of Europe member states during the monitoring procedures.

18. The Assembly welcomes the decision of its Committee on Culture, Science and Education to appoint a General Rapporteur on the Media and requests the Committee of Ministers and the Secretary General to give him/her their support, in particular as regards information and secretariat assistance.

# Recommendation 1543 (2001)<sup>1</sup>

## Racism and xenophobia in cyberspace

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1. The Assembly considers racism not as an opinion but as a crime. The relevant international legal instrument to combat racism is the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD). The Assembly deplores that Andorra, Moldova and San Marino have not yet ratified this instrument.
2. Adequate legal instruments to combat racism already exist in some Council of Europe member states. The difficulties of combating racism on the Internet arise from the nature of this means of disseminating information itself and from the legal obstacles to the implementation of provisions against hate speech.
3. The Council of Europe now has a binding legal instrument: the Convention on Cybercrime, but that convention does not address the dissemination of racist propaganda using computer technology. An ad hoc committee of experts, with terms of reference approved by the Committee of Ministers, should be asked to prepare a protocol to remedy this shortcoming of the convention, as requested by the Assembly in its Opinion No 226 (2001).
4. An additional protocol to the Convention on Cybercrime aimed at punishing racism on the Internet will have no effect unless every state hosting racist sites or messages is a party to it. The Assembly's starting-point is that a dialogue must be initiated with all service providers to convince them of the need to take steps themselves to combat the existence of racist sites.
5. On an ethical level, the Assembly believes that the self-disciplinary efforts made by access providers and hosts should be encouraged. Self-discipline should be made the norm by labelling and classifying sites, setting up hotlines, filtering, drawing up rules of conduct and including clauses in contracts with technical providers prohibiting their clients from using their services for unlawful purposes.
6. Dialogue between Internet users, technical operators and prosecuting authorities must be encouraged. The Assembly considers that a consultation or joint regulation body could be set up within the Council of Europe to help prepare codes of conduct, serve as a mediator in specific disputes and function as a permanent observatory of racism and xenophobia on the Internet.
7. The Assembly would like education and training aimed at developing the discernment of Internet users, particularly the younger generations, to play an important role in the future. Not only racism, but also the dissemination of hate speech against certain nationalities, religions and social groups must be opposed.
8. For these reasons, the Parliamentary Assembly, in accordance with its Opinion No. 226, in which it recommended that an additional protocol to the new convention be immediately drawn up, defining and criminalising the dissemination of racist propaganda and unlawful hosting of hate messages, recommends that the Committee of Ministers:
  - i. give the Committee of Experts on the criminalisation of racist or xenophobic acts using computer networks (PC-RX), which has been instructed to prepare a draft additional protocol to the Convention on Cybercrime, sufficient means to enable it to complete its task by 30 April 2002, when its terms of reference expire. The committee should complete its work in time for the additional protocol to come into force as soon as possible after the entry into force of the convention;
  - ii. make specific mention of unlawful hosting in the terms of reference of this committee;
  - iii. specify the means by which it is possible to eliminate racist sites from the Internet and to encourage the effective prosecution of those responsible.

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1. *Text adopted by the Standing Committee, acting on behalf of the Assembly, on 8 November 2001 (see Doc. 9263, report of the Committee on Legal Affairs and Human Rights, rapporteur: Mr Tallo).*

# Recommendation 1555 (2002)<sup>1</sup>

## The image of women in the media

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1. The Parliamentary Assembly refers to its Resolution 1018 (1994) on equality of rights between men and women, in which it recommends that machinery be set up to “promote and supervise respect for the principle of equality of rights between women and men”, and encourages the media “to promote equality”.
2. The Assembly notes that, although progress has visibly been made in several European countries, women’s image in the media all too frequently remains a negative one, and continues to be stereotyped and sexist. Women are associated with the private sphere, the household and family life. The media frequently present women as sex objects. While the contemporary world has undergone rapid changes, the image of women in the media has not really altered.
3. The Assembly welcomes the fact that certain European governments, women’s groups and inter-governmental bodies have made progress where the depiction of women in the media is concerned. The appointment of an ombudsperson responsible for equality issues to apply national and European Community legislation constitutes a step towards respect for gender equality.
4. The Assembly notes with regret that certain European countries have regressed as far as women’s image in the media is concerned. Following the world conference in Beijing, little has been done by governments and media to address the issue.
5. In certain countries of eastern Europe and in the Commonwealth of Independent States, the image of women in the media is relatively negative. The media describe men as reformers, whereas a limited role is attributed to women. This results from the social and cultural heritage of the countries concerned. These countries suffer from a lack of democratic experience and are encountering difficulties in their development process. The images of women which occur in their media are evidence of the dramatic situation of women’s rights in these countries. Women’s real problems, like women’s movements, are ignored.
6. Certain countries have tried to set up a self-regulation machinery for media producers, but governments fail to allocate the necessary funds to these efforts.
7. The stereotyped image of women is a result of the inadequate training of journalists and other media managers and the small numbers of women holding decision-making posts. While the number of female journalists has risen considerably in the past ten years, there are still few women on media management bodies, and they are unable significantly to influence the policy pursued by the media.
8. The Assembly is concerned about the increasing exposure of children to sexist messages. The antisocial forces exerted by the repeated sending of this kind of message are particularly worrying at a time when society is attempting to curb violence against women.
9. The Assembly calls on the governments of Council of Europe member states to adopt and to implement a policy against sexist and stereotyped images and representations of women in the media. The Assembly invites governments to set up more bodies to monitor the media and supervise the audiovisual sector.
10. The Assembly therefore asks that the governments of member states:
  - i. introduce the concept of “sexism”, which is to be defined as negating the equal dignity of human beings on the grounds of their male or female gender, into their legislation and condemn it to the same degree as racism;

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1. *Assembly debate* on 24 April 2002 (13th Sitting) (see Doc. 9394, report of the Committee on Equal Opportunities for Women and Men, rapporteur: Mrs López González).  
*Text adopted by the Assembly* on 24 April 2002 (13th Sitting).

- ii. adopt a law on gender equality in the media;
  - iii. ask the ombudsperson responsible for issues relating to gender equality to create direct links between his or her office and the population as a whole;
  - iv. draw a distinction between the situation in the privately-owned and publicly-owned media;
  - v. give media associations the right to complain to the courts in the event of a violation of human rights;
  - vi. finance and start new equality projects in the media;
  - vii. encourage, within their national systems, the setting up and financing of centres to monitor national media, including the new information and communications technologies;
  - viii. encourage advertisers to increase self-regulation through their own system of professional ethics, in so far as freedom of expression permits;
  - ix. use positive discrimination measures or quota systems to guarantee a balance between women and men at every level of decision making;
  - x. encourage women to participate at every level of decision making in the media and to take posts of responsibility in the technological sector and on public advisory bodies;
  - xi. assign resources and implement programmes to increase women's access to communications resources and knowledge, particularly the new communications technologies;
  - xii. make substantial efforts to release the necessary funds for the provision of equality training for women and men, at schools of journalism, for example;
  - xiii. finance comparative studies with a view to ensuring that policy makers have a better image of gender equality.
11. The Assembly recommends that the Committee of Ministers:
- i. draw up international ethical standards based on equality between women and men;
  - ii. help to develop international co-operation with a view to giving priority to the strengthening of communications networks and of women's media and to the principle of gender equality;
  - iii. set up an observatory composed of female journalists under the aegis of the Council of Europe to study the way in which women are portrayed in the European media and to propose appropriate measures.

# Recommendation 1586 (2002)<sup>1</sup>

## The digital divide and education

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1. Digitalisation introduces a new risk of dividing those who can afford access for the purposes of education and research from those who cannot. The Parliamentary Assembly believes in ensuring fair access to digital material for educational and other socially necessary purposes.
2. In the age of printing, society developed a balance between the need to reward intellectual property owners for the use of their works, and the need for society to make some of these works available to a larger public.
3. In the digital age, this balance has to be re-established and legislation adopted, both nationally and internationally, to take account of the technological developments.
4. Access to information is essential for education and research. It is also a basic requisite for democracy, as this relies on the participation of informed and enlightened citizens.
5. Copyright questions related to digital material available on the Internet are being addressed by the European Union. UNESCO, together with the International Telecommunication Union, is preparing two world conferences (to take place in 2003 and 2005) to develop an international convention on the conditions for public access to material on the Internet.
6. The Council of Europe has itself begun to address these questions, notably the Assembly in Recommendation 1332 (1997) on the scientific and technical aspects of the new information and communications technologies and Resolution 1191 (1999) on the information society and a digital world, and the Committee of Ministers in its Declaration of May 1999 on a European policy for new information technologies.
7. The Assembly recommends that the Committee of Ministers:
  - i. join forces with other international bodies that are currently considering access to digital material on the Internet in order to establish the public service principle in the digital environment and in particular to develop norms for the use of such material for educational and other socially necessary purposes;
  - ii. give particular consideration in drawing up such norms to:
    - a. providing citizens with a certain amount of basic information as a public service;
    - b. limiting access only for reasons of privacy, confidentiality, security and law-enforcement;
    - c. providing public access points staffed by trained personnel;
    - d. developing special tools to help access for the disabled in concrete terms;
    - e. harmonising, clarifying and making user-friendly national and international copyright legislation applying to digital material;
    - f. encouraging the production of culturally and pedagogically suitable digital material;
    - g. facilitating quality appreciation of digital information;
  - iii. ensure that these norms are properly and equally applied in member states.

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1. *Text adopted by the Standing Committee, acting on behalf of the Assembly, on 18 November 2002 (see Doc. 9616, report of the Committee on Culture, Science and Education, rapporteur: Mrs Isohookana-Asunmaa).*



# Recommendation 1589 (2003)<sup>1</sup>

## Freedom of expression in the media in Europe

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1. The Parliamentary Assembly recalls its Recommendation 1506 (2001) on freedom of expression and information in the media in Europe and its decision to exert, through the general rapporteur on the media, moral and political pressure on governments which violate freedom of expression in the media, pursuing this issue on a country-by-country basis.
2. It regrets that since the adoption of Recommendation 1506 many problems persist and that further serious violations of freedom of expression have since taken place in Europe as well as in the rest of the world.
3. Violence continues to be a way of intimidating investigative journalists or of settling scores between rival political and economic groupings, for whom certain media act as mercenaries. The number of journalists attacked, or even murdered, in the Russian Federation is alarming. Violence has also recently been recorded in Armenia, “the former Yugoslav Republic of Macedonia”, Georgia, Ukraine and Belarus. In particular, the Assembly strongly condemns the murder of Tigran Naghdalian, Chairman of the Public Television and Radio Council of Armenia. It is unacceptable that no substantial progress has been made in the investigation of crimes committed earlier, such as the murder of Heorhiy Gongadze in Ukraine and the disappearance of Dmitry Zavadsky in Belarus.
4. It is also unacceptable in a democracy that journalists should be sent to prison for their work, as in the cases of Mikola Markevich, Paval Mazheika and Viktor Ivashkevich in Belarus, and of Grigory Pasko in Russia. Criminal prosecution against journalists continues in Turkey.
5. Other forms of legal harassment, such as defamation suits or disproportionately high fines that bring media outlets to the brink of extinction, continue to proliferate in several countries. Such cases were recently recorded in Azerbaijan, Belarus, Croatia, Russia and Ukraine. A dozen lawsuits have been brought against Presspublica, the publisher of the major Polish daily, Rzeczpospolita. Intimidation of the media also takes the form of police raids, tax inspections and other kinds of economic pressure.
6. In Ukraine, according to numerous journalists and the conclusions of the parliamentary hearings on freedom of speech and censorship, the presidential administration provides instructions to the media on the coverage of the main political events.
7. In most countries of the Commonwealth of Independent States the national television, the main source of information for the majority of the population, continues to be state-run or under tight government control. It is regrettable, for instance, that despite explicit Council of Europe recommendations to the Moldovan authorities and despite mass protests at Teleradio Moldova last spring, the newly adopted broadcasting law provides for many forms of direct political interference. The same problem exists with the proposed draft for a law on public television in Azerbaijan.
8. In certain countries it is still far too easy to replace heads of public media according to the whims of the authorities.
9. Even the most advanced new democracies still face difficulties in ensuring genuinely independent public service broadcasting and a proper balance between government and opposition.

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1. *Assembly debate* on 28 January 2003 (3rd Sitting) (see Doc.9640 rev., report of the Committee on Culture, Science and Education, rapporteur: Mrs Isohookana-Asunmaa).  
*Text adopted by the Assembly* on 28 January 2003 (3rd Sitting).

10. In certain west European countries, courts continue to violate the right of journalists to protect their sources of information, and this despite the case-law of the European Court of Human Rights.
11. The media legislation in some of these countries is outdated (for instance the French press law dates back to 1881) and although restrictive provisions are no longer applied in practice, they provide a suitable excuse for new democracies not willing to democratise their own media legislation.
12. In Italy, the potential conflict of interest between the holding of political office by Mr Berlusconi and his private economic and media interests is a threat to media pluralism unless clear safeguards are in place, and sets a poor example for young democracies.
13. Media concentration is a serious problem across the continent. In certain countries of central and eastern Europe a very small number of companies now predominantly own the printed press. Access to digital television also tends to be highly concentrated.
14. The recent terrorist attacks can provide a pretext for introducing new restrictions to freedom of information, as with the adoption by the Russian Duma of amendments to the Laws on Mass Media and the Law on the Fight against Terrorism, but which President Putin had asked to be reformulated using his right of veto.
15. The Assembly therefore stresses the need for the Council of Europe, through its appropriate bodies, to continue to monitor closely the state of freedom of expression and media pluralism across the continent and to put all its weight behind the active defence of its basic standards and principles, including the duty of journalists to observe ethical and responsible professional standards.
16. In this context, it asks the Committee of Ministers to make public the results of its monitoring procedure in the field of freedom of expression of the media.
17. The Assembly also asks the Committee of Ministers to urge all European states, where appropriate:
  - i. to ensure that substantial progress is made in the investigation of murders of journalists and that the perpetrators of such crimes are punished;
  - ii. to set free all journalists imprisoned for their legitimate professional work and to abolish legislation that makes journalistic freedom of expression subject to criminal prosecution;
  - iii. to stop immediately all forms of legal and economic harassment of dissenting media;
  - iv. to revise their media legislation according to Council of Europe standards and recommendations and to ensure its proper implementation;
  - v. to revise in particular their broadcasting legislation and implement it with a view to the provision of a genuine public service;
  - vi. to abolish restrictions on the establishment and functioning of private media broadcasting in minority languages;
  - vii. to incorporate the case-law of the European Court of Human Rights in the field of freedom of expression into their domestic legislation and ensure the relevant training of judges;
  - viii. to ensure the plurality of the media market through appropriate anti-concentration measures, especially in fairness of access to digital radio and television platforms, and to press for relevant international mechanisms in that respect to be introduced;
  - ix. to refrain from adopting unnecessary restrictions to the free flow of information under cover of the fight against terrorism, while respecting Article 10 paragraph 2 of the European Convention on Human Rights.
18. The Assembly should continue to devote special attention to freedom of expression in the mass media in all European states. It considers active international co-ordination necessary in order to react immediately to cases of violence and pressure on journalists.

# Resolution 1313 (2003)

## Cultural co-operation between Europe and the south Mediterranean countries

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Author(s): Parliamentary Assembly

Origin - Assembly debate on 28 January 2003 (3rd Sitting) (see Doc. 9626, report of the Committee on Culture, Science and Education, rapporteur: Mr de Puig, Spain). Text adopted by the Assembly on 28 January 2003 (3rd Sitting).

1. Europe is made up of countries of different cultures and traditions. The unifying factor for the forty-four Council of Europe countries is their adherence to a set of values, namely democracy, respect for human rights and the rule of law, as well as their determination to co-operate on a project for a joint future, while preserving their individual cultural specificities.
2. The Parliamentary Assembly is convinced that the values defended by the Council of Europe are universal, and believes that the best reaction to globalisation is to use this phenomenon as a means of co-operating with non-European countries that share certain of these values, beginning with those which are closest to Europe.
3. Relations between Europe and the south Mediterranean countries – which have all signed the United Nations Charter and the Universal Declaration of Human Rights – can and must be improved. Culture, including education, heritage and the arts, science, youth, sport and the media, is particularly suited to such co-operation.
4. There are economic, political, social and also cultural tensions in most parts of the world. Some incomprehension and misunderstandings exist. The Assembly rejects the facile explanation of such tensions as a clash of civilisations. Although there are indeed major cultural differences between different peoples, these differences should lead to dialogue, not confrontation.
5. Considering the secularisation of political institutions in Europe to be an achievement, the Assembly nevertheless recognises the positive contribution made to European civilisation by the various cultural and religious traditions, including Judaism, Islam and in particular Christianity.
6. The Council of Europe would not claim to have any final or comprehensive solutions to all of these problems. However, the Assembly is convinced that improved cultural relations between Europe and the south Mediterranean countries would provide the beginning of a solution to wider problems.
7. In order to be successful, the endeavour to improve relations must be backed with a strong political will in both Europe and the south Mediterranean countries. Many changes are still required.
8. For its part, the Assembly might conclude co-operation agreements with parliaments in south Mediterranean countries as a first step towards granting Observer status.
9. The Assembly resolves in particular:
  - 9.1. to develop contacts between European countries and the south Mediterranean countries in the fields of education, heritage and the arts, science, youth, sport and the media;
  - 9.2. to enhance cultural co-operation, particularly with parliamentarians from the south Mediterranean countries and with international organisations such as the cultural organisations of the Arab League (Alecso) and of the Islamic Conference (Isesco);
  - 9.3. to promote dialogue and cultural co-operation with other countries and regions which are close to Europe and share its history, in particular Lebanon.

10. The Assembly would like at the same time and in parallel to request the competent authorities in the member states of the Council of Europe and in Algeria, Egypt, Libya, Mauritania, Morocco and Tunisia to give priority to cultural co-operation between Europe and the south Mediterranean countries, and particularly:

in the field of education:

- i. to co-operate in eliminating reciprocal stereotypes, prejudices and untruths from the different education systems by jointly revising school textbooks, particularly history books;
- ii. to promote the learning of the Arabic language in Europe and European languages in the south Mediterranean countries, at all educational levels;
- iii. to encourage the setting up of Arabic language and culture departments in European universities, and of departments for European languages and cultures in south Mediterranean universities;
- iv. to establish the requisite mechanisms for student and teacher exchanges by developing and enlarging the Erasmus concept and facilitating visa arrangements;
- v. to implement the requisite systems for recognising qualifications, from the secondary level onwards, with particular reference, for higher education, to the principles, goals and methods of the Bologna Process as well as the Council of Europe/Unesco Convention on the Recognition of Qualifications concerning Higher Education in the European Region (Lisbon Convention, ETS No. 165);

in the field of culture:

- vi. to encourage the translation and publication of the fundamental works of Arab culture in Europe and of European cultural works in the south Mediterranean countries, including contemporary writers and studies on topical issues;
- vii. to establish and develop contacts and exchanges among artists, with joint exhibitions and music, drama and film festivals;
- viii. to facilitate contacts and encounters in the field of folk culture (folklore, gastronomy and traditional costumes);
- ix. to co-operate in the field of migration policy in order to ensure that immigrants to Europe from south Mediterranean countries become genuine intermediaries between the cultures of the home and host countries;

in the field of religion:

- x. to guarantee freedom of conscience and expression, exclude fundamentalism, promote respect for religious differences by providing all religions with equivalent conditions for development;
- xi. to encourage encounters between different religious leaders by promoting ecumenism and opening the way to genuine inter-faith dialogue;
- xii. foster the organisation of debates between intellectuals and theologians on the compatibility of religious practice with human rights, including the impact on women, as set out in the United Nations Charter, the Universal Declaration of Human Rights and the European Convention on Human Rights;
- xiii. to ensure that education systems provide basic knowledge of the various world religions; in the field of the media:

in the field of the media:

- xiv. to encourage public television corporations in the North and South to co-operate in developing television programmes and in the long term to study the creation of a Euro-Mediterranean television channel;
- xv. to develop, in the public media, informative programmes on political, economic, social and cultural realities in order to ensure objective information in the North on Arab-Muslim societies and in the South on European societies;
- xvi. to encourage co-operation between European and south Mediterranean journalists in the field of professional ethics;
- xvii. to energise joint work on the Internet by creating shared sites and portals and virtual areas (universities, press rooms, enterprises, cultural fora) providing for immediate and ongoing exchange, and supporting the Galileo (satellite navigation) and Eumedis programmes, and expanding the Eureka programme;

in other fields:

- xviii. to encourage co-operation and encounters between women from Europe and south Mediterranean countries on questions related to freedom, human rights and gender equality;
- xix. to set up contact and co-operation networks between young people in various sectors of activity, such as parliamentarians, students from different levels and specialities, members of religious groups, artists, athletes, etc.;
- xx. to study the possibilities for joint organisation of amateur or professional sports events, for example by restructuring and giving fresh impetus to the Mediterranean Games;
- xxi. to encourage the involvement of southern countries in scientific research programmes run by governments, universities, laboratories, industries and enterprises, particularly those conducive to technology transfer;
- xxii. to promote a twinning policy between European and south Mediterranean local authorities, with a view to close co-operation, particularly in the cultural fields;
- xxiii. to encourage North-South tourist co-operation, with emphasis on cultural tourism, connect up the tourist promotion systems on both sides and foster the creation of cultural routes, programmes and exchanges;
- xxiv. to support such Barcelona Process initiatives as Euro Med Heritage, Euro Med Audiovisual and Culture 2000, as well as the development of the Civil Forum, and set up broader co-operation bodies in this field by associating all Council of Europe countries with the south Mediterranean countries.

# Recommendation 1641 (2004)<sup>1</sup>

## Public service broadcasting

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1. Public service broadcasting, a vital element of democracy in Europe, is under threat. It is challenged by political and economic interests, by increasing competition from commercial media, by media concentrations and by financial difficulties. It is also faced with the challenge of adapting to globalisation and the new technologies.
2. Public service broadcasting, whether run by public organisations or privately-owned companies, differs from broadcasting for purely commercial or political reasons because of its specific remit, which is essentially to operate independently of those holding economic and political power. It provides the whole of society with information, culture, education and entertainment; it enhances social, political and cultural citizenship and promotes social cohesion. To that end, it is typically universal in terms of content and access; it guarantees editorial independence and impartiality; it provides a benchmark of quality; it offers a variety of programmes and services catering for the needs of all groups in society and it is publicly accountable. These principles apply, whatever changes may have to be introduced to meet the requirements of the twenty-first century.
3. It is a matter of concern that many European countries have so far failed to meet the commitment that their governments undertook, at the 4th European Ministerial Conference on Mass Media Policy held in Prague in 1994, to maintain and develop a strong public broadcasting system. It is also worrying that the fundamental principle of the independence of public service broadcasting contained in Recommendation No. R (96) 10 of the Committee of Ministers is still not firmly established in a number of member states. Moreover, governments across the continent are in the process of reorienting their media policies in the light of the development of digital technology and are in danger of leaving public service broadcasting without enough support.
4. Public service broadcasting was born in western Europe and has evolved by adapting itself naturally to the needs of a mature democracy. In central and eastern Europe it is not yet socially embedded, since it was “transplanted” into an environment that lacked the necessary political and management culture, and in which civil society is still weak, has inadequate resources and little dedication to public service values.
5. The situation varies across Europe. At one extreme national broadcasting continues to be under strict governmental control and there is little prospect of introducing public service broadcasting by legislation in the foreseeable future. In the Russian Federation, for instance, the lack of independent public service broadcasting was a major contributing factor to the absence of balanced political debate in the lead-up to the recent parliamentary elections, as mentioned by the international election observation mission. Hardly any progress has been made in adopting the necessary public service broadcasting legislation that might meet Council of Europe standards in Azerbaijan, Georgia and Ukraine.
6. In Bosnia and Herzegovina and in Kosovo public service broadcasting still only operates under regulations imposed from outside by the international community. Adoption of a proper law has been delayed in Bosnia and Herzegovina as a result of internal resistance to structural change and in Kosovo because of attempts to undermine the funding of public service broadcasting.
7. In other countries laws on public service broadcasting have been adopted, but certain provisions and practices contradict European standards. In Armenia all the members of the Council for Public Radio and Television are appointed by the President. It remains to be seen whether the day-to-day operation of Teleradio Moldova will be able to be independent after two changes made to the law in 2003. The appointment of a Serbian broadcasting agency has been marred by scandals that have yet to be resolved.

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1. *Assembly debate* on 27 January 2004 (3rd Sitting) (see Doc.10029, report of the Committee on Culture, Science and Education, rapporteur: Mr Mooney).  
*Text adopted by the Assembly* on 27 January 2004 (3rd Sitting).

8. More substantial progress has been made in other countries, although problems still remain. Changes to broadcasting laws, making broadcasting corporations more politically independent and financially viable, have been recommended by the Council of Europe in Bulgaria and “the former Yugoslav Republic of Macedonia”. There are still attempts to change laws in order to make them more suitable for a ruling majority, as with the new Croatian Law on Radio and Television. Severe financial difficulties are experienced with public service broadcasting in the Czech Republic, Hungary and Slovakia.

9. There is political pressure on public service broadcasting in western Europe too. The BBC was attacked by the British Government over its coverage of the war in Iraq. In Greece, Italy, Portugal and Spain, situations variously defined as “political clientelism”, “state paternalism” and “partitocrazia” have prevented the full emancipation of public service broadcasters from direct, “hands-on” political control. Manipulation of information under political influence led to the unprecedented sentencing of TVE for its coverage of the general strike in Spain in June 2002. The politicisation of RAI caused by a unique division of the three Italian channels between the main political parties has been further aggravated by the current government.

10. There is a growing tendency to go beyond hitherto existing forms of public service broadcasting regulation and define its obligations more precisely, often by contracts backed up by accountability reports to the parliament, the government and/or a regulatory agency. Increasing attention is paid to the financial aspects of the operation of the public service broadcaster. While such moves are to be welcomed in so far as they give public service broadcasting organisations greater stability, it should be ensured that they are not used by governments to undermine the financial and statutory situation of these organisations. Recent government decisions in the Netherlands and France have seriously affected the funding of their public service broadcasters.

11. Governments have been examining possible structural changes that would affect the very nature of public service broadcasting. Privatisation plans have been discussed in Denmark and Portugal, and in Italy with the recently proposed broadcasting legislation (the “Gasparri Law”), which has since then been referred back to Parliament by the President. In the United Kingdom, there is growing concern at the government’s attitude to the renewal of the charter of the BBC, fuelled by the very public row between the corporation and the government.

12. In a large majority of countries, digital channels have not yet been defined in broadcasting legislation. There is also a clear absence of legal provisions concerning Internet activities by public service broadcasters in most countries. This might affect their ability to expand to new platforms.

13. The coexistence of public and commercial media has largely contributed to innovating and diversifying the supply of content and has had a positive impact on quality. However, commercial interests are trying to reduce competition from the public sector to a minimum. European Union competition law is often used to attack the funding systems for public service broadcasting. In this respect, the Assembly welcomes the judgment of the European Court of Justice in the Altmark case, regarding compensation for discharging public service obligations, and urges that the situation concerning public service broadcasting be further clarified on the basis of this judgment. Commercial broadcasters also challenge the possibility of public service broadcasting expanding into new areas and new services. Recent examples include the BBC’s Internet activities and the plans of the German ARD to turn the Internet into its “third pillar”, which had to be abandoned under commercial pressure.

14. Commercial broadcasters also claim that the shift to the multi-channel, on-demand broadcasting offered by digitalisation will enable the market to cater for all needs and therefore also fulfil the public service obligations currently assigned to public broadcasting institutions. However, there is no guarantee about the quality and independence of such provision, or that it would be free-to-air, universally accessible and constant over time.

15. It is recognised that there can be an overlap with commercial broadcasting in popular genres. However, the growing commercialisation and concentration of the media sector with the resulting “dumbing-down” of general quality vindicates, when this concerns public service broadcasters, those who criticise the use of public money for such purposes. Public service broadcasting is suffering an identity crisis, as it is in many instances striving to combine its public service obligations with chasing ratings and the need to secure an audience to justify its “public” character or simply to attract advertising revenue.

16. European countries and the international community in general must become more actively involved in efforts to develop general standards and good practice as guidelines for national policies in this area.

17. Therefore the Parliamentary Assembly recommends that the Committee of Ministers:

- i. adopt a new major policy document on public service broadcasting, taking stock of developments since the Prague ministerial conference and defining standards and mechanisms of accountability for

future public service broadcasting. The forthcoming Ministerial Conference on Mass Media Policy in Kyiv could include the preparation of such a document in its plan of action;

- ii. mobilise the relevant structures of the Council of Europe to ensure proper and transparent monitoring, assistance and, where necessary, pressure, so that member states undertake the appropriate legislative, political and practical measures in support of public service broadcasting;
- iii. consider specific measures to ensure that a legislation in this area in line with European standards is adopted as soon as possible in Azerbaijan, Georgia, the Russian Federation and Ukraine;
- iv. ensure close co-operation with other international organisations in maintaining its standards regarding freedom of expression;
- v. continue to press for audiovisual services to be regarded as more than simply a commodity in the negotiations of the World Trade Organization (WTO) and the General Agreement on Trade in Services (GATS);
- vi. endeavour to ensure that the World Summit on the Information Society gives proper recognition to public service broadcasting as an important element in developing the information society and at the same time easing the shock of the rapid changes this development will involve;
- vii. call on the governments of member states to:
  - a. reaffirm their commitment to maintaining a strong and vibrant independent public broadcasting service, whilst adapting it to the requirements of the digital age, for instance, on the occasion of the next European Ministerial Conference on Mass Media Policy in 2004, taking concrete steps to implement this policy objective and refrain from any interference with the editorial independence and institutional autonomy of public service broadcasters;
  - b. define an appropriate legal, institutional and financial framework for the functioning of public service broadcasting and its adaptation and modernisation to suit the needs of the audience and the requirements of the digital era;
  - c. design education and training programmes, adapted to the digital media environment, for journalists.



# Resolution 1372 (2004)<sup>1</sup>

## Persecution of the press in the Republic of Belarus

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1. The Parliamentary Assembly of the Council of Europe recalls that membership of the Council of Europe requires the commitment of a state to strive for greater European unity based on the common values shared by the family of democratic nations in Europe and enshrined in the European Convention on Human Rights (ETS No. 5) and the other conventions and recommendations of the Council of Europe. Therefore, the authorities of each applicant state must show their willingness and capacity to adhere to these values and standards. One of the fundamental democratic rights guaranteed by the European Convention on Human Rights is the right to freedom of expression and freedom of the media.

2. The Assembly welcomes the wish expressed by the Parliament of Belarus to resume its Special Guest status with the Assembly as well as the desire of Belarus to accede to the Council of Europe. It is with regret, however, that the Assembly must note that neither the parliament nor the other state authorities of Belarus have made any progress towards democratic development since the suspension of the Special Guest status of the Parliament of Belarus in January 1997 due to the dissolution of the parliament by President Lukashenko's referendum and the subsequent non-democratic constitution of the new parliament. The Bureau of the Assembly consequently rejected, in January 2004, the application for re-granting Special Guest status to the Parliament of Belarus.

3. The Assembly recalls that freedom of expression and freedom of the media constitute one of the essential foundations of a democratic society, one of the basic conditions for its progress and for the development of every human being, as the European Court of Human Rights has consistently held. Where information is withheld from the people through state censorship and state propaganda reigns, true democracy can never exist.

4. The Assembly remains appalled by the fact that the disappearance, more than three years ago, of the journalist Mr Dmitri Zavadski and his alleged extra-judicial execution by agents of the state has not been properly and truly investigated. The conviction of four men for the abduction of Mr Zavadski cannot be regarded as a proper investigation for various reasons. Reference is made only to a few of them: firstly, the body of Mr Zavadski has not been traced and it has not been established that he has been murdered; secondly, the General Prosecutor of the Republic of Belarus is in charge of all criminal investigations. The present holder of the post of General Prosecutor is Mr Victor Sheyman, who is regarded by many people in Belarus as the mastermind behind this abduction and others.

5. The Assembly deplores the systematic harassment and intimidation carried out by state officials, in particular the Ministry of Information, against journalists, editors and media outlets which are critical of the President of the Republic or the Government of Belarus. The legal basis for such action is very often the requirement that print media receive a state licence from the Ministry of Information. Article 10 of the European Convention on Human Rights does not permit such licensing of print media.

6. Furthermore, the state allows a situation whereby the functioning of media outlets can be at the mercy of local administrations, of printing houses and distribution agencies. Independent media are forced to operate under discriminatory economic conditions.

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1. *Assembly debate* on 28 April 2004 (12th Sitting) (see Doc. 10107, report of the Political Affairs Committee, rapporteur: Mr Pourgourides; and Doc. 10165, opinion of the Committee on Culture, Science and Education, rapporteur: Ms Muttonen).  
*Text adopted by the Assembly* on 28 April 2004 (12th Sitting).

7. The Assembly condemns, as totally unacceptable in a democratic society, the subjecting of journalists to imprisonment, including forced labour, for criticism of the President and state officials, which is currently possible under the provisions of Articles 367, 368 and 369 of the Criminal Code.

8. The Assembly is deeply concerned by the level of state control over the electronic media, in particular the public television and radio company of Belarus, which works under a presidential decree, but also private joint-stock companies, in which the state typically holds major shares and interests. It is also concerned that printing companies and companies distributing print media are largely state controlled. In a genuine democracy, public media must not function as a voice of the President and the executive branch of power, but should provide an impartial service for the public at large by disseminating news and commentary in an open, unbiased and truthful way.

9. The Assembly believes that the media landscape, under the controls it is currently subject to, does not provide for the freedom of information through the media that is necessary for the preparation and conduct of democratic parliamentary elections in autumn 2004. All political candidates, political parties and political civil society organisations must have equal access to the media without control by the state. Otherwise, voters in Belarus will not be able to receive the information necessary to form their own opinions about the situation in their own country.

10. The Assembly therefore regrets that reform of the Law on the Press and other Mass Media and other relevant laws, long announced and awaited, have not been finalised in time for the coming parliamentary elections by the President of the Republic, the ministers responsible and the parliament and that the Belarusian authorities have not fulfilled their commitment to send the draft to the Council of Europe for examination. The Assembly resolves to continue monitoring the situation concerning the media in the Republic of Belarus until the new Law on the Press and other Mass Media is enacted.

11. The Assembly notes with regret that the Parliament of Belarus refused to co-operate with the Organization for Security and Co-operation in Europe (OSCE) in the organisation of a seminar on the media in Belarus on 27 February 2004. Furthermore, the Assembly regrets that the Vice-Chairman of its Chamber of Representatives, Mr Vladimir Konoplev, refused to receive a joint delegation from the Council of Europe's Parliamentary Assembly, the OSCE Parliamentary Assembly and the European Parliament from 22 to 24 January 2004, which would have allowed the members of the Parliament of Belarus to hold a dialogue with European parliamentarians on a number of issues including freedom of the media.

12. The Assembly calls on all member and observer states of the Council of Europe not to tolerate any longer the existing state of affairs in Belarus. Fundamental rights and freedoms are systematically violated in Belarus with the sole aim of keeping a non-democratic regime in power. The regime of President Lukashenko bases its existence on repression, intimidation and fear. The measures of repression and intimidation are directed not only towards the media but also towards all other democratic institutions, human rights activists and the people at large. Belarus remains, in the year 2004, a police state with conditions similar to those prevailing in the country during the Soviet Union era. It is imperative to do everything possible in order to bring democracy to Belarus. Millions of Belarusians were killed during the second world war bravely fighting against the forces of Hitler. However, freedom has not yet come to their land. All member and Observer states of the Council of Europe have a duty to ensure that Belarus ceases to be the last dictatorial state in Europe.

13. The Assembly calls on the Secretary General of the Council of Europe to:

- i. constantly bear in mind the people of Belarus and step up targeted action in favour of human rights, democracy and the rule of law in Belarus; and
- ii. allocate, in co-operation with the Committee of Ministers, sufficient resources for projects on strengthening democracy and freedom of the media in Belarus in preparation for the parliamentary elections in autumn 2004 and, more generally, aimed at enhancing the understanding of democratic standards in the media field and reinforcing public opposition to any form of repression of free speech.

14. The Assembly calls on the President of the Republic of Belarus, the Government of Belarus and the National Assembly of Belarus to:

- i. launch a truly independent investigation into the disappearance and alleged extra-judicial execution of the journalist Mr Dmitri Zavadski which occurred more than three years ago and make the final results of this investigation public, a prior requirement to such an investigation being the removal from office of Mr Victor Sheyman;
- ii. consider revising the penal laws and Article 5 of the Law on the Press and other Mass Media in order to allow political criticism of the President of the Republic and the members of the National Assembly;

the honour and dignity of the President of the Republic and the heads of state bodies must not be protected unconditionally;

- iii. take due account of Article 19 of the International Covenant on Civil and Political Rights of the United Nations as well as Articles 3 and 4 of the Law on the Press and other Mass Media; thus the courts of Belarus should not impose disproportionate penal sanctions against media and journalists criticising the President of the Republic;
- iv. revise Article 9 of the Law on the Press and other Mass Media in order to abolish the licensing requirement for print media, because this is contrary to the right to freedom of the press as guaranteed by Article 10 of the European Convention on Human Rights;
- v. abolish administrative sanctions and oral reprimands against the media by the Ministry of Information because they violate the fundamental principle of the separation of powers between the executive and the judiciary and are contrary to Article 10 of the European Convention on Human Rights; the Law on the Press and other Mass Media should be revised accordingly;
- vi. initiate legislation which fully implements Article 33, third sentence, of the Constitution of Belarus and which would prohibit any monopoly over the mass media by the state; for this purpose, the high concentration of state interests in joint-stock media, printing companies and distributing companies should be reduced and the national broadcasting company should become a public service broadcaster independent of direct control by the President of the Republic or other state organs along the lines of Recommendation 1641 (2004) on public service broadcasting;
- vii. ensure that printers and distributors of print media do not discriminate against private media independent of state support, or against the foreign press;
- viii. ensure that the Central Electoral Committee and the national broadcasting company provide for free, equal and fair access to airtime for political parties as well as independent candidates before the elections in Belarus; the authorities may be guided by Recommendation No. R(99)15 of the Committee of Ministers on measures concerning media coverage of election campaigns; this is particularly important in preparation of the coming parliamentary elections in autumn 2004;
- ix. revise all presidential decrees which excessively restrict the right to receive and disseminate information about the state under Article 34 of the Constitution of Belarus;
- x. ensure that the National Assembly can take up its role as legislator and become the initiator of legislation and legislative amendments in the media field; in this regard, the National Assembly should seek to include in the Constitution of Belarus a provision on freedom of the media and the inadmissibility of censorship similar to Articles 3 and 4 of the Law on the Press and other Mass Media;
- xi. refrain from restricting the right to freedom of association of journalists and editors, as guaranteed by Article 22 of the International Covenant on Civil and Political Rights of the United Nations and by Article 11 of the European Convention on Human Rights; the state authorities of Belarus must not hinder the work of the Belarusian Association of Journalists by intimidating or harassing its staff and members.

15. The Assembly calls on the European Parliament, the Council of the European Union and the European Commission not to tolerate any longer the systematic violation by Belarusian authorities of the fundamental freedoms guaranteed under Articles 10 (freedom of expression) and 11 (freedom of association) of the European Convention on Human Rights, Articles 11 (freedom of expression) and 12 (freedom of association) of the Charter of Fundamental Rights of the European Union, and to take appropriate action in their relations with Belarus.

16. The Assembly calls on the OSCE Parliamentary Assembly, the Chairman-in-Office of the OSCE and the OSCE Representative on Freedom of the Media not to tolerate any longer the systematic violation by Belarusian authorities of the fundamental freedoms guaranteed under Articles 10 and 11 of the European Convention on Human Rights, Articles 19 (freedom of expression) and 22 (freedom of association) of the International Covenant on Civil and Political Rights of the United Nations in relation to the obligations of Belarus under the Helsinki Final Act, and paragraph 22 of the Istanbul Summit Declaration of the OSCE, and to take appropriate action against Belarus.

17. The Assembly calls on the United Nations and, in particular, the United Nations Commission on Human Rights, never to tolerate the systematic violation by Belarusian authorities of Articles 19 and 22 of the International Covenant on Civil and Political Rights of the United Nations, and to take appropriate action against Belarus.

# Recommendation 1658 (2004)<sup>1</sup>

## Persecution of the press in the Republic of Belarus

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The Parliamentary Assembly of the Council of Europe refers to its Resolution Resolution 1372 (2004) on the persecution of the press in the Republic of Belarus and recommends that the Committee of Ministers of the Council of Europe:

- i. take into account this resolution when deciding on action concerning Belarus;
- ii. forward this resolution to the governments of member states and observer states and request them to support in their bilateral relations with Belarus the fulfilment of the catalogue of requirements contained in this resolution with regard to freedom of the media;
- iii. encourage member states to provide objective and impartial broadcasting programmes and print and Internet publications aimed specifically at the Belarusian public.

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1. *Assembly debate* on 28 April 2004 (12th Sitting) (see Doc. 10107, report of the Political Affairs Committee, rapporteur: Mr Pourgourides; and Doc. 10165, opinion of the Committee on Culture, Science and Education, rapporteur: Ms Muttonen). *Text adopted by the Assembly* on 28 April 2004 (12th Sitting).

# Resolution 1387 (2004)<sup>1</sup>

## Monopolisation of the electronic media and possible abuse of power in Italy

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1. Italy is a founding member of the Council of Europe and strongly supports the ideals for which it stands. The Parliamentary Assembly is therefore concerned by the concentration of political, commercial and media power in the hands of one person, Prime Minister Silvio Berlusconi.

2. The Parliamentary Assembly cannot accept that this anomaly be minimised on the grounds that it only poses a potential problem. A democracy is judged not only by its day-to-day operations but by the principles the country upholds with regard to its own citizens and internationally. The Assembly recalls that, in accordance with Article 10 of the Convention for the Protection of Human Rights and Fundamental Freedoms and the case-law of the European Court of Human Rights, states have a duty to protect and, when necessary, take positive measures to safeguard and promote media pluralism.

3. The Assembly deplores the fact that several consecutive Italian governments since 1994 have failed to resolve the problem of conflict of interest and that appropriate legislation has not yet been adopted by the present parliament. It disagrees that the leading principle of the Frattini Bill currently under consideration – that only managers, not owners, should be held responsible – provides a genuine and comprehensive solution to the conflict of interest concerning Mr Berlusconi.

4. Through Mediaset, Italy's main commercial communications and broadcasting group, and one of the largest in the world, Mr Berlusconi owns approximately half of the nationwide broadcasting in the country. His role as head of government also puts him in a position to influence indirectly the public broadcasting organisation, RAI, which is Mediaset's main competitor. As Mediaset and RAI command together about 90% of the television audience and over three quarters of the resources in this sector, Mr Berlusconi exercises unprecedented control over the most powerful media in Italy.

5. This duopoly in the television market is in itself an anomaly from an antitrust perspective. The status quo has been preserved even though legal provisions affecting media pluralism have twice been declared anti-constitutional and the competent authorities have established the dominant positions of RAI and the three television channels of Mediaset. An illustration of this situation was a recent decree of the Prime Minister, approved by parliament, which allowed the third channel of RAI and Mediaset's Retequattro to continue their operations in violation of the existing antitrust limits until the adoption of new legislation. Competition in the media sector is further distorted by the fact that the advertising company of Mediaset, Publitalia '80, has a dominant position in television advertising. The Assembly deplores the continued exclusion of a potential national broadcaster, Europa 7, winner of a 1999 government tender to broadcast on frequencies occupied by Mediaset's channel, Retequattro.

6. The Assembly believes that the newly-adopted "Gasparri Law" on the reform of the broadcasting sector may not effectively guarantee greater pluralism simply through the multiplication of television channels in the course of digitalisation. At the same time, it manifestly allows Mediaset to expand even further, as it gives the market players the possibility to have a monopoly in a given sector without ever reaching the antitrust limit in the overall integrated system of communications (SIC). The Assembly notes that these concerns led the President of the Republic to oppose the previous version of the law.

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1. *Assembly debate* on 24 June 2004 (23rd Sitting) (see Doc. 10195, report of the Committee on Culture, Science and Education, rapporteur: Mr Mooney; and Doc. 10228, opinion of the Committee on Legal Affairs and Human Rights, rapporteur: Mr Ates). *Text adopted by the Assembly* on 24 June 2004 (23rd Sitting).

7. The Assembly is particularly concerned by the situation of RAI, which is contrary to the principles of independence laid down in Assembly Recommendation 1641 (2004) on public service broadcasting. RAI has always been a mirror of the political system of the country and its internal pluralism has moved from the proportionate representation of the dominant political ideologies in the past to the winner takes all attitude reflecting the present political system. The Assembly notes with concern the resignations of the president of RAI and of one of the most popular journalists in the country in protest against the lack of balanced political representation in the Council of Administration and against the political influence over RAI's programming.

8. While the printed media in Italy has traditionally provided greater pluralism and political balance than the broadcasting sector, most Italians receive their news through the medium of television. The high cost of newspaper compared to television advertising is having a damaging effect on the Italian printed media. However, the Assembly wishes to record its approval of government measures to help small- and medium-sized newspapers and other measures to boost newspaper readership.

9. The Assembly is extremely concerned that the negative image that Italy is portraying internationally because of the conflict of interest concerning Mr Berlusconi, could hamper the efforts of the Council of Europe aimed at promoting independent and unbiased media in the new democracies. It considers that Italy, as one of the strongest contributors to the functioning of the Organisation, has a particular responsibility in this respect.

10. The Assembly points out that several international bodies, such as the OSCE Representative on Freedom of the Media and, most recently, the European Parliament, have expressed concerns similar to its own. It welcomes the measures for safeguarding media pluralism proposed in the European Parliament resolution on the risks of violation, in the European Union and especially in Italy, of freedom of expression and information (Article 11 (2) of the Charter of Fundamental Rights) of 22 April 2004, namely that the protection of media diversity should become a priority of European Union competition law.

11. The Assembly therefore calls on the Italian Parliament:

- i. to pass as a matter of urgency a law resolving the conflict of interest between ownership and control of companies and discharge of public office, and incorporating penalties for cases where there is a conflict of interest with the discharge of public office at the highest level;
- ii. to ensure that legislation and other regulatory measures put an end to the long-standing practice of political interference in the media, taking into account in particular the Committee of Ministers' Declaration on freedom of political debate in the media, adopted on 12 February 2004;
- iii. to amend the Gasparri Law in line with the principles set out in Committee of Ministers' Recommendation No. R (99) 1 on measures to promote media pluralism, in particular:
  - a. by avoiding the emergence of dominant positions in the relevant markets within the SIC;
  - b. by including specific measures to bring an end to the current RAI-Mediaset duopoly;
  - c. by including specific measures to ensure that digitalisation will guarantee pluralism of content.

12. The Assembly calls on the Italian Government:

- i. to initiate measures to bring the functioning of RAI into line with Assembly Recommendation 1641 (2004) on public service broadcasting, with the declaration of the 4th European Ministerial Conference on Mass Media Policy in Prague and with Committee of Ministers' Recommendations No. R (96) 10 on the guarantee of the independence of public service broadcasting and Rec(2003)9 on measures to promote the democratic and social contribution of digital broadcasting;
- ii. to give a positive international example by proposing and supporting initiatives within the Council of Europe and the European Union aimed at promoting greater media pluralism at European level.

13. The Assembly asks the Venice Commission to give an opinion on the compatibility of the Gasparri Law and the Frattini Bill with the standards of the Council of Europe in the field of freedom of expression and media pluralism, especially in the light of the case-law of the European Court of Human Rights.

# Resolution 1438 (2005)<sup>1</sup>

## Freedom of the press and the working conditions of journalists in conflict zones

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1. The Parliamentary Assembly of the Council of Europe recalls the importance of freedom of expression and information in the media for democratic societies and for each individual. It constitutes a core value guaranteed throughout Europe by the European Convention on Human Rights. Situations of war or conflict do not make the adequate provision of information through the media any less important; on the contrary, they enhance its relevance.
2. Journalists reporting from dangerous places, such as war zones, conflict areas or lawless areas, are often faced with difficult and dangerous working conditions and sometimes even with widespread and systematic targeting by terrorist groups in search of media attention, as is the case at present in Iraq. Freedom of expression and information may, depending on the individual circumstances, be weighed against other fundamental considerations, in particular the rights to life, liberty and security of journalists. These other rights must not be compromised by growing market pressure for more reports directly from dangerous places and a supposedly increasing public demand for sensational reporting.
3. The Assembly deplores the great number of murders, kidnappings and disappearances of journalists working in conflict areas or on dangerous subjects and regards these as grave acts of aggression against freedom of expression and information in the media. Widespread publicity and the fulfilment of terrorists' demands, such as paying large ransoms to kidnappers, considerably increase the risks run by journalists working in dangerous areas and thus reduce the possibility for the public to receive valuable information.
4. Concerned about the state of freedom of expression and information in the media in Iraq, the Assembly deplores the numerous deaths and disappearances of journalists there and the continued detention as hostages of Florence Aubenas, Hussein Hanoun al-Saadi, Sorin Dumitru Miscoci, Marie-Jeanne Ion and Eduard Ovidiu Ohanesian. It calls for the immediate release of those held hostage.
5. The Assembly pays tribute to non-governmental organisations such as the International News Safety Institute, the International Press Institute, Reporters Without Borders, the International Federation of Journalists, Article 19 and the Institute for War & Peace Reporting for providing help and advice to journalists working in dangerous situations and conflict areas.
6. Welcoming the Charter for the Safety of Journalists Working in War Zones or Dangerous Areas drawn up by the organisation Reporters Without Borders, the Assembly recalls the importance of employing only experienced and well trained journalists, who volunteer to take up such tasks, and of providing them with adequate safety, communication and first-aid equipment, psychological counselling after their return and with insurance for illness, injury, repatriation, disability and loss of life.
7. The Assembly recalls and reaffirms that journalists must be considered civilians under Article 79 of Protocol I to the Geneva Conventions of 1949, provided that they take no action adversely affecting their status as civilians, and without prejudice to the right of war correspondents, who are accredited to the armed forces and accompany them without actually being members thereof, to the status of prisoner of war under Article 4.A.4 of Geneva Convention III once fallen into the power of the enemy.

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1. *Assembly debate* on 28 April 2005 (14th Sitting) (see Doc. 10521, report of the Committee on Culture, Science and Education, rapporteur: Mr Jarab).  
*Text adopted by the Assembly* on 28 April 2005 (14th Sitting).

8. Recalling the Committee of Ministers' Declaration and Recommendation No. R (96) 4 on the protection of journalists in situations of conflict and tension, the Assembly calls on all member and observer states to comply fully with them, in particular to:

- i. respect the right to freedom of expression and information;
- ii. refrain from restricting the use of communication equipment, such as fixed and mobile telephones, satellite telephones and radio communication devices;
- iii. instruct their military and police forces to give protection and assistance to journalists;
- iv. facilitate access to the territory of destination by issuing necessary visas and other travel documents to journalists;
- v. respect the confidentiality of journalists' sources.

9. All Council of Europe member and observer states are called upon:

- i. to ensure that journalists can work safely on their territories;
- ii. to investigate all acts of violence or lethal incidents involving journalists which occur on their territories as well as those occurring abroad in which their armed or security forces may have been involved, including those due to friendly fire.

10. Furthermore, the Assembly calls on Council of Europe member and observer states to set up compulsory training and information programmes for war correspondents embedded in military forces, to be provided prior to departure.

11. Media should indicate clearly to the public which reports are from war correspondents embedded in military or security forces.

12. The Assembly stresses that, if, for reasons of their own personal safety, journalists embedded in the military or security forces may only work in certain areas, restrictions on their reporting must be limited to the absolute minimum required to prevent the disclosure of confidential information which might endanger ongoing military operations.

13. Journalists' employers, and professional organisations should organise training courses to prepare journalists for the risks of working in conflict areas. The media should declare publicly that no financial payments or political concessions will be made to kidnappers and that political statements made by kidnapped journalists are made under coercion and are hence without any value.

14. All journalists and their employers are encouraged to adhere to the Charter for the Safety of Journalists Working in War Zones or Dangerous Areas drawn up by the organisation Reporters Without Borders.

15. With reference to the Committee of Ministers' Declaration of 3 May 1996 on the protection of journalists in situations of conflict and tension, the Assembly asks the Secretary General of the Council of Europe to pay particular attention to the fate of journalists in situations of conflict and tension and to regularly follow cases of journalists who are missing, detained or have been wounded or killed in the exercise of their profession in member or observer states or in connection with military or peace-keeping operations conducted by Council of Europe member or observer states abroad.



# Recommendation 1702 (2005)<sup>1</sup>

## Freedom of the press and the working conditions of journalists in conflict zones

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The Parliamentary Assembly of the Council of Europe, referring to its Resolution 1438 (2005) on freedom of the press and the working conditions of journalists in conflict zones, recommends that the Committee of Ministers:

- i. forward this resolution to the competent ministers;
- ii. monitor respect of freedom of expression and information in the media and the working conditions of journalists in situations of conflict in member states;
- iii. work on this issue with the United Nations, and in particular to collaborate with its Commission on Human Rights or with UNESCO, while maintaining the standards of the European approach towards this issue in accordance with the European Convention on Human Rights and the other relevant legal texts of the Council of Europe.

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1. *Assembly debate* on 28 April 2005 (14th Sitting) (see Doc. 10521, report of the Committee on Culture, Science and Education, rapporteur: Mr Jarab).  
*Text adopted by the Assembly* on 28 April 2005 (14th Sitting).

# Recommendation 1706 (2005)<sup>1</sup>

## Media and terrorism

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1. The Parliamentary Assembly of the Council of Europe believes that terrorism should not affect the importance of freedom of expression and information in the media as one of the essential foundations of democratic society. This freedom carries with it the right of the public to be informed on matters of public concern, including terrorist acts and threats, as well as the response by the state and international organisations to these threats and acts.
2. Terrorist acts are acts which are intended to create terror, fear or chaos among the public. The spread of public terror, fear and feelings of chaos depends largely on the images and messages being carried by media reports about the terrorist acts and threats. The omnipresence of the mass media at global level frequently exaggerates these effects out of proportion.
3. The Assembly recalls its Resolution 1271 (2002) and Recommendation 1550 (2002) on combating terrorism and respect for human rights and reaffirms that the fight against terrorism must not be used as a pretext to restrict the fundamental rights and freedoms guaranteed under the European Convention on Human Rights and related legal texts of the Council of Europe. In this respect, it supports the Committee of Ministers' Guidelines on Human Rights and the Fight against Terrorism of 11 July 2002.
4. Referring to the Committee of Ministers' Declaration of 2 March 2005 on freedom of expression and information in the media in the context of the fight against terrorism, the Assembly emphasises that Article 15 of the European Convention on Human Rights cannot be invoked in cases of terrorism in order to restrict this freedom beyond the existing limitations of Article 10, paragraph 2 of the Convention, because terrorist action can neither be regarded as war in a legal sense, nor can it threaten the life of a democratic nation.
5. The Assembly considers it necessary for the public and media to be aware of the fact that terrorists direct their action towards the public and thus utilise the media in order to have the strongest possible impact. This is even more important because terrorists have learned how to use information technologies in order to disseminate their own audiovisual recordings, electronic messages or web sites on the Internet, which compels states and the media to react accordingly.
6. With due regard to the privacy and human dignity of victims of terrorist acts and their families, the Assembly stresses the importance of fully informing the public about terrorist acts, particularly the suffering caused by these acts as well as the socio-cultural and political context of such acts. Informed public debate about concrete acts of terrorism can lead to forming adequate political responses to it and to preventing others from joining terrorist groups.
7. The Assembly trusts in the ability of the European political system and culture and in its citizens, politicians and journalists to avoid sensationalist media reports related to terrorism.
8. The Assembly invites media professionals:
  - i. to develop, through their professional organisations, a code of conduct for journalists, photographers and editors dealing with terrorist acts and threats, in order to keep the public informed without contributing unduly to the impact of terrorism;
  - ii. to organise training courses for media professionals aimed at increasing awareness of the sensitive nature of media reports on terrorism;
  - iii. to co-operate between themselves, for instance through their professional organisations, in order to avoid a race for sensationalist news and images which plays into the hands of terrorists;

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1. *Assembly debate* on 20 June 2005 (17th Sitting) (see Doc. 10557, report of the Committee on Culture, Science and Education, rapporteur: Mr Jarab).  
*Text adopted by the Assembly* on 20 June 2005 (17th Sitting).

- iv. to avoid acting in the interests of terrorists by adding to the feeling of public fear which terrorist acts can create or by offering terrorists a platform for publicity;
  - v. to refrain from publishing shocking pictures or disseminating images of terrorist acts which violate the privacy and human dignity of victims or contribute to increase the terrorising effect of such acts on the public as well as on the victims and their families;
  - vi. to avoid aggravating, through their news and comments, the societal tensions underlying terrorism, and in particular to refrain from disseminating any kind of hate speech.
9. The Assembly asks all its member and observer delegations to take account of this recommendation in their national work and to hold a debate on this issue in their respective national parliaments.
10. The Assembly recommends that the Committee of Ministers ask member and observer states:
- i. to inform the public and the media regularly about government strategies and action towards combating terrorism as well as its causes;
  - ii. to abstain from prohibiting or even restricting unduly the dissemination of information and opinions in the media about terrorism as well as about the reaction by state authorities to terrorist acts and threats under the pretext of fighting terrorism;
  - iii. to inform, upon their request, media dealing with terrorism about the specific security situation in each context, in order to avoid journalists investigating terrorism being unnecessarily exposed to dangers caused by terrorists or the anti-terrorist action of state authorities;
  - iv. to include media literacy in their school curricula, in order to encourage a critical and informed consumption of media content and raise citizens' awareness of the horror of terrorist acts as early as possible;
  - v. to co-operate through their law enforcement authorities and police in order to prevent the dissemination of illegal messages and images by terrorists on the Internet;
  - vi. to apply the Additional Protocol to the Convention on Cybercrime concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems to terrorist content in so far as the latter advocates, promotes or incites hatred or violence against any individual or group of individuals based on race, colour, descent or national or ethnic origin, as well as religion if used as a pretext for any of these factors.
11. The Assembly asks the Committee of Ministers:
- i. to monitor the treatment of terrorism in European media in particular with regard to its Declaration on freedom of expression and information in the media in the context of the fight against terrorism;
  - ii. to prepare, under the guidance and in close co-operation with media professionals and their professional organisations, and with UNESCO and other organisations working in the same field, a handbook for journalists reporting about terrorist acts and violence;
  - iii. to initiate work towards an additional protocol to the Convention on Cybercrime setting up a framework for security co-operation between member and observer states for the prevention of cyber terrorism, in the form of large-scale attacks on and through computer systems which threaten a state's national security, public safety or economic well-being.

# Resolution 1510 (2006)<sup>1</sup>

## Freedom of expression and respect for religious beliefs

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1. The Parliamentary Assembly of the Council of Europe reaffirms that there cannot be a democratic society without the fundamental right to freedom of expression. The progress of society and the development of every individual depend on the possibility of receiving and imparting information and ideas. This freedom is not only applicable to expressions that are favourably received or regarded as inoffensive but also to those that may shock, offend or disturb the state or any sector of the population, in accordance with Article 10 of the European Convention on Human Rights (ETS No. 5).
2. Freedom of thought, conscience and religion constitutes a necessary requirement for a democratic society and one of the essential freedoms of individuals for determining their perception of human life and society. Conscience and religion are basic components of human culture. In this sense, they are protected under Article 9 of the European Convention on Human Rights.
3. Freedom of thought and freedom of expression in a democratic society must, however, permit open debate on matters relating to religion and beliefs. The Assembly recalls in this regard its Recommendation 1396 (1999) on religion and democracy. Modern democratic societies are made up of individuals of different creeds and beliefs. Attacks on individuals on grounds of their religion or race cannot be permitted but blasphemy laws should not be used to curtail freedom of expression and thought.
4. The Assembly emphasises the cultural and religious diversity of its member states. Christians, Muslims, Jews and members of many other religions, as well as those without any religion, are at home in Europe. Religions have contributed to the spiritual and moral values, ideals and principles which form the common heritage of Europe. In this respect, the Assembly stresses Article 1 of the Statute of the Council of Europe (ETS No. 1), which stipulates that the aim of the Council of Europe is to achieve greater unity between its members for the purpose of safeguarding and realising the ideals and principles which are their common heritage.
5. The Assembly underlines its commitment to ensuring that cultural diversity becomes a source of mutual enrichment, not of tension, through a true and open dialogue among cultures on the basis of mutual understanding and respect. The overall aim should be to preserve diversity in open and inclusive societies based on human rights, democracy and the rule of law, by fostering communication and improving the skills and knowledge necessary for living together peacefully and constructively within European societies, between European countries and between Europe and its neighbouring regions.
6. Reactions to images perceived as negative, transmitted through books, films, cartoons, paintings and the Internet, have recently caused widespread debates about whether – and to what extent – respect for religious beliefs should limit freedom of expression. Questions have also been raised on the issues of media responsibility, self-regulation and self-censorship.
7. Blasphemy has a long history. The Assembly recalls that laws punishing blasphemy and criticism of religious practices and dogmas have often had a negative impact on scientific and social progress. The situation started changing with the Enlightenment, and progressed further towards secularisation. Modern democratic societies tend to be secular and more concerned with individual freedoms. The recent debate about the Danish cartoons raised the question of these two perceptions.

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1. *Assembly debate* on 28 June 2006 (19th Sitting) (see Doc. 10970, report of the Committee on Culture, Science and Education, rapporteur: Mrs Hurskainen).  
*Text adopted by the Assembly* on 28 June 2006 (19th Sitting).

8. In a democratic society, religious communities are allowed to defend themselves against criticism or ridicule in accordance with human rights legislation and norms. States should support information and education about religion so as to develop better awareness of religions as well as a critical mind in its citizens in accordance with Assembly Recommendation 1720 (2005) on education and religion. States should also develop and vigorously implement sound strategies including adequate legislative and judicial measures to combat religious discrimination and intolerance.

9. The Assembly also recalls that the culture of critical dispute and artistic freedom has a long tradition in Europe and is considered as positive and even necessary for individual and social progress. Only totalitarian systems of power fear them. Critical dispute, satire, humour and artistic expression should, therefore, enjoy a wider degree of freedom of expression and recourse to exaggeration should not be seen as provocation.

10. Human rights and fundamental freedoms are universally recognised, in particular under the Universal Declaration of Human Rights and international covenants of the United Nations. The application of these rights is not, however, universally coherent. The Assembly should fight against any lowering of these standards. The Assembly welcomes the United Nations Secretary-General's initiative on an alliance of civilisations which aims to mobilise concerted action at the institutional and civil society levels to overcome prejudice, misperceptions and polarisation. A true dialogue can only occur when there is genuine respect for and understanding of other cultures and societies. Values such as respect for human rights, democracy, rule of law and accountability are the product of mankind's collective wisdom, conscience and progress. The task is to identify the roots of these values within different cultures.

11. Whenever it is necessary to balance human rights which are in conflict with each other in a particular case, national courts and national legislators have a margin of appreciation. In this regard, the European Court of Human Rights has held that, whereas there is little scope for restrictions on political speech or on the debate of questions of public interest, a wider margin of appreciation is generally available when regulating freedom of expression in relation to matters liable to offend intimate personal moral convictions or religion. What is likely to cause substantial offence to persons of a particular religious persuasion will vary significantly from time to time and from place to place.

12. The Assembly is of the opinion that freedom of expression as protected under Article 10 of the European Convention on Human Rights should not be further restricted to meet increasing sensitivities of certain religious groups. At the same time, the Assembly emphasises that hate speech against any religious group is not compatible with the fundamental rights and freedoms guaranteed by the European Convention on Human Rights and the case law of the European Court of Human Rights.

13. The Assembly calls on parliaments in member states to hold debates on freedom of expression and respect for religious beliefs, and on parliamentarians to report back to the Assembly on the results of these debates.

14. The Assembly encourages religious communities in Europe to discuss freedom of expression and respect for religious beliefs within their own community and to pursue a dialogue with other religious communities in order to develop a common understanding and a code of conduct for religious tolerance which is necessary in a democratic society.

15. The Assembly also invites media professionals and their professional organisations to discuss media ethics with regard to religious beliefs and sensitivities. It encourages the creation of press complaints bodies, media ombudspersons or other self-regulatory bodies, where such bodies do not yet exist, which should discuss possible remedies for offences to religious persuasions.

16. The Assembly encourages intercultural and interreligious dialogue based on universal human rights, involving – on the basis of equality and mutual respect – civil society, as well as the media, with a view to promoting tolerance, trust and mutual understanding, which are vital for building coherent societies and strengthening international peace and security.

17. The Assembly encourages the Council of Europe bodies to work actively on the prevention of hate speech directed to different religious and ethnic groups.

18. The Assembly resolves to revert to this issue on the basis of a report on legislation relating to blasphemy, religious insults and hate speech against persons on grounds of their religion, after taking stock of the different approaches in Europe, including the application of the European Convention on Human Rights, the reports and recommendations of the European Commission against Racism and Intolerance (ECRI) and of the European Commission for Democracy through Law (Venice Commission) and the reports of the Council of Europe Commissioner for Human Rights.

# Recommendation 1768 (2006)<sup>1</sup>

## The image of asylum seekers, migrants and refugees in the media

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1. European history is strongly characterised by both emigration and immigration within and outside Europe. According to the International Organization for Migration, there are approximately 33 million migrants in Europe. This figure will continue to rise as Europe remains a destination of choice for migrants, asylum seekers and refugees; furthermore, Europe will need greater numbers of migrants to fill empty jobs and counterbalance declining fertility rates.
2. Many of these migrants, asylum seekers and refugees, from within and outside of Europe, will remain in Europe, thus contributing to cultural diversity whilst also making an important economic contribution to European society.
3. Their integration poses a challenge, both for the individuals concerned and for society as a whole. One of the obstacles to this integration is the hostility and xenophobia prevalent in certain parts of society, arising from fears fed by populist beliefs that Europe is being overwhelmed by migrants, asylum seekers and refugees. Other common fears are that they take jobs away from nationals, contribute to rising criminality and pose a terrorist threat. Another obstacle to integration is the lack of information on the integration process for migrants, asylum seekers and refugees, as well as a misreading or misunderstanding of the process and what it entails.
4. The Parliamentary Assembly recognises the essential role of freedom of expression in a democratic society and reaffirms its profound commitment to this right outlined in Article 10 of the European Convention on Human Rights (ETS No. 5). In its Resolution 1510 (2006) on freedom of expression and respect for religious beliefs, the Assembly confirmed that “freedom of expression should not be further restricted to meet increasing sensitivities of certain religious groups”.
5. The media plays an essential role in ensuring that issues linked to migration, refugees and asylum are portrayed in a fair and balanced way. It is therefore the media’s responsibility to also reflect the positive contribution to society made by these persons, and to protect them from negative stereotyping. It is also important that media professionals among the migrants and asylum seekers represent their communities in the media, and that their views, and issues of interest to them and concerning them, be reflected in the media.
6. The Assembly has already expressed concern about the portrayal of migrants and ethnic minorities in the media in its Recommendation 1277 (1995) on migrants, ethnic minorities and media. Since this recommendation was adopted, the Council of Europe has taken major steps to tackle issues of racism and intolerance, including in the media. Noteworthy in this respect has been the ongoing work of the European Commission against Racism and Intolerance (ECRI) and the adoption of two important recommendations of the Committee of Ministers, namely Recommendation No. R (97) 20 on “hate speech” and Recommendation No. R (97) 21 on the media and the promotion of a culture of tolerance.
7. The Assembly considers that the fight against racism, discrimination and every form of intolerance requires the constant vigilance of the Council of Europe and that the media, supported by member states, plays an essential role in this fight.

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1. *Assembly debate* on 5 October 2006 (30th Sitting) (see Doc. 11011, report of the Committee on Migration, Refugees and Population, rapporteur: Mrs de Zulueta).  
*Text adopted by the Assembly* on 5 October 2006 (30th Sitting).

8. The Assembly therefore recommends that the Committee of Ministers:
  - 8.1. invite the Steering Committee on the Media and New Communication Services (CDMC) to examine and make recommendations on the operation and functioning of media complaints procedures and media complaints bodies established in member states, taking into account any difficulties faced by individuals and groups affected by statements in the media to obtain redress through these mechanisms;
  - 8.2. provide full support and adequate resources for ECRI to carry out its important monitoring work on racism and intolerance, and invites it to:
    - 8.2.1. pay particular attention to the legislation and policy in member states impacting on racism and intolerance in the media;
    - 8.2.2. carry out a media watch study, reporting on xenophobia, racism and intolerance in the media;
    - 8.2.3. prepare a report on the effectiveness of legislation prohibiting incitement to hatred;
  - 8.3. promote, through the Eurimages Fund and the European Convention on Cinematographic Co-Production (ETS No. 147), the production of films dealing with issues relevant to migrants, refugees and asylum seekers and produced by persons coming from these groups;
  - 8.4. invite the member states of the Council of Europe to:
    - 8.4.1. ensure the protection of freedom of expression in conformity with Article 10 of the European Convention on Human Rights;
    - 8.4.2. adopt and implement legislation prohibiting incitement to hatred, violence or discrimination where this is lacking, and enforce such legislation where it exists;
    - 8.4.3. adopt and implement penal legislation against, *inter alia*, the public dissemination or public distribution, or the production or storage of material with a racist content or purpose, and also to adopt and implement legislation penalising leaders of groups promoting racism, and suppress public financing of organisations carrying out or supporting such activities;
    - 8.4.4. ensure that legislation is adopted and implemented in member states to prevent excessive media concentrations, which pose a threat to quality, pluralism and diversity in the media;
    - 8.4.5. sign and ratify, where this has not already been done, the European Convention on Transfrontier Television (ETS No. 132);
    - 8.4.6. sign and ratify, where this has not already been done, the Convention on Cybercrime (ETS No. 185) and the Additional Protocol to the Convention on Cybercrime concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems (ETS No. 189);
    - 8.4.7. urge all democratic political parties to adopt or reaffirm the Charter of European Political Parties for a Non-Racist Society;
  - 8.5. invite the media to:
    - 8.5.1. adopt, in so far as they have not already done so, codes of conduct laying down the ethical principles that should guide the work of their professionals;
    - 8.5.2. supplement media codes of conduct, by drawing up guidelines to tackle particular challenges for the media, such as avoiding the stereotyping of migrants, asylum seekers and refugees, and avoiding anti-Semitism, anti-Christianism, Islamophobia, anti-Gypsyism and other forms of intolerance;
    - 8.5.3. negotiate conscience clauses in contracts for media professionals, allowing reporters and journalists to refuse to produce reports on materials that they feel would be in breach of ethical commitments;
    - 8.5.4. establish national complaints procedures to investigate, *inter alia*, complaints about media materials that foster intolerant, racist or xenophobic attitudes towards migrants, asylum seekers or refugees, and provide effective remedies where complaints are upheld;
    - 8.5.5. obtain consent from refugees or asylum seekers prior to using information or images which may identify their status as refugees or asylum seekers;

- 8.5.6. refrain from revealing the ethnic origin or nationality of migrants, asylum seekers or refugees when arrested or convicted of crimes where such information is irrelevant;
- 8.6. invite member states of the Council of Europe and the media to:
  - 8.6.1. encourage the employment of migrants and refugees in the media, including through the provision of specialised training programmes for persons belonging to these groups;
  - 8.6.2. facilitate, fund and encourage the training and sensitisation of media professionals to issues linked with multiculturalism, pluralism and the importance of tolerance, integration and equality for all;
  - 8.6.3. provide backing and support, including financial support, for national and European competitions and prizes for media professionals who contribute to the fight against racism and intolerance and promote a fair and balanced portrayal of migrants, asylum seekers and refugees in the media;
  - 8.6.4. promote and subsidise the production and broadcasting of programmes for and by migrants and refugees, including in their own languages, as well as promote the visibility of migrants and refugees in society by their inclusion in mainstream television programmes and at peak viewing times;
  - 8.6.5. enhance the role of local media as a means of promoting the integration and acceptance of migrants, refugees and asylum seekers in the communities in which they live;
  - 8.6.6. encourage youth and media to work together to promote awareness of the multicultural and pluralistic dimension of European societies, as well as the importance of tolerance, integration and equality for all.



## Recommendation 1773 (2006) The 2003 guidelines on the use of minority languages in the broadcast media and the Council of Europe standards: need to enhance cooperation and synergy with the OSCE

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1. The Parliamentary Assembly considers linguistic diversity to be a source of mutual enrichment which member states should encourage and maintain. Minorities must enjoy full and effective equality with the majority, including the right to preserve and develop their distinct identities. Genuine integration policies must respect differences and diversity.
2. The Assembly stresses that languages, which play a fundamental role in society as a tool for building communities, are particularly important for people belonging to minorities, since they are essential in the exercise of their right to maintain and develop their identity and culture as stipulated in the Framework Convention for the Protection of National Minorities (ETS No. 157), the European Charter for Regional or Minority Languages (ETS No. 148) and other Council of Europe instruments as well as in the 2003 guidelines on the use of minority languages in the broadcast media developed under the auspices of the Organization for Security and Co-operation in Europe (OSCE) High Commissioner on National Minorities.
3. The Assembly recalls that media can make a positive contribution to democracy and the fight against intolerance, especially where they foster public debate and a culture of understanding between different ethnic and linguistic groups in society and avoid presenting society in mono-cultural and mono-linguistic terms.
4. The Assembly notes moreover that languages play an important role in access to information and that providing information in minority languages not only has an obvious cultural dimension but also guarantees that minorities actually have full and equal access to information.
5. The Assembly deeply regrets that such access is sometimes deliberately made difficult or denied to minorities.
6. In this context, the Assembly recalls that, in Recommendation 1623 (2003) on rights of national minorities, it “reiterates the views [...] that all European states should abolish restrictions on the establishment and functioning of private media broadcasting in minority languages. Such restrictions are contrary to Article 10 of the European Convention on Human Rights as developed by the case law of the European Court of Human Rights”.
7. Moreover, the Assembly notes that the relevant Council of Europe and OSCE instruments, which aim to guarantee that minorities can use their own languages and that these languages are broadcast by the media, are complementary.
8. The Assembly recognises the significant role of the OSCE High Commissioner on National Minorities in conflict prevention and supports his continuous efforts to identify and seek early resolution of ethnic tensions.
9. In its Recommendation 1623 (2003) the Assembly stated that “the co-operation between the Council of Europe’s bodies and other relevant European organisations (including the European Union and the OSCE) [...] should be stepped up”, and, in Recommendation 1743 (2006), that it attaches “great importance to relations between the Council of Europe and other institutions”.

10. The heads of state and government of the member states of the Council of Europe, meeting at the 3rd Summit in Warsaw on 16 and 17 May 2005, stated that they wished to foster “European identity and unity, based on shared fundamental values, respect for our common heritage and cultural diversity”.

11. In the Warsaw Declaration they undertook to continue their “work on national minorities, thus contributing to the development of democratic stability”, while declaring that they were “resolved to secure improved practical co-operation between the Council of Europe and the OSCE and [welcomed] the prospect of enhanced synergy opened up by the joint declaration endorsed at this Summit”.

12. The Assembly welcomes the Action Plan adopted at the Warsaw Summit, in which attention is drawn to the decision taken at the Strasbourg Summit “to step up co-operation in respect of the protection of all persons belonging to national minorities”.

13. The Assembly therefore recommends that the Committee of Ministers:

13.1. invite member states which have not yet done so to sign and ratify, without reservations and restrictive declarations, the Framework Convention for the Protection of National Minorities and the European Charter for Regional or Minority Languages, which are fundamental instruments for the protection of national and linguistic minorities, as well as the European Convention on Transfrontier Television (ETS No. 132), and that it increase its efforts in this respect;

13.2. invite member states to ensure that people belonging to national minorities or using regional or minority languages have a balanced access to public broadcast media and an effective right to establish and use private broadcast media, in accordance with Article 11 of the European Charter for Regional or Minority Languages, Article 9 of the Framework Convention for the Protection of National Minorities, the opinions of the Advisory Committee on the Framework Convention and the reports of the Committee of Experts on the Charter, Parliamentary Assembly recommendations and resolutions on specific linguistic minorities and the 2003 guidelines on the use of minority languages in the broadcast media;

13.3. in the framework of the monitoring of the implementation of the Framework Convention for the Protection of National Minorities and the European Charter for Regional or Minority Languages, regularly take into account the 2003 guidelines on the use of minority languages in the broadcast media;

13.4. instruct the competent committee, when revising the European Convention on Transfrontier Television, to amend Article 10 of this convention in order to strengthen multilingual audiovisual works as well as audiovisual works produced in regional or minority languages.

14. The Assembly considers that there is a potential for enhanced co-operation and contacts between the Council of Europe and the Office of the OSCE High Commissioner on National Minorities and encourages further synergies including through practical projects of common interest, in which civil society representatives could be involved.

# Resolution 1535 (2007)<sup>1</sup>

## Threats to the lives and freedom of expression of journalists

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1. The Parliamentary Assembly is deeply concerned by the numerous attacks and threats to the lives and freedom of expression of journalists in Europe in 2006 and January 2007. It strongly condemns the murders of Hrant Dink in Turkey and Anna Politkovskaya in the Russian Federation and the brutal attacks on Fikret Huseynli, Bahaddin Khaziyev and Nijat Huseynov in Azerbaijan, Ion Robu in Moldova and Ihor Mosiyshuck, Sergei Yanovski and Lilia Budjurova in Ukraine. It is also shocked by the recent death decrees by Iranian religious leaders against Rafiq Tagi and Samir Sedagetoglu in Azerbaijan, and against Robert Redeker in France, as well as by the death threats to Mubarak Asani in Bosnia and Herzegovina, Drago Hedl and Ladislav Tomicic in Croatia, Slavica Jovanovic and Jahja Fehratovic in Serbia and Vassil Ivanov in Bulgaria for their journalistic work. Other attacks on journalists may have happened in Europe without having been noted by a wider public. The Assembly strongly deplores the fact that journalists in Europe have to work under fear for their lives and physical safety.

2. The Assembly pays tribute to all journalists and media that further democracy and the rule of law by investigative journalism into political and social issues which are of public concern while respecting the standards of journalistic ethics. Hate journalism, which confuses propaganda with reporting, defames individuals and inflames rather than illuminates public debate, is also growing and needs to be confronted.

3. Freedom of expression and information in the media includes the right to express political opinions and criticise the authorities and society, expose governmental mistakes, corruption and organised crime, and question religious dogmas and practices. This freedom is guaranteed under Article 10 of the European Convention on Human Rights (ECHR) (ETS No. 5) as one of the fundamental requirements of a democratic society. The member states of the Council of Europe have committed themselves to human rights, democracy and the rule of law, and the vast majority of European citizens have embraced these values after a sometimes long and often painful history of having been deprived of their enjoyment. Where journalists must fear for their lives and security, democracy is at risk. Freedom of expression is one of the cornerstones of democracy in Europe.

4. The Assembly believes that to make democracy meaningful, freedom of expression and freedom of religion should go hand in hand. Violent attacks and threats, by any group invoking their religion, against expressions of opinion by words, speech or visual images, have no place in European democracies.

5. The Assembly recalls the legal obligation of member states, in accordance with Articles 2 and 10 of the ECHR, to investigate any murders of journalists as well as acts of severe physical violence and death threats against them. This obligation stems from the individual journalist's rights under the Convention as well as from the necessity for any democracy to have functioning media free from intimidation and political threats. Where attacks against journalists can be carried out with impunity, democracy and the rule of law suffer.

6. Public authorities should use restraint and respect proportionality when applying legal restrictions to freedom of expression. Administrative acts, such as the granting of licences for the electronic media or awarding subsidies to the media, must be fair and provide equal treatment for all journalists and media companies. Where arbitrary or politically motivated discrimination of journalists and the media occurs, freedom of the media is violated.

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1. *Assembly debate* on 25 January 2007 (7th Sitting) (see Doc. 11143, report of the Committee on Culture, Science and Education, rapporteur: Mr McIntosh).  
*Text adopted by the Assembly* on 25 January 2007 (7th Sitting).

7. While being aware of the importance of Article 10 of the ECHR for the protection of media freedom throughout Europe, the Assembly believes that additional measures are needed to effectively protect the lives and freedom of expression of journalists in Europe. Applications to the European Court of Human Rights can only be made after the violation has taken place and national legal remedies have been exhausted; therefore judgments are delivered long after the violation.

8. The Assembly appreciates that several thousand signatures have been collected and forwarded to the President of the Assembly by Reporters Without Borders in Paris, demanding an investigation into the murder of Anna Politkovskaya. The Assembly also welcomes the initiatives of the International Press Institute in Vienna, ARTICLE 19 in London, the Glasnost Defence Foundation in Moscow and the South East Europe Media Organisation (SEEMO) in Vienna, as well as other organisations, to make publicly known all murders of journalists and attacks against them because of their journalistic work. Professional organisations of journalists and the media can help their members when they are faced with threats and attacks by providing assistance and training to journalists and by raising awareness among politicians and the public at large. The work of such professional organisations is protected under Articles 10 and 11 of the ECHR against undue restrictions by state authorities.

9. The Assembly has regularly defended freedom of the media in Europe. It recalls in this context its Recommendation 1506 (2001) on freedom of expression and information in the media in Europe, Recommendation 1589 (2003) on freedom of expression in the media in Europe, Resolution 1372 (2004) and Recommendation 1658 (2004) on the persecution of the press in the Republic of Belarus, Resolution 1438 (2005) and Recommendation 1702 (2005) on freedom of the press and the working conditions of journalists in conflict zones, Recommendation 1706 (2005) on media and terrorism and Resolution 1510 (2006) on freedom of expression and respect for religious beliefs.

10. The Assembly calls on national parliaments to:

10.1. closely monitor the progress of such criminal investigations and hold the authorities accountable for any failures to investigate or prosecute – for example, the Russian Parliament as regards the murder of Anna Politkovskaya;

10.2. abolish laws which place disproportionate limits on freedom of expression and are liable to be abused to incite extreme nationalism and intolerance – for example, the Turkish Parliament as regards Article 301 of the Turkish Penal Code on the “denigration of Turkishness”.

11. The Assembly calls on all parliaments concerned to conduct parliamentary investigations into the unresolved murders of journalists as well as attacks and death threats against them, in order to shed light on individual cases and develop as a matter of urgency effective policies for the greater safety of journalists and their right to carry out their work without threats.

12. The Assembly condemned the disappearance in 2000 and murder of Ukrainian journalist Georgiy Gongadze and called for investigations by the competent authorities. It is concerned at the lack of progress in these investigations and stresses the need to ensure an environment for independent judgment.

13. After the arrest of the alleged assassin of Hrant Dink, the Assembly now unites in calling for the deletion of Article 301 of the Turkish Penal Code, under which Dink and other journalists were prosecuted. The continuing presence of such a law limiting freedom of expression validates legal and other assaults on journalists.

14. The Assembly resolves to establish a specific monitoring mechanism for identifying and analysing attacks on the lives and freedom of expression of journalists in Europe as well as the progress made by national law enforcement authorities and parliaments in their investigations of these attacks, and consequently invites Reporters Without Borders, the International Press Institute, the International Federation of Journalists and other organisations to report such attacks to the Assembly. The Assembly believes that fully representative, independent organisations and unions of journalists are an important form of protection for freedom of expression and rejects any concept of state licensing or control over the profession of journalism.

# Recommendation 1783 (2007)<sup>1</sup>

## Threats to the lives and freedom of expression of journalists

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1. The Parliamentary Assembly recalls its Resolution 1535 (2007) on threats to the lives and freedom of expression of journalists and its determination to set up a specific monitoring mechanism for identifying and analysing attacks on the lives and freedom of expression of journalists in Europe.
2. It recommends that the Committee of Ministers:
  - 2.1. express its unequivocal condemnation of the attacks on journalists in Europe, following the declarations made by the President of the Parliamentary Assembly, the Secretary General of the Council of Europe and the Commissioner for Human Rights of the Council of Europe after the murder of Anna Politkovskaya and the most recent declarations after the murder of Hrant Dink;
  - 2.2. call on police and law enforcement authorities in member states to react swiftly to threats against journalists linked to their work and develop specific strategies for the protection of journalists who have been the targets of serious threats, without hindering their work;
  - 2.3. instruct its competent steering committee to draw up policy guidelines on possible action by police and law enforcement authorities to protect journalists who are the targets of serious threats;
  - 2.4. establish a mechanism for identifying and analysing attacks against journalists and other serious violations of media freedom in Europe, with a view to developing policy recommendations to member states on how to better protect journalists and the freedom of the media, and report back regularly on this matter to the Assembly;
  - 2.5. promote work on this issue at United Nations level while maintaining the standards of the European approach towards this issue in accordance with the European Convention on Human Rights (ETS No. 5) and other relevant legal texts of the Council of Europe.

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1. *Assembly debate* on 25 January 2007 (7th Sitting) (see Doc. 11143, report of the Committee on Culture, Science and Education, rapporteur: Mr McIntosh).  
*Text adopted by the Assembly* on 25 January 2007 (7th Sitting).

# Recommendation 1789 (2007)<sup>1</sup>

## Professional education and training of journalists

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1. The Parliamentary Assembly of the Council of Europe believes that free and independent media are one of the fundamental backbones of democratic society, one of the engines of democratic transition and one of the requirements of democratic stability. For the media to function properly, journalists must show responsibility and professionalism, and this calls in turn for professional education and training.

2. The Assembly is aware of the challenges faced by media and journalists in Europe, in particular the transition from totalitarianism to democracy throughout Europe, the technological progress of new digital media as well as the growing globalisation of information flows and markets. The media in Europe work more and more without national borders: journalists move between states and deal with subjects from abroad or with relevance to an audience abroad, and media products are disseminated across borders. These developments both open up new opportunities for journalists and place new demands on them, such as requiring new skills, greater knowledge and ongoing training.

3. In this context, the Assembly recalls its Resolution 1003 (1993) and Recommendation 1215 (1993) on the ethics of journalism, Resolution 1165 (1998) on the right to privacy, Resolution 1438 (2005) and Recommendation 1702 (2005) on freedom of the press and the working conditions of journalists in conflict zones, Recommendation 1706 (2005) on media and terrorism as well as Resolution 1510 (2006) on freedom of expression and respect for religious beliefs.

4. The Assembly recalls the successful assistance and co-operation provided by the Council of Europe for more than a decade now in most member states in the field of media legislation and media training. Many of those activities have been funded by voluntary contributions of member and observer states as well as by the European Union. The Council of Europe, as the prime standard-setting organisation in Europe concerning freedom of the media, has thus been enabled to make its expertise available to all European states. This experience and expertise must be exploited further.

5. The Assembly welcomes the long-standing co-operation under the joint Council of Europe – European Commission programmes for media training in Europe and expresses the hope that the new MEDIA Programme and the European Neighbourhood and Partnership initiative under the EU budget for 2007-2013 will provide for opportunities to make greater use of the experience and geographic reach of the Council of Europe by continuing joint programmes at an intensified level.

6. The Assembly also recalls that the Council of Europe has set up a network of independent schools of political studies in many cities, which will familiarise journalists, among others, with the European project, based on human rights, democracy, the rule of law and civic values. Further targeted activities for journalists and the media are desirable in this framework.

7. In view of the globalisation of media and the differences in cultural and media practices, the Assembly is of the opinion that an intensified co-operation with non-European countries of the Mediterranean Basin is necessary in the field of media education along the lines mentioned in Assembly Resolution 1313 (2003) on cultural co-operation between Europe and the south-Mediterranean countries.

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1. *Text adopted by the Standing Committee, acting on behalf of the Assembly, on 16 March 2007 (see Doc. 11170, report of the Committee on Culture, Science and Education, rapporteur: Mr R. Huseynov).*

8. The Assembly also welcomes the training efforts for journalists pursued by many media companies in Europe and by professional organisations such as the International and European Federations of Journalists, the European Broadcasting Union, as well as the World Association of Newspapers and the European Newspaper Publishers Association. The professional education and training of their journalists is one of the most valuable assets for media companies in an increasingly competitive media environment. With regard to media content, quality should be promoted and such content should be prepared professionally by well-educated and trained journalists.

9. The Assembly notes, however, that not all media companies in Europe have the possibility of providing training to their journalists because of lack of funds and training schemes. While many institutions of higher education offer specialised courses and programmes for students wishing to become journalists, very few address the practical training needs of working journalists. Therefore, the Assembly is of the opinion that specialised courses should be created to provide vocational training and continuing education for journalists.

10. The Assembly refers to the emphasis placed on freedom of expression and the media in the commitments undertaken by the heads of state and government in their Action Plan adopted at the 3rd Summit in Warsaw (May 2005), as well as those undertaken at the 7th European Ministerial Conference on Mass Media Policy in Kyiv on 10 and 11 March 2005.

11. The Assembly recommends that the Committee of Ministers:

11.1. call on all member states to support professional training courses of journalists nationally and through the Council of Europe, possibly in co-operation with the media and their professional organisations;

11.2. consider establishing Council of Europe chairs for media training, possibly through voluntary contributions from governments as well as financial support from media companies and in co-operation with universities in Europe;

11.3. establish, together with media companies and in co-operation with institutions of higher education in Europe, a network of training centres for journalists;

11.4. organise pan-European exchanges for journalists with educational institutions and media companies, possibly through joint programmes with the European Union, in order to promote European standards and understanding among journalists;

11.5. organise, possibly with the North-South Centre of the Council of Europe in Lisbon, a conference on professional education and training for journalists in Europe and the Mediterranean Basin.

12. The Assembly resolves to provide assistance to the parliaments of member states in setting up departments responsible for relations with independent media in order to enhance the transparency of parliamentary work as well as the professionalism of media reporting about this work.

# Resolution 1557 (2007)<sup>1</sup>

## Image of women in advertising

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1. The Parliamentary Assembly notes that images of women which are totally at odds with their actual roles in our contemporary societies are still common in advertising today.
2. Too often, advertising shows women in situations which are humiliating and degrading, or even violent and offensive to human dignity.
3. The Assembly is angered by the fact that it is nearly always women who are reduced to the role of mere consumer commodities or sex objects in certain advertisements.
4. Respect for human dignity should, however, be one of the advertisers' constant aims.
5. The Assembly is aware that much work will be required to change attitudes and demolish stereotypes which do women a disservice in their fight for equality. Its fundamental aim is accordingly to ensure that women everywhere can at last see their real image faithfully reflected in the world in which they lead their daily lives.
6. It welcomes the fact that certain governments, non-governmental organisations and European governmental agencies have made progress on the image of women in the media and advertising. Studies have been carried out and laws have even been strengthened in order to combat discrimination between women and men.
7. However, the Assembly deplores the persistence of negative images and representations of women in advertising, which is partly due to the fact that many European states lack adequate laws and that national advertising codes are either ignored or are sometimes even non-existent.
8. It accordingly asks the Council of Europe's member states to take the necessary action to ensure that, whatever form it may take, the image of women is respected in a dignified and non-discriminatory way, while respecting the basic principle of freedom of expression, which rules out any form of censorship.
9. It denounces the harm done to the health of young girls, such as anorexia and, in later life, the development of conditions such as osteoporosis, provoked by certain advertisements that present thin women as a standard of beauty.
10. It recalls the importance of the Declaration and Platform for Action of the United Nations 4th World Conference on Women (Beijing, September 1995), which recommends, among other things, that the media and advertising bodies develop, consistent with freedom of expression, professional guidelines and codes of conduct and other forms of self-regulation to promote the presentation of non-stereotyped images of women.
11. Basing itself on the United Nations Convention on the Elimination of All Forms of Discrimination against Women of 18 December 1979, the Assembly emphasises the need for action of three kinds: regulation, self-regulation and education to help people to react critically to advertising.
12. The Assembly accordingly recommends that the Council of Europe member states:
  - 12.1. ratify the Optional Protocol to the 1979 Convention on the Elimination of all Forms of Discrimination against Women, make a declaration accepting the amendment to Article 20, paragraph 1, of the convention, bring their laws into line with those texts and submit, if they are not already doing so, regular reports to the Committee on the Elimination of Discrimination against Women on the legislative, judicial, administrative and other measures they have adopted to implement the convention and on progress made in this regard;

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1. *Assembly debate* on 26 June 2007 (21st Sitting) (see Doc. 11286, report of the Committee on Equal Opportunities for Women and Men, rapporteur: Mrs Bilgehan).  
*Text adopted by the Assembly* on 26 June 2007 (21st Sitting).



- 12.2. implement the Beijing Platform for Action on women and the media and take stock every year of progress made in this area;
- 12.3. adopt appropriate domestic laws:
  - 12.3.1. making incitement to discrimination an offence in all advertising media;
  - 12.3.2. giving women's associations the right to take legal action in defence of a collective interest – the elimination of discrimination against women in advertising;
- 12.4. encourage the introduction of national self-regulating schemes and reinforce the self-regulating machinery set up by national advertising standards authorities by:
  - 12.4.1. amending national ethical codes to prevent the dissemination of advertising images or messages which could be interpreted as inciting discrimination against women or as violating human dignity;
  - 12.4.2. including consumer representatives (women and men) on national advertising standards authorities;
  - 12.4.3. strengthening the binding character of decisions taken by advertising standards authorities;
  - 12.4.4. attaching to national advertising standards authorities a group of experts to make an in-depth study of the mechanisms of advertising;
- 12.5. take the following educational measures in respect of advertising:
  - 12.5.1. provide further training for advertising professionals, and also basic training in advertising schools, on respecting equality between women and men and, more generally, non-discrimination;
  - 12.5.2. set up programmes to help consumers to analyse the effects of advertising;
  - 12.5.3. provide adequate resources and run programmes in schools to teach children to distinguish between advertising and reality;
  - 12.5.4. run press campaigns to make the public aware of sexist or violent advertising and tell them what they can do to curb it;
  - 12.5.5. provide toll-free phone numbers and e-mail and postal addresses which the public can use to complain when advertisements use images of women which violate human dignity;
  - 12.5.6. introduce a prize awarded by advertising professionals, and a prize awarded by the public, for the advertising campaign which breaks most effectively with sexist stereotypes.

## Recommendation 1799 (2007)<sup>1</sup>

### The image of women in advertising

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1. The Parliamentary Assembly refers to its Resolution 1557 (2007) on the image of women in advertising and asks the Committee of Ministers to ensure that the member states implement it.
2. It asks the Committee of Ministers to appoint an international committee of experts to make an in-depth study of the image of women and men in advertising.
3. On the basis of the findings of this study, the Committee of Ministers will be asked to draw up a European code of good conduct encouraging advertising professionals to present images which are not discriminatory and respect the dignity of women and men.
4. The Assembly also asks the Committee of Ministers to:
  - 4.1. introduce a European prize to be awarded to the advertising campaign which breaks most effectively with sexist stereotypes and promotes equality between women and men;
  - 4.2. urge the governments of member states to organise national campaigns to raise public awareness of sexist or violent advertising and suggest means of reacting to it.

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1. *Assembly debate* on 26 June 2007 (21st Sitting) (see Doc. 11286, report of the Committee on Equal Opportunities for Women and Men, rapporteur: Mrs Bilgehan).  
*Text adopted by the Assembly* on 26 June 2007 (21st Sitting).

# Recommendation 1805 (2007)<sup>1</sup>

## Blasphemy, religious insults and hate speech against persons on grounds of their religion

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1. The Parliamentary Assembly recalls its Resolution 1510 (2006) on freedom of expression and respect for religious beliefs and reiterates its commitment to the freedom of expression (Article 10 of the European Convention on Human Rights, ETS No. 5, hereafter “the Convention”) and the freedom of thought, conscience and religion (Article 9 of the Convention), which are fundamental cornerstones of democracy. Freedom of expression is not only applicable to expressions that are favourably received or regarded as inoffensive, but also to those that may shock, offend or disturb the state or any sector of population within the limits of Article 10 of the Convention. Any democratic society must permit open debate on matters relating to religion and religious beliefs.
2. The Assembly underlines the importance of respect for, and understanding of, cultural and religious diversity in Europe and throughout the world and recognises the need for ongoing dialogue. Respect and understanding can help avoid frictions within society and between individuals. Every human being must be respected, independently of religious beliefs.
3. In multicultural societies it is often necessary to reconcile freedom of expression and freedom of thought, conscience and religion. In some instances, it may also be necessary to place restrictions on these freedoms. Under the Convention, any such restrictions must be prescribed by law, necessary in a democratic society and proportionate to the legitimate aims pursued. In so doing, states enjoy a margin of appreciation as national authorities may need to adopt different solutions taking account of the specific features of each society; the use of this margin is subject to the supervision of the European Court of Human Rights.
4. With regard to blasphemy, religious insults and hate speech against persons on the grounds of their religion, the state is responsible for determining what should count as criminal offences within the limits imposed by the case law of the European Court of Human Rights. In this connection, the Assembly considers that blasphemy, as an insult to a religion, should not be deemed a criminal offence. A distinction should be made between matters relating to moral conscience and those relating to what is lawful, matters which belong to the public domain, and those which belong to the private sphere. Even though today prosecutions in this respect are rare in member states, they are legion in other countries of the world.
5. The Assembly welcomes the preliminary report adopted on 16 and 17 March 2007 by the European Commission for Democracy through Law (Venice Commission) on this subject and agrees with it that in a democratic society, religious groups must tolerate, as must other groups, critical public statements and debate about their activities, teachings and beliefs, provided that such criticism does not amount to intentional and gratuitous insults or hate speech and does not constitute incitement to disturb the peace or to violence and discrimination against adherents of a particular religion. Public debate, dialogue and improved communication skills of religious groups and the media should be used in order to lower sensitivity when it exceeds reasonable levels.

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1. *Assembly debate on 29 June 2007 (27th Sitting)* (see Doc. 11296, report of the Committee on Culture, Science and Education, rapporteur: Mrs Hurskainen; Doc. 11319, opinion of the Committee on Legal Affairs and Human Rights, rapporteur: Mr Bartumeu Cassany; and Doc. 11322, opinion of the Committee on Equal Opportunities for Women and Men, rapporteur: Mr Dupraz). *Text adopted by the Assembly on 29 June 2007 (27th Sitting)*.

6. Recalling its Recommendation 1720 (2005) on education and religion, the Assembly emphasises the need for greater understanding and tolerance among individuals of different religions. Where people know more about the religion and religious sensitivities of each other, religious insults are less likely to occur out of ignorance.
7. In this context, the Assembly welcomes the initiative of the United Nations to set up a new body under the theme “Alliance of Civilizations” to study and support contacts between Muslim and so-called western societies, but feels that such an initiative should be enlarged to other religions and non-religious groups.
8. The Assembly recalls the relevant case law on freedom of expression under Article 10 of the Convention developed by the European Court of Human Rights. Whereas there is little scope for restrictions on political speech or on the debate of questions of public interest, the Court accepts a wider margin of appreciation on the part of contracting states when regulating freedom of expression in relation to matters liable to offend intimate personal convictions within the sphere of morals or, especially, religion.
9. However, the Assembly stresses that this margin of appreciation is not unlimited and that any restrictions on the freedom of expression must comply with the case law of the European Court of Human Rights. Freedom of expression – guaranteed under Article 10 of the Convention – is of vital importance for any democratic society. In accordance with the Statute of the Council of Europe, common recognition of democratic values is the basis for membership of the Organisation.
10. The Assembly is aware that, in the past, national law and practice concerning blasphemy and other religious offences often reflected the dominant position of particular religions in individual states. In view of the greater diversity of religious beliefs in Europe and the democratic principle of the separation of state and religion, blasphemy laws should be reviewed by the governments and parliaments of the member states.
11. The Assembly notes that under the International Convention on the Elimination of All Forms of Racial Discrimination of the United Nations, signatory parties are obliged to condemn discrimination and take effective measures against it. All member states signatory to this convention must ensure that members of a particular religion are neither privileged nor disadvantaged under blasphemy laws and related offences.
12. The Assembly reaffirms that hate speech against persons, whether on religious grounds or otherwise, should be penalised by law in accordance with General Policy Recommendation No. 7 on national legislation to combat racism and racial discrimination produced by the European Commission against Racism and Intolerance (ECRI). For speech to qualify as hate speech in this sense, it is necessary that it be directed against a person or a specific group of persons. National law should penalise statements that call for a person or a group of persons to be subjected to hatred, discrimination or violence on grounds of their religion.
13. The Assembly emphasises that freedom of religion as protected by Article 9 of the Convention also protects religions through establishing values for their followers. While religions are free to penalise in a religious sense any religious offences, such penalties must not threaten the life, physical integrity, liberty or property of an individual, or women’s civil and fundamental rights. In this context, the Assembly recalls its Resolution 1535 (2007) on threats to the lives and freedom of expression of journalists and strongly condemns the death threats issued by Muslim leaders against journalists and writers. Member states have the obligation to protect individuals against religious penalties which threaten the right to life and the right to liberty and security of a person under Articles 2 and 5 of the Convention. Moreover, no state has the right to impose such penalties for religious offences itself.
14. The Assembly notes that member states have the obligation under Article 9 of the Convention to protect freedom of religion including the freedom to manifest one’s religion. This requires that member states protect such manifestations against disturbances by others. However, these rights may sometimes be subject to certain justified limitations. The challenge facing the authorities is how to strike a fair balance between the interests of individuals as members of a religious community in ensuring respect for their right to manifest their religion or their right to education, and the general public interest or the rights and interests of others.
15. The Assembly considers that, as far as it is necessary in a democratic society in accordance with Article 10, paragraph 2, of the Convention, national law should only penalise expressions about religious matters which intentionally and severely disturb public order and call for public violence.
16. It calls on national parliaments to initiate legislative action and scrutiny regarding the national implementation of this recommendation.

17. The Assembly recommends that the Committee of Ministers:
  - 17.1. take note of Resolution 1510 (2006) on freedom of expression and respect for religious beliefs together with this recommendation and forward both texts to the relevant national ministries and authorities;
  - 17.2. ensure that national law and practice:
    - 17.2.1. permit open debate on matters relating to religion and beliefs and do not privilege a particular religion in this respect, which would be incompatible with Articles 10 and 14 of the Convention;
    - 17.2.2. penalise statements that call for a person or a group of persons to be subjected to hatred, discrimination or violence on grounds of their religion as on any other grounds;
    - 17.2.3. prohibit acts which intentionally and severely disturb the public order and call for public violence by references to religious matters, as far as it is necessary in a democratic society in accordance with Article 10, paragraph 2, of the Convention;
    - 17.2.4. are reviewed in order to decriminalise blasphemy as an insult to a religion;
  - 17.3. encourage member states to sign and ratify Protocol No. 12 to the European Convention on Human Rights (ETS No. 177);
  - 17.4. instruct its competent steering committee to draw up practical guidelines for national ministries of justice intended to facilitate the implementation of the recommendations contained in paragraph 17.2 above;
  - 17.5. instruct its competent steering committee to draw up practical guidelines for national ministries of education intended to raise understanding and tolerance among students with different religions;
  - 17.6. initiate, through their national ministries of foreign affairs, action at the level of the United Nations in order to ensure that:
    - 17.6.1. national law and practice of signatory states of the International Convention on the Elimination of All Forms of Racial Discrimination do not privilege persons with a particular religion;
    - 17.6.2. the work of the Alliance of Civilizations avoids the stereotype of a so-called western culture, widens its scope to other world religions and promotes more open debates between different religious groups and with non-religious groups;
  - 17.7. condemn on behalf of their governments any death threats and incitements to violence by religious leaders and groups issued against persons for having exercised their right to freedom of expression about religious matters;
  - 17.8. invite member states to take more initiatives to promote tolerance, in co-operation with ECRI.

# Recommendation 1804 (2007)

## State, religion, secularity and human rights

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Author(s): Parliamentary Assembly

Origin - Assembly debate on 29 June 2007 (27th Sitting) (see Doc. 11 298, report of the Committee on Culture, Science and Education, rapporteur: Mr de Puig). Text adopted by the Assembly on 29 June 2007 (27th Sitting).

1. The Parliamentary Assembly notes that religion is an important feature of European society. This is because of the historic fact that certain religions have been present for centuries and because of their influence in Europe's history. Religions are still multiplying on our continent today, with a wide variety of churches and beliefs.
2. Organised religions as such are part and parcel of society and must therefore be considered as institutions set up by and involving citizens who have the right to freedom of religion, but also as organisations that are part of civil society, with all its potential for providing guidance on ethical and civic issues, which have a role to play in the national community, be it religious or secular.
3. The Council of Europe must recognise this state of affairs and welcome and respect religion, in all its plurality, as a form of ethical, moral, ideological and spiritual expression of certain European citizens, taking account of the differences between the religions themselves and the circumstances in the country concerned.
4. The Assembly reaffirms that one of Europe's shared values, transcending national differences, is the separation of church and state. This is a generally accepted principle that prevails in politics and institutions in democratic countries. In Recommendation 1720 (2005) on education and religion, for instance, the Assembly noted that "each person's religion, including the option of having no religion, is a strictly personal matter".
5. The Assembly notes that, while protecting freedom of expression and freedom of religion, the European Court of Human Rights recognises the right of individual countries to organise and enact legislation regarding the relationship between the state and the church in compliance with the provisions of the European Convention on Human Rights (ETS No. 5), and notes that the Council of Europe member states today show varying degrees of separation between government and religious institutions in full compliance with the Convention.
6. Over the last twenty years, religious worship has declined markedly in Europe. Fewer than one European in five attends a religious service at least once a week, whereas twenty years ago the figure was more than twice that. At the same time, we are witnessing the growing strength of the Muslim communities in virtually all the Council of Europe member states.
7. As a result of globalisation and the rapid development of new information and communication technology, some groups are particularly visible. What is undeniable, however, is that religion has, in recent years, again become a central issue of debate in our societies. Roman Catholics, members of the Orthodox Church, Evangelists and Muslims seem to be the most active.
8. The Assembly recognises the importance of intercultural dialogue and its religious dimension and is willing to help devise a comprehensive Council of Europe strategy in this area. It considers, however, in light of the principle of the separation of church and state, that inter-religious and interdenominational dialogue is not a matter for states or for the Council of Europe.

9. In Recommendation 1396 (1999) on religion and democracy, the Assembly stated that there was “a religious aspect to many of the problems contemporary society [faced], such as ... fundamentalist movements and terrorist acts, racism and xenophobia, and ethnic conflicts”. This affirmation is as relevant as ever.
10. Governance and religion should not mix. Religion and democracy are not incompatible, however, and sometimes religions play a highly beneficial social role. By addressing the problems facing society, the civil authorities can, with the support of religions, eliminate much of what breeds religious extremism, but not everything.
11. Governments should take account of the special capacity of religious communities to foster peace, co-operation, tolerance, solidarity, intercultural dialogue and the dissemination of the values upheld by the Council of Europe.
12. Education is the key to combating ignorance, stereotypes and misunderstanding of religions and their leaders, and plays a central role in forging a democratic society.
13. Schools are an essential forum for intercultural dialogue and also lay the foundations of tolerant behaviour; they can effectively combat fanaticism by teaching children the history and philosophy of the main religions with restraint and objectivity. The media and families can also play an important part in this field.
14. A knowledge of religions is an integral part of knowledge of human history and civilisations. It is different from belief in, and practice of, a particular religion. Even countries where one religion prevails have a duty to teach the origins of all religions.
15. Various situations coexist in Europe. In some countries, one religion still predominates. Religious representatives may play a political role, as in the case of the bishops who sit in the United Kingdom House of Lords. Some countries have banned the wearing of religious symbols in schools. The legislation of several Council of Europe member states still contains anachronisms dating from times when religion played a more important part in our societies.
16. Freedom of religion is protected by Article 9 of the European Convention on Human Rights and Article 18 of the Universal Declaration of Human Rights. Such freedom is not unlimited, however: a religion whose doctrine or practice ran counter to other fundamental rights would be unacceptable. In any case, the restrictions that can be placed on such freedom are those that “are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others”(Article 9.2 of the Convention).
17. Nor may states allow the dissemination of religious principles which, if put into practice, would violate human rights. If doubts exist in this respect, states must require religious leaders to take an unambiguous stand in favour of the precedence of human rights, as set forth in the European Convention on Human Rights, over any religious principle.
18. Freedom of expression is one of the most important human rights, as the Assembly has repeatedly affirmed. In Recommendation 1510 (2006) on freedom of expression and respect for religious beliefs it expresses the view that “freedom of expression as protected under Article 10 of the European Convention on Human Rights should not be further restricted to meet increasing sensitivities of certain religious groups”.
19. While we have an acknowledged duty to respect others and must discourage gratuitous insults, freedom of expression cannot, needless to say, be restricted out of deference to certain dogmas or the beliefs of a particular religious community.
20. With regard to relations between the Council of Europe and religious communities, certain steps have been taken in order to promote a closer relationship.
21. It will be remembered in this connection that religious leaders have addressed the Assembly on several occasions in the past, and that it has accepted, in return, to attend major conferences organised by the religious communities. Moreover, dozens of religious and humanist organisations are already represented at the Council of Europe by virtue of the participatory status of non-governmental organisations.
22. The Assembly welcomes the Committee of Ministers’ proposal that “annual exchanges on the religious dimension of intercultural dialogue” be organised on an experimental basis with representatives of religions traditionally present in Europe and of civil society.
23. The Assembly therefore recommends that the Committee of Ministers:
  - 23.1. ensure that religious communities may exercise the fundamental right of freedom of religion without hindrance in all Council of Europe member states in accordance with the provisions of Article 9 of the European Convention on Human Rights and Article 18 of the Universal Declaration of Human Rights;

- 23.2. rule out any interference in religious affairs, but consider religious organisations as part of civil society and call on them to play an active role in the pursuit of peace, co-operation, tolerance, solidarity, intercultural dialogue and the dissemination of the Council of Europe's values;
  - 23.3. reaffirm the principle of the independence of politics and law from religion;
  - 23.4. continue to give thought to the religious dimension of intercultural dialogue, particularly by organising meetings with religious leaders and representatives of humanist and philosophical worlds;
  - 23.5. exclude from the consultation any grouping that does not clearly support the Council of Europe's fundamental values, namely human rights, democracy and the rule of law;
  - 23.6. identify and disseminate examples of good practice in respect of dialogue with leaders of religious communities;
  - 23.7. consider setting up an institute to devise syllabuses, teaching methods and educational material for the study of the religious heritage of the Council of Europe member states; such syllabuses should be drawn up in close co-operation with representatives of the different religions traditionally present in Europe.
24. The Assembly further recommends that the Committee of Ministers encourage the member states to:
- 24.1. promote initial and in-service training for teachers with a view to the objective, balanced teaching of religions as they are today and of religions in history, and to require human rights training for all religious leaders, in particular those with an educational role in contact with young people;
  - 24.2. gradually to remove from legislation, if such is the will of the people, elements likely to be discriminatory from the angle of democratic religious pluralism.



# Resolution 1577 (2007)

## Towards decriminalisation of defamation

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Author(s): Parliamentary Assembly

Origin - Assembly debate on 4 October 2007 (34th Sitting) (see Doc. 11305, report of the Committee on Legal Affairs and Human Rights, rapporteur: Mr Bartumeu Cassany). Text adopted by the Assembly on 4 October 2007 (34th Sitting).

1. The Parliamentary Assembly, recalling its Recommendation 1589 (2003) on freedom of expression in the media in Europe and its Resolution 1535 (2007) on threats to the lives and freedom of expression of journalists, unequivocally reiterates that freedom of expression is a cornerstone of democracy. Where there is no real freedom of expression, there can be no real democracy.
2. The Assembly states from the outset that the press plays a fundamental role in promoting debates on issues of public concern; and debates of that kind – as open as possible – are vital to democracy.
3. The Assembly draws attention to its Resolution 1003 (1993) on the ethics of journalism and emphasises that those who exercise the right to freedom of expression also have duties and obligations. They must act in good faith and provide accurate, trustworthy information in compliance with journalistic ethics.
4. As established in the case law of the European Court of Human Rights (the Court), Article 10 of the European Convention on Human Rights (ETS No. 5) guarantees freedom of expression in respect not only of “information” or “ideas” that are favourably received or regarded as inoffensive or as a matter of indifference, but also of those that offend, shock or disturb.
5. The Assembly notes that freedom of expression is not unlimited and that it may prove necessary for the state to intervene in a democratic society, provided that there is a solid legal basis and that it is clearly in the public interest, in accordance with Article 10, paragraph 2, of the European Convention on Human Rights.
6. Anti-defamation laws pursue the legitimate aim of protecting the reputation and rights of others. The Assembly nonetheless urges member states to apply these laws with the utmost restraint since they can seriously infringe freedom of expression. For this reason, the Assembly insists that there be procedural safeguards enabling anyone charged with defamation to substantiate their statements in order to absolve themselves of possible criminal responsibility.
7. In addition, statements or allegations which are made in the public interest, even if they prove to be inaccurate, should not be punishable provided that they were made without knowledge of their inaccuracy, without intention to cause harm, and their truthfulness was checked with proper diligence.
8. The Assembly deplores the fact that in a number of member states prosecution for defamation is misused in what could be seen as attempts by the authorities to silence media criticism. Such abuse – leading to a genuine media self-censorship and causing progressive shrinkage of democratic debate and of the circulation of general information – has been denounced by civil society, notably in Albania, Azerbaijan and the Russian Federation.
9. The Assembly concurs with the clear position adopted by the Secretary General of the Council of Europe, who has denounced threats of prosecution for libel as “a particularly insidious form of intimidation”. The Assembly views such aberrant use of anti-defamation laws as unacceptable.

10. The Assembly also welcomes the efforts of the Representative on Freedom of the Media of the Organization for Security and Co-operation in Europe (OSCE) in favour of decriminalising defamation, and his unfaltering commitment to media freedom.

11. It notes with great concern that in many member states the law provides for prison sentences for defamation and that some still impose them in practice – for example, Azerbaijan and Turkey.

12. Every case of imprisonment of a media professional is an unacceptable hindrance to freedom of expression and entails that, despite the fact that their work is in the public interest, journalists have a sword of Damocles hanging over them. The whole of society suffers the consequences when journalists are gagged by pressure of this kind.

13. The Assembly consequently takes the view that prison sentences for defamation should be abolished without further delay. In particular it exhorts states whose laws still provide for prison sentences – although prison sentences are not actually imposed – to abolish them without delay so as not to give any excuse, however unjustified, to those countries which continue to impose them, thus provoking a corrosion of fundamental freedoms.

14. The Assembly likewise condemns abusive recourse to unreasonably large awards for damages and interest in defamation cases and points out that a compensation award of a disproportionate amount may also contravene Article 10 of the European Convention on Human Rights.

15. The Assembly is aware that abuse of freedom of expression can be dangerous, as history shows. As recently acknowledged in a framework decision applicable to member countries of the European Union, it must be possible to prosecute those who incite violence, promote negationism or racial hatred, conduct inimical to the values of pluralism, tolerance and open-mindedness which the Council of Europe and the European Convention on Human Rights promote.

16. Lastly, the Assembly would reaffirm that protection of journalists' sources is of paramount public interest. Journalists prosecuted for defamation must be allowed to protect their sources or to produce a document in their own defence without having to show that they obtained it through lawful channels.

17. The Assembly accordingly calls on the member states to:

17.1. abolish prison sentences for defamation without delay;

17.2. guarantee that there is no misuse of criminal prosecutions for defamation and safeguard the independence of prosecutors in these cases;

17.3. define the concept of defamation more precisely in their legislation so as to avoid an arbitrary application of the law and to ensure that civil law provides effective protection of the dignity of persons affected by defamation;

17.4. in accordance with General Policy Recommendation No. 7 of the European Commission against Racism and Intolerance (ECRI), make it a criminal offence to publicly incite to violence, hatred or discrimination, or to threaten an individual or group of persons, for reasons of race, colour, language, religion, nationality or national or ethnic origin where those acts are deliberate;

17.5. make only incitement to violence, hate speech and promotion of negationism punishable by imprisonment;

17.6. remove from their defamation legislation any increased protection for public figures, in accordance with the Court's case law, and in particular calls on:

17.6.1. Turkey to amend Article 125.3 of its Criminal Code accordingly;

17.6.2. France to revise its law of 29 July 1881 in the light of the Court's case law;

17.7. ensure that under their legislation persons pursued for defamation have appropriate means of defending themselves, in particular means based on establishing the truth of their assertions and on the general interest, and calls in particular on France to amend or repeal Article 35 of its law of 29 July 1881 which provides for unjustified exceptions preventing the defendant from establishing the truth of the alleged defamation;

17.8. set reasonable and proportionate maxima for awards for damages and interest in defamation cases so that the viability of a defendant media organ is not placed at risk;

- 17.9. provide appropriate legal guarantees against awards for damages and interest that are disproportionate to the actual injury;
  - 17.10. bring their laws into line with the case law of the Court as regards the protection of journalists' sources.
18. The Assembly calls on journalists' professional organisations to draw up codes of journalistic ethics if they have not already done so.
  19. Furthermore, it welcomes the moves by the Turkish authorities to amend Article 301 of the Turkish Criminal Code concerning "denigration of Turkishness" and strongly encourages these authorities to pursue that course of action without delay.

# Recommendation 1814 (2007) Towards decriminalisation of defamation

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Author(s): Parliamentary Assembly

Origin - Assembly debate on 4 October 2007 (34th Sitting) (see Doc. 11305, report of the Committee on Legal Affairs and Human Rights, rapporteur: Mr Bartumeu Cassany). Text adopted by the Assembly on 4 October 2007 (34th Sitting).

1. The Parliamentary Assembly, referring to its Resolution 1577 (2007) entitled “Towards decriminalisation of defamation”, calls on the Committee of Ministers to urge all member states to review their defamation laws and, where necessary, make amendments in order to bring them into line with the case law of the European Court of Human Rights, with a view to removing any risk of abuse or unjustified prosecutions;
2. The Assembly urges the Committee of Ministers to instruct the competent intergovernmental committee, the Steering Committee on the Media and New Communication Services (CDMC) to prepare, following its considerable amount of work on this question and in the light of the Court’s case law, a draft recommendation to member states laying down detailed rules on defamation with a view to eradicating abusive recourse to criminal proceedings.
3. In addition, bearing in mind the considerable work done on hate speech by the Steering Committee for Human Rights (CDDH), particularly its Committee of Experts for the Development of Human Rights (DH-DEV), the Assembly suggests to the Committee of Ministers that it instruct the CDMC and the CDDH to revise its Recommendation N°. R (97) 20 on “hate speech” or to prepare guidelines taking into account new developments on this subject, notably as regards the European Court of Human Rights’ case law.

# Resolution 1636 (2008)

## Indicators for media in a democracy

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Author(s): Parliamentary Assembly

Origin - Assembly debate on 3 October 2008 (36th Sitting) (see Doc. 11683, report of the Committee on Culture, Science and Education, rapporteur: Mr Wodarg). Text adopted by the Assembly on 3 October 2008 (36th Sitting). See also Recommendation 1848 (2008).

1. The Parliamentary Assembly recalls the importance of media freedom. Freedom of expression and information in the media is an essential requirement of democracy. Public participation in the democratic decision-making process requires that the public is well informed and has the possibility of freely discussing different opinions.
2. All Council of Europe member states have committed themselves to respecting democratic standards. Democracy and the rule of law are necessary conditions for membership of the Council of Europe. Therefore, member states themselves must permanently monitor their state of democracy. However, democratic standards are also part of universally recognised human rights in Europe and hence are not merely an internal affair of a state. Council of Europe member states must also analyse the state of democracy in all the member states, in particular at the Assembly level.
3. The Council of Europe has set standards for Europe on media freedom through Article 10 of the European Convention on Human Rights (ETS No. 5) and a number of related recommendations by the Committee of Ministers as well as resolutions and recommendations by the Parliamentary Assembly.
4. The Assembly also monitors media freedom before national elections and produces an analysis on the basis of standards set by the Council for Democratic Elections comprising representatives of the European Commission for Democracy through Law (Venice Commission), the Congress of Local and Regional Authorities of the Council of Europe and the Parliamentary Assembly.
5. The Assembly welcomes the comparative assessments of national media situations prepared, for example, by Reporters Without Borders (Paris), the International Press Institute (Vienna), Article 19 (London), and other organisations. This work provides for important public scrutiny over media freedom, but it does not relieve national parliaments and governments of their political duty to look at their own media situation.
6. The Assembly also welcomes the UNESCO media development indicators drawn up in consultation with experts from Article 19, the West African Newsmedia and Development Centre and others, which shall help determine communication development strategies within the overall context of national development.
7. The Assembly considers it necessary for a number of principles concerning media freedom to be respected in a democratic society. A list of such principles would facilitate analyses of national media environments in respect of media freedom, which could identify problematic issues and potential shortcomings. This will enable member states to discuss, at European level, possible actions to address those problems.
8. The Assembly invites national parliaments to analyse their own media situation regularly in an objective and comparable manner in order to be able to identify shortcomings in their national media legislation and practice and take appropriate measures to remedy them. Such analyses should be based on the following list of basic principles:
  - 8.1. the right to freedom of expression and information through the media must be guaranteed under national legislation, and this right must be enforceable. A high number of court cases involving this right is an indication of problems in the implementation of national media legislation and should require revised legislation or practice;

- 8.2. state officials shall not be protected against criticism and insult at a higher level than ordinary people, for instance through penal laws that carry a higher penalty. Journalists should not be imprisoned, or media outlets closed, for critical comment;
- 8.3. penal laws against incitement to hatred or for the protection of public order or national security must respect the right to freedom of expression. If penalties are imposed, they must respect the requirements of necessity and proportionality. If a politically motivated application of such laws can be implied from the frequency and the intensity of the penalties imposed, media legislation and practice must be changed;
- 8.4. journalists must not be subjected to undue requirements by the state before they can work;
- 8.5. political parties and candidates must have fair and equal access to the media. Their access to media shall be facilitated during election campaigns;
- 8.6. foreign journalists should not be refused entry or work visas because of their potentially critical reports;
- 8.7. media must be free to disseminate their content in the language of their choice;
- 8.8. the confidentiality of journalists' sources of information must be respected;
- 8.9. exclusive reporting rights concerning major events of public interest must not interfere with the public's right to freedom of information;
- 8.10. privacy and state secrecy laws must not unduly restrict information;
- 8.11. journalists should have adequate working contracts with sufficient social protection, so as not to compromise their impartiality and independence;
- 8.12. journalists must not be restricted in creating associations such as trade unions for collective bargaining;
- 8.13. media outlets should have editorial independence from media owners, for instance by agreeing with media owners on codes of conduct for editorial independence, to ensure that media owners do not interfere in daily editorial work or compromise impartial journalism;
- 8.14. journalists must be protected against physical threats or attacks because of their work. Police protection must be provided when requested by journalists who feel threatened. Prosecutors and courts must deal adequately, and in a timely manner, with cases where journalists have received threats or have been attacked;
- 8.15. regulatory authorities for the broadcasting media must function in an unbiased and effective manner, for instance when granting licences. Print media and Internet-based media should not be required to hold a state licence which goes beyond a mere business or tax registration;
- 8.16. media must have fair and equal access to distribution channels, be they technical infrastructure (for example, radio frequencies, transmission cables, satellites) or commercial (newspaper distributors, postal or other delivery services);
- 8.17. the state must not restrict access to foreign print media or electronic media including the Internet;
- 8.18. media ownership and economic influence over media must be made transparent. Legislation must be enforced against media monopolies and dominant market positions among the media. In addition, concrete positive action should be taken to promote media pluralism;
- 8.19. if media receive direct or indirect subsidies, states must treat those media fairly and with neutrality;
- 8.20. public service broadcasters must be protected against political interference in their daily management and their editorial work. Senior management positions should be refused to people with clear party political affiliations;
- 8.21. public service broadcasters should establish in-house codes of conduct for journalistic work and editorial independence from political sides;
- 8.22. "private" media should not be run or held by the state or state-controlled companies;
- 8.23. members of government should not pursue professional media activities while in office;
- 8.24. government, parliament and the courts must be open to the media in a fair and equal way;

- 8.25. there should be a system of media self-regulation including a right of reply and correction or voluntary apologies by journalists. Media should set up their own self-regulatory bodies, such as complaints commissions or ombudspersons, and decisions of such bodies should be implemented. These measures should be recognised legally by the courts;
  - 8.26. journalists should set up their own professional codes of conduct and they should be applied. They should disclose to their viewers or readers any political and financial interests as well as any collaboration with state bodies such as embedded military journalism;
  - 8.27. national parliaments should draw up periodic reports on the media freedom in their countries on the basis of the above catalogue of principles and discuss them at European level.
9. The Assembly invites the Council of Europe Commissioner for Human Rights to draw up information reports on member states where problems exist in the implementation of the above list of basic principles as regards freedom of expression.
  10. The Assembly also invites media professionals and companies, as well as media associations, to apply and develop further the above list of basic principles applicable to the media.
  11. See also Recommendation 1848 (2008).

# Recommendation 1848 (2008) Indicators for media in a democracy

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Author(s): Parliamentary Assembly

Origin - Assembly debate on 3 October 2008 (36th Sitting) (see Doc. 11683, report of the Committee on Culture, Science and Education, rapporteur: Mr Wodarg). Text adopted by the Assembly on 3 October 2008 (36th Sitting).

1. The Parliamentary Assembly refers to its Resolution 1636 (2008) on indicators for media in a democracy and recommends that the Committee of Ministers:
  1. endorse the list of basic principles contained in the above-mentioned resolution;
  2. take this list into account when assessing the media situation in member states;
  3. establish indicators for a functioning media environment in a democracy, based on this list, and draw up periodical reports with country profiles of all member states concerning their media situations.



# Recommendation 1855 (2009)

## The regulation of audiovisual media services

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Author(s): Parliamentary Assembly

Origin - Assembly debate on 27 January 2009 (3rd Sitting) (see Doc. 11775, report of the Committee on Culture, Science and Education, rapporteur: Mr McIntosh). Text adopted by the Assembly on 27 January 2009 (3rd Sitting).

1. The Parliamentary Assembly recalls that all media regulation in Europe must respect the right to freedom of expression and information as guaranteed by Article 10 of the European Convention on Human Rights (ETS No. 5). The freedom to receive and impart information and ideas applies regardless of frontiers.
2. This freedom constitutes a necessary requirement for democracy and the cultural and social progress of each individual and society as a whole. Restrictions to this freedom are only admissible as far as they are necessary in a democratic society.
3. Traditional audio-visual and print media are increasingly converging into new forms of electronic media for images, sound and text which are accessible via different fixed or mobile platforms using analogue or digital terrestrial transmissions, satellite or cable. Much of what is now considered broadcasting may in future be delivered over the Internet, where the user controls his or her access to countless sources of content which know no geographic boundaries.
4. Article 10, paragraph 1, of the European Convention on Human Rights permits states to require “the licensing of broadcasting, television or cinema enterprises”. The Assembly believes that broadcasting and television in this sense should not include Internet radio or web television, which should not require national authorisations. Internet radio and web television should be treated like Internet-based newspapers or websites with text, images and sound.
5. Technological progress is increasing the number of channels, programmes and services accessible through audio-visual media. This provides viewers and listeners with a wide choice of programmes, comprising linear and on-demand services. However, more audio-visual content does not necessarily mean greater plurality, diversity and quality of content, which remain priorities for audio-visual policies.
6. The viewer, listener or reader of new audio-visual media services is having to bear greater responsibility for the content he or she may select and potentially even contribute to, while content regulation through national regulatory authorities is becoming less feasible. National legislators are, therefore, compelled to review their existing regulation and set up new means for achieving their objectives regarding audio-visual media policy, with the latter objectives also remaining valid in the new media environment.
7. The Assembly supports in this context the Committee of Ministers’ Declaration of 20 February 2008 on the allocation and management of the digital dividend and the public interest. When deciding on the allocation of the radio-frequency spectrum, member states should also balance the spectrum needs of various technologies relating to both broadcasting and telecommunications. It will be particularly relevant to look at the availability of the spectrum for countries outside the European Union and, for all countries, how spectrum resources can be allocated to optimise opportunities for public-service broadcasting.
8. Referring to the European Convention on Transfrontier Television (ECTT) (ETS No. 132), the Assembly notes that technological progress of electronic audio-visual media requires the revision of the ECTT and has led to legislative changes at national level, as well as to the new Audiovisual Media Services Directive for the member states of the European Union (AVMS Directive).

9. The Assembly notes that the European Union AVMS Directive has the main objective of ensuring freedom of services within the internal market of the European Union in accordance with primary European Community law. This approach differs from the ECTT, which has the aim of ensuring freedom of transmission and retransmission of broadcasting in Europe, regardless of frontiers, in accordance with Article 10 of the European Convention on Human Rights.

10. Having noted the current progress in drafting an amending protocol to the ECTT in order to transform it into a new Council of Europe convention, the Assembly believes that the following considerations should be taken into account:

- 10.1. the possibilities for guiding the interpretation and supervising the application of this new convention should be reinforced;
- 10.2. the “public service mission” for audio-visual media services should be defined and explained;
- 10.3. the role of the Standing Committee should be re-examined with regard to its supervisory function over the compliance of conventional obligations and arbitration;
- 10.4. the transmission of on-demand audio-visual media services should be treated in a comparable way to television broadcast services and should not be subjected to the more restrictive provisions taken from the AVMS Directive of the European Union;
- 10.5. guidance should be provided regarding the requirement of programme services of broadcasters being “wholly or mostly” directed towards the territory of a party with the intention of circumventing the national laws of that party;
- 10.6. procedural safeguards, such as a prior opinion from the Standing Committee or arbitration, should be required before a party can take measures directed against a broadcaster established abroad for having allegedly circumvented the receiving party’s national laws, as far as such measures restrict the right to freedom of information through audio-visual media services.

11. The Assembly invites the Parties to the ECTT to take this recommendation into account when revising the ECTT.

12. The Assembly recommends that the Committee of Ministers:

- 12.1. forward this recommendation to competent ministries;
- 12.2. allocate sufficient resources to the Standing Committee set up by the ECTT to fulfill the required supervisory function over the compliance of states parties with their contractual obligations;
- 12.3. invite interested non-member states to accede to the revised convention with a view to extending the scope of this convention to other countries;
- 12.4. instruct the competent steering committee to analyse future challenges to the enforceability of existing broadcasting regulation in the increasingly converging audio-visual media sector and develop policy guidelines for new means of content control, including through media self- and coregulation, content search and filtering tools for users, media literacy of users, public support for content of cultural quality, and international co-operation against illegal content, for instance in the framework of and through consideration of a possible protocol to, the Council of Europe Convention on Cybercrime (ETS No. 185);
- 12.5. instruct its competent steering committee to analyse the feasibility of setting up common standards among the Council of Europe member states for commercial audio-visual content falling outside the revised convention, as well as for audio-visual content produced and shared publicly by users.

13. The Assembly invites the ministers participating in the Council of Europe’s Ministerial Conference on the Media and New Communication Services (Reykjavik, May 2009) to express their continued support for:

- 13.1. regulating their audio-visual media policies nationally as part of their general cultural policies, while ensuring international co-operation and respecting the right to freedom of information through audio-visual media services under Article 10 of the European Convention on Human Rights and Article 19 of the United Nations International Covenant on Civil and Political Rights;
- 13.2. ensuring, through appropriate regulation and practice, the independence of their national regulators for the audio-visual media sector from undue party political, governmental or commercial influences;

- 13.3. preserving the principle of public-service broadcasting in the changing media environment and extending it further to audio-visual media services as a whole.
14. The Assembly invites member states of the International Telecommunication Union of the United Nations to:
  - 14.1. advance international co-ordination of the technological standards necessary for the technological convergence of audio-visual media, while ensuring the right to freedom of information regardless of frontiers under Article 19 of the International Covenant on Civil and Political Rights;
  - 14.2. prepare for the World Radiocommunication Conference in 2011 decisions on the allocation of radio-frequency spectrum following the analogue switch-off of broadcasting in many countries.

# Recommendation 1878 (2009)

## The funding of public service broadcasting

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Author(s): Parliamentary Assembly

Origin - Assembly debate on 25 June 2009 (25th Sitting) (see Doc. 11848, report of the Committee on Culture, Science and Education, rapporteur: Mr Laukkanen; and Doc. 11915, opinion of the Political Affairs Committee, rapporteur: Mr MacShane). Text adopted by the Assembly on 25 June 2009 (25th Sitting).

1. The Parliamentary Assembly notes that public service broadcasters exist today in an environment which is marked by the simultaneous offer of a multitude of private channels that are free of charge, on-demand media services and the rapid increase of audiovisual content accessible on the Internet. This increased competition in the audiovisual media sector has led to political debates on the funding of public service broadcasting in Europe.

2. While the establishment and maintenance of broadcasting services were very costly and depended on the scarce infrastructural resource of radio-frequency spectrum, technological progress in the transmission of audiovisual content via cable, satellite and analogue or digital terrestrial means, including fixed and mobile telephony, has considerably changed the environment of audiovisual media.

3. Business models for commercial broadcasters, audiovisual content providers and the audiovisual advertising industry are also changing: advertising revenue is spread out over a wider range of media; pay-per-view broadcasting is challenged by growing thematic content on the Internet; the downloading of music from the Internet might also extend to audiovisual content.

4. Audience behaviour and user demands are changing accordingly, indicating a future trend away from linear broadcasting programmes to thematic channels and interactive or on-demand services also using the Internet as another platform for providing such services.

5. Public service broadcasters must be an important public source of unbiased information and diverse political opinions; they must function under high editorial standards of objectivity, fairness and independence from party political or economic interference; they should be subject to higher public scrutiny and accountability for their programming than commercial broadcasters; they should contribute decisively to the production of audiovisual works of high quality; they should provide a wide audience with free access to informal educational and cultural programmes; they have the possibility and obligation also to serve minority viewers and people with special needs who would not be served in a purely commercial market; they should therefore support non-commercial objectives, such as social progress, public interest in democratic processes, intercultural understanding and societal integration. When they fulfil these functions, public service broadcasters constitute an important public asset which should not be diminished or abandoned.

6. Recalling its Recommendation 1641 (2004) on public service broadcasting, the Assembly reaffirms that public service broadcasting remains an essential element for member governments in meeting the needs of individuals and society as a whole with regard to information, education and culture. Such needs may be different among states in Europe depending on the national or regional circumstances, including the national or regional media landscape, the cultural diversity of a given society and geographical and infrastructural characteristics.

7. Therefore, the Assembly strongly supports the commitments made fifteen years ago at the 4th European Ministerial Conference on Mass Media Policy (Prague, 7-8 December 1994) in the resolution on the future of public service broadcasting, in particular to:

- 7.1. guarantee at least one comprehensive wide-range service comprising information, education, culture and entertainment which is accessible to all members of the public, while acknowledging that public service broadcasters must also be permitted to provide, where appropriate, additional programme services such as thematic services;

- 7.2. define clearly the role, missions and responsibilities of public service broadcasters and to ensure their editorial independence against political and economic interference;
- 7.3. guarantee public service broadcasters secure and appropriate means necessary for the fulfilment of their missions.

8. The Assembly recalls the further standards on public service media set by its Resolution 1636 (2008) on indicators for media in a democracy, its Recommendation 1855 (2009) on the regulation of audiovisual media services, as well as Committee of Ministers Recommendations Nos. R (96) 10 on the guarantee of the independence of public service broadcasting, CM/Rec(2007)3 on the remit of public service media in the information society and CM/Rec(2007)16 on measures to promote the public service value of the Internet as well as the Committee of Ministers' declaration on the guarantee of the independence of public service broadcasting in the member states of 27 September 2006 and its declaration on the allocation and management of the digital dividend and the public interest of 20 February 2008.

9. As media markets converge further, and users' demands change, public service broadcasters should diversify their services through thematic channels, on-demand media, recorded media and Internet-based media services in order to offer a comprehensive and competitive range of media services to the public at large in accordance with their public service mission. Technological progress in the field of audiovisual media and electronic communications means that public service broadcasters should also make use of new technologies.

10. Representing national parliaments in Europe, the Assembly emphasises the power and responsibility of national legislators to decide on the specific mission, structure and funding of their public service broadcasters in accordance with national or regional circumstances and requirements. The Assembly is concerned by tendencies within the European Union to restrict those national powers under internal market regulations and the growing number of complaints against European Union member states brought by private operators before the European Commission. The application of European Union law should not restrict member states' powers to adapt the public service broadcasting remit to their own national needs. In this respect, the Assembly recalls that the 1997 Amsterdam Protocol to the Treaty establishing the European Union clearly favours subsidiarity and national competencies for European Union member states in this field.

11. The Assembly recalls the UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions of 2005, which recognises that, within the framework of its cultural policies and measures and taking into account its own particular circumstances and needs, each party to that convention may adopt measures aimed at protecting and promoting the diversity of cultural expressions within its territory, in particular measures aimed at providing public financial assistance and enhancing diversity of the media, including through public service broadcasting (Article 6, paragraph 2.d and h of the convention). The UNESCO convention has also been signed by the European Union.

12. Member states have developed different rules for the funding of their public service broadcasters in accordance with their national traditions and circumstances. Smaller countries, countries with several languages and countries where the pluralism of commercial broadcasters is less developed may need specific funding for their public service broadcasting. However, public acceptance of funding public service broadcasting is decreasing in view of the increasing audiovisual content available through converging media platforms and the Internet.

13. Recalling that public service broadcasters must be independent from the government and be able to function without its political interference, the Assembly emphasises that their funding model should reflect this independence.

14. The funding of public service media may be ensured, through a flat broadcasting licence fee, taxation, state subsidies, subscription fees, advertising and sponsoring revenue, specialised pay-per-view or on-demand services, the sale of related products such as books, videos or films, and the exploitation of their audiovisual archives. In this regard, public service media may have mixed funding similar to other public cultural institutions such as orchestras, theatres or museums. Each of these forms of funding must enable public service broadcasters to meet the public service requirement of accessibility and affordability for the public at large.

15. While the funding of public service broadcasting is in the public interest, public service broadcasters must meet quality standards concerning audiovisual content and services. This requires that legislators and regulatory bodies define the public service mission as well as general policy guidelines for such quality standards, but leave daily editorial and managerial independence to public service broadcasters. Therefore,

public accountability mechanisms for quality control should be established, including evaluations by users. However, audience share should not be a decisive factor.

16. The Assembly notes with interest the discussions currently being held in national parliaments on the mission and funding of their public service broadcasters and calls on parliaments of all member states to:

- 16.1. ensure that their public service broadcasters have a clear mission and adequate long-term funding possibilities for fulfilling this mission in accordance with the resolution on the future of public service broadcasting of the 4th European Ministerial Conference on Mass Media Policy;
- 16.2. ensure a sustainable structure of their public service broadcasters, which provides for adequate safeguards for their editorial and managerial independence in accordance with Committee of Ministers Recommendation No. R (96) 10 on the guarantee of the independence of public service broadcasting;
- 16.3. ensure the accountability of public service broadcasters including regular reviews of their public service mission and their meeting public service objectives and user demands;
- 16.4. ensure the allocation of an adequate radio-frequency spectrum for public service broadcasters during the digital switch-over and after analogue radio frequencies have been switched off, in accordance with the Committee of Ministers' declaration on the allocation and management of the digital dividend and the public interest;
- 16.5. analyse possibilities for commercial media to fulfil public service missions, for instance by providing specific audiovisual works, programmes, channels or services, and thus to receive public financial support;
- 16.6. ask their governments to sign and ratify the European Convention for the Protection of the Audiovisual Heritage (ETS No. 183), if they have not yet done so, and analyse possibilities for preserving the audiovisual archives of their public service broadcasters as part of cultural heritage in accordance with this convention.

17. The Assembly welcomes the Action Plan on public service media adopted by the ministers participating in the Council of Europe's Conference of Ministers responsible for Media and New Communication Services (Reykjavik, 28-29 May 2009) and invites the ministers to reaffirm at national level:

- 17.1. the importance of public service media responding to their national or regional requirements through a clear mission, a sustainable structure and adequate long-term funding determined at national level;
- 17.2. that public service broadcasters should, in accordance with changing user demands, utilise new technologies to increase the accessibility of their services and offer new services including interactive and on-demand media services on all available platforms so as to reach all audiences, and in particular young people;
- 17.3. the importance of co-ordinating Europe-wide their national policies for public service broadcasting through regular ministerial meetings at the level of the Council of Europe as well as its Steering Committee for the Media and New Communication Services.

18. The Assembly recommends that the Committee of Ministers:

- 18.1. forward this recommendation to competent ministries, regulatory bodies for broadcasting and public service broadcasters in their country;
- 18.2. ask the European Audiovisual Observatory to collect information about the funding of public service media in Europe;
- 18.3. analyse, together with the European Broadcasting Union, possibilities for cross-border co-operation of national public service broadcasters, for example in the joint production of audiovisual works and programmes, the joint use of archives, technical equipment and human resources and the joint acquisition of transmission rights;
- 18.4. call on member states' governments as well as the European Community to sign and ratify the European Convention for the Protection of the Audiovisual Heritage, if they have not yet done so.

# Recommendation 1882 (2009)

## The promotion of Internet and online media services appropriate for minors

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Author(s): Parliamentary Assembly

Origin - Assembly debate on 28 September 2009 (28th Sitting) (see Doc.11924, report of the Committee on Culture, Science and Education, rapporteur: Mr Kozma). Text adopted by the Assembly on 28 September 2009 (28th Sitting).

1. Twenty years after the idea of setting up the World Wide Web was born at the European Organisation for Nuclear Research (CERN) in Geneva, the Parliamentary Assembly of the Council of Europe recalls the decision of the Heads of State and Government taken at their 2005 Summit in Warsaw, that the Council of Europe should pursue work on children in the information society, in particular as regards developing their media literacy skills and ensuring their protection against harmful content.
2. The Internet has enhanced opportunities for information and communication in an unprecedented way. The new technological dimension in information and data exchanges does not alter the established standards of freedom of expression and information, which also include proportional legal restrictions necessary in a democratic society for the protection of minors.
3. The Internet constitutes an increasingly important part of our culture. It conveys almost all kinds of cultural items in a faster and more efficient way than any other medium and has an impact on society and its culture by reshaping relations and by introducing new forms of communication, especially among minors. If we want a strong cultural base, we should implement appropriate measures for the use of the Internet by younger generations.
4. Children and adolescents are increasingly able to broaden their social and cultural horizons beyond traditional geographic boundaries, which may lead to greater international understanding and co-operation among people. New communication technologies and services provide new opportunities for informal and formal education, creativity, social interaction and civic participation. These opportunities should be used for the benefit of children and adolescents. Social interaction online should not, however, substitute real life with so-called virtual reality, the psychological and social impact of which is yet unknown.
5. Certain content on the internet can have negative effects on children and adolescents. For example, content depicting women and girls as objects, or limiting their depiction to nefarious gender stereotypes, can lead in certain cases to gender-based violence both in the virtual and the real world, including (cyber-) bullying, harassment, rape, and even school massacres.
6. Minors often have access to Internet and mobile telephone services without supervision by parents or teachers. Pictures and sound can be transmitted and accessed easily. The availability of child pornographic material is of utmost concern in this respect and requires further action by states as well as Internet service providers and telecommunications industries.
7. Parts of their private life are shared publicly on the Internet by a rapidly growing number of minors, while many firms offer information on, and profiling of, individuals based on such private information. Private life and intimate details thus enter the public domain for an unforeseeable time. Individuals, commercial enterprises, universities, employers and others are increasingly using the information available on the Internet about individual persons in order to predetermine their contacts with them. States have the obligation, however, to protect privacy under Article 8 of the European Convention on Human Rights.

8. The continuing increase in advertising and business on the Internet and online media leads to more aggressive commercial practices which also target minors. With the global dimension of the Internet, ethics and legal norms may differ drastically. It would be most useful, therefore, to elaborate standards which are recognised Europe-wide and possibly beyond.

9. Traditional media regulation prohibits or restricts media content which is likely to impair the physical, mental or moral development of children and adolescents. The Assembly emphasises that parents can and should define for their children what they consider harmful or not. School directors and librarians, for example, have the obligation to restrict harmful content and services accessible at school or in libraries.

10. In order to handle the challenges of the Internet at home, parents need the support of social institutions for families and schools. The state has the responsibility to raise awareness, provide guidance – also against gender stereotypes, and set up minimum standards. These minimum standards should include access restrictions to violent content, pornography, advertising for tobacco and alcoholic products and gambling. Such access restrictions could be achieved by filters employed by parents, teachers, librarians or others at their access devices as well as by providers of content or services for minors.

11. Technical security is constantly increased with regard to computer networks. Firewalls and individual security settings of personal computers are refined, in order to keep pace with the technical progress of those seeking to bypass security systems. The Assembly therefore believes that it will be helpful, especially with regard to minors, to develop secure and restricted computer networks often referred to as Intranets, walled gardens or gated communities, which are accessible to an identifiable group of users only, typically require adherence to a code of conduct, fall under a clear set of legal rules and the jurisdiction of a given country and filter content harmful to minors. Technical security systems, however, cannot replace widely accessible and adequate education.

12. The Assembly emphasises that anyone who produces or makes available illegal content or services should be held liable by law. Illegal content and behaviour online have unfortunately grown over the past years and thus increased the risks for minors. This development is aggravated by the steady growth in Internet use, the growing amount of content produced by individual users instead of institutional content providers, the rapid expansion of social online networks often referred to as Web 2.0, and the technological progress in transmitting and accessing audiovisual content. In contrast, traditional media such as newspapers, radio and television have a declining audience among children and adolescents, hence reducing the effectiveness of traditional media policies for the protection of minors.

13. The Assembly recalls the Council of Europe's Convention on Cybercrime (ETS No.185) of 2001, which sets up the legal framework for international co-operation against illegal behaviour and content on the Internet and other computer networks. It regrets that this convention has not been signed by Andorra, Monaco, Russia, San Marino and Turkey, and not yet been ratified by Austria, Azerbaijan, Belgium, the Czech Republic, Georgia, Greece, Ireland, Liechtenstein, Luxembourg, Malta, Montenegro, Poland, Portugal, Spain, Sweden, Switzerland and the United Kingdom as well as Canada, Japan and the Republic of South Africa, although these states have signed it.

14. The Assembly welcomes the European Union's Safer Internet Programme 2009-2013 as well as voluntary initiatives for child safety by the Internet and online media industry and civil society. Internet hotlines, for example provided by members of the International Association of Internet Hotlines (INHOPE), are a helpful tool for children and parents to signal potentially harmful or illegal content and behaviour. Internet content which may be harmful to minors can be rated voluntarily by content providers in accordance with the standards set by the Internet Content Rating Association (ICRA), which subsequently allow for parental filtering of adult websites, for instance.

15. The Assembly calls on member and observer states' parliaments to:

- 15.1. assess the technological possibilities of increasing the safety of minors using the Internet and online media services including mobile audiovisual telecommunications, in particular filtering devices and access restriction technologies;
- 15.2. initiate, together with the Internet industry and child protection organisations, public awareness campaigns targeted at the risks and opportunities for minors using Internet and online media services as well as the technical opportunities to restrict harmful content;
- 15.3. support the creation and marketing of services adequate for children and adolescents, including restricted networks described in paragraph 11 above as well as free software for parental filtering of content deemed by them as being potentially harmful to their children;



- 15.4. promote, in co-operation with the Internet industry and child protection, equal opportunities and other civil society organisations, public quality standards and ratings of Internet and online media services adequate for minors, and ensure that access to adult content is effectively restricted by age-verification systems installed by the providers of such content;
  - 15.5. encourage public or private educational institutions, museums, orchestras and other cultural institutions as well as public service broadcasters to provide Internet and online content for children and adolescents, thus making European cultural heritage more competitive and attractive for minors via Internet and online media;
  - 15.6. ratify without delay the Convention on Cybercrime and its Additional Protocol as well as the Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse, if their governments have signed them.
16. The Assembly recommends that the Committee of Ministers, in accordance with the decision taken at the Warsaw Summit in 2005:
- 16.1. assist member states in the implementation of this Recommendation as well as the relevant Committee of Ministers' Recommendations aiming at a safer use of the Internet and online media, in particular by minors;
  - 16.2. promote policies to make the Internet safer for children at the level of the European Dialogue on Internet Governance and the United Nations Internet Governance Forum and provide general support to the European Dialogue on Internet Governance, including secretariat support;
  - 16.3. establish co-operation with the Safer Internet Programme of the European Union and seek additional funding for Council of Europe action through voluntary contributions by member states as well as the private sector;
  - 16.4. instruct its competent steering committee to analyse the potential psychological risks for children and adolescents using Internet and online media excessively, in particular social online networks suggesting virtual reality such as Second Life, sites containing nefarious gender stereotypes, as well as violent online games and networks such as World of Warcraft, and to propose appropriate action by the Council of Europe and member states;
  - 16.5. call on those states that have not yet signed the Convention on Cybercrime and its Additional Protocol to do so without delay, and initiate an international campaign aimed at accession to the Convention on Cybercrime also by states outside Europe, in order to cover better the world wide map of cyberspace and avoid geographical loopholes;
  - 16.6. initiate work towards ensuring greater legal responsibility of Internet service providers for illegal content, whether or not this originates from third parties or users; this work may require the drafting of a new additional protocol to the Convention on Cybercrime;
  - 16.7. analyse the feasibility of drawing up legal standards for the regulation of online gambling and other commercial online activities, which may be harmful to minors and are typically restricted by national legislation when provided off-line.
17. The Assembly calls on member states to create a national institution for the co-operation between the Internet and media industries, civil society organisations and government in order to develop and implement the regulation of Internet and online media services.
18. The Assembly invites the Standing Conference of European Ministers for Education to define policy guidelines for teaching media literacy to children, adolescents, parents and teachers with a focus on Internet and online media services, in order to detect potential opportunities as well as risks linked to such services.
19. The Assembly appeals to the online media industry to develop and apply codes of conduct with regard to privacy protection, equal opportunities, commercial activities targeted at minors and content potentially harmful to them. Internet hotlines and other complaint mechanisms against potentially illegal and harmful content or conduct should be maintained by Internet service and content providers. Commercial services provided in conformity with high ethical standards and high safety protection for minors will be in growing demand in an ever expanding Internet and online media market.

# Recommendation 1897 (2010)

## Respect for media freedom

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Author(s): Parliamentary Assembly

Origin - *Assembly debate* on 27 January 2010 (6th Sitting) (see Doc. 12102, report of the Committee on Culture, Science and Education, rapporteur: Mr McIntosh). *Text adopted by the Assembly* on 27 January 2010 (6th Sitting).

1. Recalling its Resolution 1535 (2007) on threats to the lives and freedom of expression of journalists, the Parliamentary Assembly notes with great concern that the number of attacks on the media and journalists and other serious violations of media freedom have increased and that at least 20 journalists have been killed in Europe since 2007. These alarming facts require the resolute reaffirmation that media freedom is a necessary condition for democracy and thus for membership with the Council of Europe. Member states and the Council of Europe must do more to ensure respect for media freedom and the safety of journalists.
2. In its Resolution 1535 (2007), the Assembly resolved to establish a specific monitoring mechanism for identifying and analysing attacks on the lives and freedom of expression of journalists in Europe as well as the progress made by national law enforcement authorities and parliaments in their investigations of these attacks. In support of this resolution, the Assembly welcomes and supports the appointment of a rapporteur on media freedom in its Committee on Culture, Science and Education.
3. The Assembly values highly the work of the Representative on Freedom of the Media of the Organization for Security and Co-operation in Europe (OSCE) and looks forward to continued and increased collaboration. It also appreciates the active contribution of such organisations as the International Federation of Journalists, the Association of European Journalists, the European Newspaper Publishers Association, Article 19, the International Press Institute and Reporters Without Borders in identifying violations of media freedom.
4. The Assembly deplores the fact that, since the adoption of Resolution 1535 (2007), the Russian Federation has failed to conduct a proper investigation and to bring those responsible for the murder of Anna Politkovskaya in Moscow on 7 October 2006 to justice and to ensure that journalists can work freely and in safety. Since 2007, 13 more journalists have lost their lives in Russia: Ivan Safronov, Vyacheslav Ifanov, Ilyas Shurpayev, Gadji Abashilov, Sergey Protazanov, Magomed Yevloyev, Telman Alishayev, Shafiq Amrakhov, Anastasia Baburova, Vyacheslav Yaroshenko, Natalia Estemirova, Abdulmalik Akhmedilov and Olga Kotovskaya.
5. The Assembly also deplores the fact that organised crime in several member states is threatening the safety of journalists, while law enforcement authorities remain ineffective against such threats. The Assembly is saddened by the murders of Georgi Stoev in Bulgaria on 7 April 2008, Ivo Pukanic and Niko Franjic in Croatia on 23 October 2008, as well as Cihan Hayirsevener in Turkey on 18 December 2009. Critical media play an important role in discovering and shedding light on corruption and organised crime. The public has the right to be informed about such facts by the media, which should be supported by member states.
6. Recalling its Resolution 1438 (2005) on freedom of the press and the working conditions of journalists in conflict zones, the Assembly deplores the fact that the war between Russia and Georgia in 2008 took the lives of Alexander Klimchuk, Grigol Chikhladze, Stan Storimans and Giorgi Ramishvili.
7. The Assembly welcomes amendments made to Article 301 of the Turkish Penal Code but deplores the fact that Turkey has neither abolished Article 301 nor completed investigations into the murder of Hrant Dink in Istanbul on 19 January 2007, especially as regards possible failures of the police and security forces. Criminal charges have been brought against many journalists under the slightly revised Article 301, which still violates Article 10 of the European Convention on Human Rights.

8. Referring to its Resolution 1577 (2007) “Towards decriminalisation of defamation”, the Assembly reaffirms that defamation and insult laws must not be used to silence critical comment and irony in the media. The reputation of a nation, the military, historic figures or a religion cannot and must not be protected by defamation or insult laws. Governments and parliaments should clearly and openly reject false notions of national interest evoked against the work of journalists. Nationalism must never again become the misguided reason for killing journalists, or depriving them of their rights or liberty.
9. The Assembly notes with concern that excessive sanctions have been imposed on media outlets. Government members and parliamentarians should not use their political influence to silence critical media, but engage in a constructive debate through all media.
10. The Assembly reaffirms that the introduction of digital broadcasting must not be used to discriminate for party political reasons against individual broadcasters.
11. The Assembly therefore recommends that the Committee of Ministers:
  - 11.1. review national legislation and practice to ensure that anti-terrorism measures fully respect media freedom in accordance with Recommendation 1706 (2005) on media and terrorism;
  - 11.2. assist member states in training their judges, law enforcement authorities and police in respecting media freedom, in particular as regards protection of journalists and media against violent threats;
  - 11.3. give its full support to the mechanism proposed by the Steering Committee on the Media and New Communication Services for promoting compliance with Article 10 of the European Convention on Human Rights and other Council of Europe standards on media freedom;
  - 11.4. call on the governments of all member states, and in particular those of Azerbaijan, the Russian Federation and Turkey, to revise their defamation and insult laws and their practical application in accordance with Assembly Resolution 1577 (2007);
  - 11.5. call on the governments of all member states, and in particular of Armenia, Azerbaijan, Moldova, the Russian Federation and Ukraine as well as Belarus, to ensure fair and equal access of all political parties and candidates to the media before elections and pay particular attention to this issue when assessing future elections;
  - 11.6. call on the Government of the Russian Federation to ensure that the high number of murders of critical journalists are investigated and brought to justice;
  - 11.7. call on the Government of Armenia to revise their legislation on the allocation of broadcasting licences, which was passed as a countermeasure to the judgment of the European Court of Human Rights in the case of *Meltex Ltd and Mesrop Movsesyan v. Armenia* of 17 June 2008.
12. Referring to its Resolution 1636 (2008) on indicators for media in a democracy and on the basic principles for assessing media freedom, the Assembly asks the Secretary General of the Council of Europe to allocate the resources necessary to:
  - 12.1. collate information on a continuing basis from media freedom organisations including the International Federation of Journalists, the Association of European Journalists, the European Newspaper Publishers Association, Article 19, the International Press Institute, and Reporters Without Borders, identifying violations of media freedom;
  - 12.2. analyse this information on a systematic basis, country by country, using the indicators for media freedom set out in Resolution 1636 (2008);
  - 12.3. make such information publicly available in electronic form on the website of the Council of Europe, as well as in print form;
  - 12.4. issue electronic and print reports on this information and analysis to the governments and parliaments of member states and to the media, at least every three months, highlighting the important events of the most recent period in each country and requiring remedy when necessary.
13. Referring to its Resolution 1387 (2004) on monopolisation of the electronic media and possible abuse of power in Italy, and taking into account the very fast development of the Italian audiovisual market from 2004 to the present day, the Assembly asks the European Commission for Democracy through Law (Venice Commission) to prepare an opinion on whether, and to what extent, legislation in Italy has been adapted to take account of its Opinion on the compatibility of the laws “Gasparri” and “Frattini” of Italy with Council of

Europe standards in the field of freedom of expression and pluralism of the media, adopted by the Venice Commission at its 63rd Plenary Session (Venice, 10-11 June 2005).

14. The Assembly notes with concern the official warning addressed by the Justice Ministry of Belarus on 13 January 2010 to the Belarusian Association of Journalists, challenging the association's internationally recognised work in the interests of journalists, media and media freedom. Recalling its Resolution 1372 (2004) on the persecution of the press in the Republic of Belarus, the Assembly reaffirms that media freedom is an essential condition for democracy and a requirement for membership with the Council of Europe. The Assembly calls on the authorities in Belarus not to abuse arbitral administrative regulations to restrict unduly the rights to freedom of expression and freedom of association under Articles 19 and 22 of the International Covenant on Civil and Political Rights and Articles 10 and 11 of the European Convention on Human Rights. As Belarus is an associate member of the Venice Commission, the Assembly furthermore asks the Venice Commission to analyse the compatibility of such a warning by the Justice Ministry of Belarus with universal human rights standards.

15. The Assembly invites the parties to the Group of States against Corruption (GRECO) Partial Agreement to emphasise in their work the importance of media freedom and the role of investigative journalism in combating corruption and to ask the European Union to accede to GRECO.

16. The Assembly invites the European Union Agency for Fundamental Rights as well as national human rights institutions in member states to co-operate with the Council of Europe in assisting governments, courts and media organisations with their pursuit of remedies for serious violations of media freedom.

17. For the purposes of the publication proposed in paragraph 12 above, the Assembly invites the International Federation of Journalists, the Association of European Journalists, the European Newspaper Publishers Association, Article 19, the International Press Institute, Reporters Without Borders and other media freedom organisations to continue to provide regular information to the Assembly and the rapporteur on media freedom of the Committee on Culture, Science and Education on serious violations of media freedom in Europe which may require interparliamentary attention and follow-up.

# Recommendation 1906 (2010)

## Rethinking creative rights for the Internet age

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Author(s): Parliamentary Assembly

Origin - *Text adopted by the Standing Committee, acting on behalf of the Assembly, on 12 March 2010 (see Doc. 12101, report of the Committee on Culture, Science and Education, rapporteur: Mr Arnaut, and Doc. 12142, opinion of the Committee on Economic Affairs and Development, rapporteur: Mr Lambert).*

1. The Parliamentary Assembly notes that the extraordinary development of the digital society has significantly upset the balance between the copyrights of authors of intellectual works, investors and the general public, and raises questions and issues as to the functioning of democracy, the protection of human rights and the viability of the rule of law. It also raises ethical questions and questions relating to property, particularly intellectual property.
2. The possibility of sharing written documents, music, photographs and films without respecting copyright, as well as plans for electronic libraries, are examples of this development. The consequences are manifold. The drastic decline in sales of musical and cinematographic works is a reality and the same tendency could be seen in publishing with the advent of electronic libraries. Moreover, some governments are considering enacting laws to allow for the surveillance of digital exchanges between individuals.
3. The international instruments for the protection of copyright no longer seem capable of guaranteeing creators and investors a fair return on their respective activities while ensuring the public's access to information and respect for privacy. On one hand, the very survival of creative professions is at stake; on the other, there is a danger of the emergence of police states controlling all information exchanged by their citizens.
4. "Pirate parties" are springing up throughout Europe and worldwide, rebelling against any state control over Internet communication and calling for the safeguarding of privacy and the right to information and to share music, films and other products of artistic, scientific or literary creation free of charge. The Swedish Pirate Party has a member in the European Parliament, and the German Pirate Party, until the recent elections, had a member in the Bundestag.
5. There would not appear to be any threat to the public's right of access to information and no justification for the provision of music, films and literary or scientific works free of cost. The Assembly considers that unrestricted and free access to information by no means presupposes cost-free access to the products of artistic, scientific or literary creation, even if the freedom to copy for private use must remain. The relevant exceptions in the spheres of education and research would appear to be properly safeguarded.
6. It is incumbent on the public authorities to work towards restoring the balance between the rights of the various players in the process of intellectual creation while guaranteeing respect for privacy. The Council of Europe, whose fundamental values are precisely democracy, human rights and the rule of law, has a duty to be involved in assessing foreseeable developments and in framing the standards required at European level.
7. The Committee of Ministers of the Council of Europe has stated its position in its Recommendation Rec(2001)7 on measures to protect copyright and neighbouring rights and combat piracy, especially in the digital environment. The Assembly focused on two questions related to these matters in its Recommendations 1586 (2002) on the digital divide and education and 1833 (2008) on promoting the teaching of European literature. The European Union considered the question in several directives from 1991 to 2006. However, at this stage no satisfactory solution has yet been proposed.

8. Consequently, the Assembly recommends that the Committee of Ministers:
  - 8.1. initiate a future-oriented study on copyright in the digital environment and give thought to the changes required to guarantee a flexible legal apparatus, enabling copyright to be protected despite technical, economic and social changes;
  - 8.2. initiate reflection on the system of exceptions and limitations by opening a transparent public debate, enabling each interested group to express its point of view in order to identify the exceptions and limitations essential for freedom of expression and information in a democratic society and ensure that these are fully effective, as well as identifying the exceptions and limitations which are merely incidental to this objective and propose a differentiated approach;
  - 8.3. assist and encourage – for example by drawing up model clauses – contractual initiatives to provide improved access to works of a creative nature and their content, particularly in the fields of education and research, and verify their effectiveness and implementation by means of empirical studies;
  - 8.4. initiate reflection on the legal status of certain Internet stakeholders (access providers, content-sharing platforms, search engines) with regard to compliance with copyright rules;
  - 8.5. investigate what arrangements and mechanisms might help rights holders to receive fair and equitable remuneration, on which the economic operators concerned have been consulted, for access to protected works;
  - 8.6. explore the possibility of introducing compulsory collective management systems, especially where exclusive rights are very difficult to enforce and could have adverse effects on access to information (for example, in the case of “orphan” works, which are still covered by copyright but whose owners cannot be identified or located);
  - 8.7. facilitate and propose a framework for interdisciplinary work (economic, philosophical, sociological, historical, psychological and technical) on copyright.

# Resolution 1751 (2010)

## Combating sexist stereotypes in the media

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Author(s): Parliamentary Assembly

Origin - *Assembly debate* on 25 June 2010 (27th Sitting) (see Doc. 12267, report of the Committee on Equal Opportunities for Women and Men, rapporteur: Mrs Stump). *Text adopted by the Assembly* on 25 June 2010 (27th Sitting). See also Recommendation 1931 (2010).

1. The Parliamentary Assembly notes and deplors the fact that women are the victims of sexist stereotypes in the media. On the one hand, they are under-represented, if not invisible, in the media. On the other hand, the persistence of sexist stereotypes in the media – confining women and men to the roles traditionally assigned by society, that is, women at home, men in the professional and political world, women as victims or as sexual objects, men as competent and powerful leaders or as sexually driven – is a barrier to gender equality.
2. The sexist stereotypes conveyed vary from humour and clichés in the traditional media to incitement to gender-based hatred and violence on the Internet. Sexist stereotypes are too frequently trivialised and tolerated under the banner of freedom of expression. Furthermore, these stereotypes are often subtly conveyed by the media which reproduce the attitudes and opinions seen as the norm in societies where gender equality is far from reality. Accordingly, all too often, court action cannot be taken against sexist stereotypes nor can they be penalised by regulatory or self-regulatory authorities, except in cases of the most serious violations of human dignity.
3. Nonetheless, the impact of sexist stereotypes in the media on the formation of public opinion, especially among young people, is disastrous: these stereotypes perpetuate a simplistic, immutable and caricatured image of women and men, legitimising everyday sexism and discriminatory practices, and they may facilitate or legitimise the use of gender-based violence. As such, sexist stereotypes are a means of discrimination.
4. The media, a vital constituent of democracy, have a particular responsibility in this field to promote respect for human dignity, the fight against all forms of discrimination, and equality between women and men. Sexism, like racism and other forms of discrimination, has no place in the media. The Assembly reasserts its commitment to upholding the principles of human dignity and non-discrimination guaranteed in the European Convention on Human Rights (ETS No. 5). It further highlights the positive role that the media can play in promoting gender equality, referring in this connection to Recommendation No. R (84) 17 of the Committee of Ministers to member states on equality between women and men in the media.
5. Moreover, education and training are absolutely essential in order to learn how to recognise, be aware of and overcome stereotypes. It is therefore crucial to inform children, from an early age, about combating discrimination and promoting gender equality.
6. The Assembly calls on member states to strengthen training and education activities and to:
  - 6.1. promote and launch awareness-raising campaigns;
  - 6.2. include, in gender equality legislation, provisions aimed at combating sexist stereotypes;
  - 6.3. promote the introduction and/or effective functioning of regulatory or self-regulatory media authorities to guarantee respect for human dignity, to contribute to the fight against discrimination, including gender-based discrimination, and to promote not only diversity but also equality between women and men;

- 6.4. define, in dialogue and consultation with public and private partners in the profession, codes of good practice which proscribe sexist practices and images, promote the balanced presence of women and men in the media and include the gender perspective;
  - 6.5. introduce quotas or other positive measures in the public media, together with objectives to improve the participation and representation of women;
  - 6.6. put in place structures to monitor and/or strengthen self-regulatory mechanisms for reporting on stereotyped portrayals, drawing, where they prove effective, on the mechanisms for denouncing sexist advertising;
  - 6.7. promote the introduction of a European system of monitoring and exchange of best practices;
  - 6.8. place an emphasis on programmes aimed at young people to combat the stereotyped images of women and men and the sexist attitudes found in society;
  - 6.9. promote, in schools, teaching that enables students to interpret the media and decode sexist stereotypes, and education concerning gender equality, in line with Recommendation CM/Rec(2007)13 of the Committee of Ministers to member states on gender mainstreaming in education and the Assembly's Resolutions 1557 (2007) on the image of women in advertising and 1669 (2009) on the rights of today's girls: the rights of tomorrow's women.
7. The Assembly furthermore calls on national parliaments to:
- 7.1. combat sexist stereotypes in the media by adopting legal measures to penalise sexist remarks or insults, incitement to gender-based hatred or violence and defamation of an individual or group of individuals on the grounds of their sex;
  - 7.2. enable individual victims of gender-based discrimination, and also non-governmental organisations active in the field of gender-based violence and discrimination, to seize the courts or competent regulatory and self-regulatory authorities in order to challenge incitement to gender-based hatred or violence and defamation of an individual or group of individuals on the grounds of their sex;
  - 7.3. enable the public prosecution service to take action, *ex officio*, against incitement to gender-based hatred or violence and defamation of an individual or group of individuals on the grounds of their sex;
  - 7.4. encourage members of parliament to adopt non-sexist language and not to resort to sexist stereotypes in the course of their parliamentary activities;
  - 7.5. urge members of parliament to demand that female candidates and elected representatives have the same access to the media as their male counterparts.
8. The Assembly calls on member states to encourage measures to promote the visibility and importance of women in the media, including:
- 8.1. the systematic analysis, both quantitative and qualitative, of the status and role of women in the media;
  - 8.2. the establishment of lists of female experts and consultants who could be called on by the media;
  - 8.3. the creation of competitions and prizes to reward those media which promote the balanced representation and participation of women and men;
  - 8.4. the setting up of think-tanks focusing on the promotion of equality between women and men, whose activities may be taken into account by media regulation bodies.
9. The Assembly calls on the media to:
- 9.1. raise journalists' awareness and train them to include the gender equality dimension in journalism and in the media;
  - 9.2. promote the gender equality dimension in regulatory and self-regulatory authorities and, where appropriate, implement the recommendations contained in codes of good practice;
  - 9.3. favour a more balanced representation of women in the media and a non-stereotyped representation of women and men, thereby helping to overcome obstacles to gender equality.



# Recommendation 1931 (2010) Combating sexist stereotypes in the media

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Author(s): Parliamentary Assembly

Origin - *Assembly debate* on 25 June 2010 (27th Sitting) (see Doc. 12267, report of the Committee on Equal Opportunities for Women and Men, rapporteur: Mrs Stump). *Text adopted by the Assembly* on 25 June 2010 (27th Sitting).

1. Referring to its Resolution 1751 (2010) on combating sexist stereotypes in the media, the Parliamentary Assembly deplores the persistence of sexist stereotypes in the media, which impedes the achievement of de facto gender equality.
2. The Assembly welcomes the fact that the question of “Combating stereotypes: the role of education and the media” was discussed at the 7th Council of Europe Conference of Ministers responsible for Equality between Women and Men in Baku (Azerbaijan) on 24 and 25 May 2010. The Assembly believes that education and the media have a key role in combating sexist stereotypes. At the same time, the Assembly stresses that the promotion of equality between women and men is not limited to upholding the principle of non-discrimination, but must involve positive obligations for states to guarantee the right to gender equality.
3. Accordingly, the Assembly invites the Committee of Ministers to:
  - 3.1. draw up, in conjunction with the relevant steering committees:
    - 3.1.1. a European code of good practice for member states to combat sexist stereotypes in the media;
    - 3.1.2. a handbook for the media on strategies to combat gender stereotypes in the media, drawing on existing best practices;
  - 3.2. incorporate, in the future Council of Europe convention on preventing and combating violence against women and domestic violence, the fight against gender stereotypes as a means of preventing gender-based violence and promoting the effective achievement of equality between women and men;
  - 3.3. alert its subordinate bodies to the need to use non-sexist language, in accordance with Recommendation No. R (90) 4 of the Committee of Ministers to member states on the elimination of sexism from language.
4. Referring to its Recommendation 1798 (2007) on respect for the principle of gender equality in civil law, the Assembly reiterates its invitation to the Committee of Ministers to draft a new protocol to the European Convention on Human Rights (ETS No. 5), establishing gender equality as a fundamental human right.

# Recommendation 1950 (2011)

## The protection of journalists' sources

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Author(s): Parliamentary Assembly

Origin - Assembly debate on 25 January 2011 (4th Sitting) (see Doc. 12443, report of the Committee on Culture, Science and Education, rapporteur: Mr Johansson). Text adopted by the Assembly on 25 January 2011 (4th Sitting).

1. The Parliamentary Assembly recalls that the free exercise of journalism is enshrined in the right to freedom of expression and information, which is guaranteed by Article 10 of the European Convention on Human Rights ("the Convention", ETS No. 5). This right constitutes the foundation of a democratic society and an indispensable requirement for its progress and the development of every individual. Free, independent and pluralist media are a necessary condition of any true democratic society. Democracy and good governance require accountability and transparency and, in this respect, media play an essential role in the public's scrutiny of public and private sectors in society.
2. Recalling Committee of Ministers Recommendation No. R (2000) 7 on the right of journalists not to disclose their sources of information, the Assembly reaffirms that the protection of journalists' sources of information is a basic condition for both the full exercise of journalistic work and the right of the public to be informed on matters of public concern, as expressed by the European Court of Human Rights in its case law under Article 10 of the Convention.
3. The Assembly notes with concern the large number of cases in which public authorities in Europe have forced, or attempted to force, journalists to disclose their sources, despite the clear standards set by the European Court of Human Rights and the Committee of Ministers. These violations are more frequent in member states without clear legislation. In cases of investigative journalism, the protection of sources is of even greater importance, as stated in the Committee of Ministers' Declaration of 26 September 2007 on the protection and promotion of investigative journalism.
4. Referring to the new Press and Media Law of Hungary (Law CIV of 2010 on the freedom of the press and the fundamental rules on media content), the Assembly expresses its concern that limits to the exercise of media freedom fixed by Article 4.3 and the exceptions to the right of journalists not to disclose their sources stipulated in Article 6 of this law seem to be overly broad and thus may have a severe chilling effect on media freedom. This law sets forth neither the procedural conditions concerning disclosures nor guarantees for journalists requested to disclose their sources. The Assembly calls on the Government and Parliament of Hungary to amend this law, ensuring that its implementation cannot hinder the right recognised by Article 10 of the Convention.
5. Public authorities must not demand the disclosure of information identifying a source unless the requirements of Article 10, paragraph 2, of the Convention are met and unless it can be convincingly established that reasonable alternative measures to disclosure do not exist or have been exhausted, the legitimate interest in the disclosure clearly outweighs the public interest in the non-disclosure, and an overriding requirement of the need for disclosure is proved.
6. The disclosure of information identifying a source should therefore be limited to exceptional circumstances where vital public or individual interests are at stake and can be convincingly established. The competent authorities, requesting exceptionally the disclosure of a source, must specify the reasons why such vital interest outweighs the interest in the non-disclosure and whether alternative measures have been exhausted, such as other evidence. If sources are protected against any disclosure under national law, their disclosure must not be requested.

7. Recalling Recommendation Rec(2003)13 of the Committee of Ministers on the provision of information through the media in relation to criminal proceedings, the Assembly reaffirms that the public must be able to receive information through the media about the activities of police services and judicial authorities, including court proceedings of public interest, as far as this does not prejudice the presumption of innocence of the suspect or accused under Article 6 of the Convention, the right to privacy under Article 8 of the Convention or the secrecy of investigations and police inquiries.

8. The right of journalists not to disclose their sources applies also to sources from within the police or judicial authorities. Where such provision of information to journalists was illegal, police and judicial authorities must pursue internal investigations instead of asking journalists to disclose their sources.

9. In so far as Article 10 of the Convention protects the right of the public to be informed on matters of public concern, anyone who has knowledge or information about such matters should be able to either post it confidentially on third-party media, including Internet networks, or submit it confidentially to journalists.

10. With regard to the right of every person to disclose confidentially to the media, or by other means, information about unlawful acts and other wrongdoings of public concern, the Assembly recalls its Resolution 1729 (2010) and Recommendation 1916 (2010) on the protection of “whistle-blowers” and reaffirms that member states should review legislation in this respect to ensure consistency of domestic rules with the European standards enshrined in these texts.

11. In the same manner as the media landscape has changed through technological convergence, the professional profile of journalists has changed over the last decade. Modern media rely increasingly on mobile and Internet-based communication services. They use information and images originating from non-journalists to a larger extent. Non-journalists also publish their own or third-party information and images on their own or third-party Internet media, accessible to a wide and often undefined audience. Under these circumstances, it is necessary to clarify the application of the right of journalists not to disclose their sources of information.

12. The Assembly reaffirms that the confidentiality of journalists’ sources must not be compromised by the increasing technological possibilities for public authorities to control the use by journalists of mobile telecommunication and Internet media. The interception of correspondence, surveillance of journalists or search and seizure of information must not circumvent the protection of journalists’ sources. Internet service providers and telecommunication companies should not be obliged to disclose information which may lead to the identification of journalists’ sources in violation of Article 10 of the Convention.

13. Referring to the European Union’s Directive 2006/24/EC of 15 March 2006 on the retention of data generated or processed in connection with the provision of publicly available electronic communications services or of public communications networks, the Assembly insists on the need to ensure that legal provisions enacted by member states when transposing this directive are consistent with the right of journalists not to disclose their sources under Article 10 of the Convention and with the right to privacy under Article 8 of the Convention. The Assembly also stresses the importance of ensuring coherence of domestic legislation with Articles 16 and 17 of the Convention on Cybercrime (“the Budapest Convention”, ETS No. 185).

14. The Assembly welcomes the fact that journalists have expressed in professional codes of conduct their obligation not to disclose their sources of information when they receive information confidentially. This professional ethical standard ensures that sources may rely on confidentiality and decide to provide journalists with information which may be of public concern. The Assembly invites journalists and their organisations to ensure, through self-regulation, that sources are not disclosed.

15. The right of journalists not to disclose their sources of information is a professional privilege, intended to encourage sources to provide journalists with important information which they would not give without a commitment to confidentiality. The same relationship of trust does not exist with regard to non-journalists, such as individuals with their own website or web blog. Therefore, non-journalists cannot benefit from the right of journalists not to reveal their sources.

16. The Assembly welcomes the work on media freedom of the Council of Europe Commissioner for Human Rights and asks the Commissioner to pay particular attention, when visiting member states and meeting media ombudspersons, to the protection of the confidentiality of journalists’ sources.

17. The Assembly recommends that the Committee of Ministers:

- 17.1. call on those member states which do not have legislation specifying the right of journalists not to disclose their sources of information, to pass such legislation in accordance with the case law of the European Court of Human Rights and Committee of Ministers Recommendation No. R (2000) 7;

- 17.2. assist member states in analysing and improving their legislation on the protection of the confidentiality of journalists' sources, in particular by supporting the review of their national laws on surveillance, anti-terrorism, data retention and access to telecommunications records;
- 17.3. ask its competent steering committee to draw up, in co-operation with journalists' and media freedom organisations, guidelines for prosecutors and the police, as well as training material for judges, on the right of journalists not to disclose their sources of information, in accordance with Committee of Ministers Recommendations Nos. R (2000) 7 and Rec(2003)13 and the case law of the European Court of Human Rights;
- 17.4. ask its competent steering committee to draw up guidelines for public authorities and private service providers concerning the protection of the confidentiality of journalists' sources in the context of the interception or disclosure of computer data and traffic data of computer networks in accordance with Articles 16 and 17 of the Convention on Cybercrime and Articles 8 and 10 of the European Convention on Human Rights.

# Resolution 1834 (2011) Combating “child abuse images” through committed, transversal and internationally co-ordinated action

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Author(s): Parliamentary Assembly

Origin - Assembly debate on 5 October 2011 (32nd and 33rd Sittings) (see Doc.12720, report of the Social, Health and Family Affairs Committee, rapporteur: Mr Conde Bajén). Text adopted by the Assembly on 5 October 2011 (33rd Sitting). See also Recommendation 1980 (2011).

1. “Child abuse images” or “child pornography” are not just images. Both expressions refer to a series of crimes, from the solicitation, corruption or trafficking of children (under 18 years) for sexual purposes to the distribution, collection and consultation of images of the abuse committed, over various forms of sexual abuse perpetrated on children – sometimes even causing their death.
2. The Parliamentary Assembly is very concerned about the high prevalence of such crimes in our societies and the way in which they are facilitated by the Internet and other information and communication technologies, which reveal their “dark side” when it comes to child abuse images. It recalls that, due to the anonymity of the Internet, it is extremely difficult to uncover and to effectively prosecute offenders, and to identify and help victims. The Assembly therefore calls for committed, transversal and internationally co-ordinated action to fight all types of offences related to child abuse images.
3. Despite the fact that most images can be found in a “virtual world”, one must never forget that behind every child abuse image, there is at least one child who has been sexually abused in real life.
4. Child abuse images are not only the result and visual depiction of abuse, but may also incite new crimes and thus become a “multiplier” of the sexual abuse and exploitation of children. For this reason, already the “mere” viewing of child abuse images should be criminalised in all member states of the Council of Europe.
5. The Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (Lanzarote Convention, CETS No. 201) currently represents the most complete and advanced standard in this field, alongside with the Convention on Cybercrime (Budapest Convention, ETS No. 185). They shall soon be completed by the upcoming European Union directive on combating the sexual abuse, sexual exploitation of children and child pornography, expected to be adopted by the European Parliament and Council before the end of 2011. These texts constitute a strong legal basis, but need to be strengthened concerning certain aspects, such as the criminalisation of the intentional consultation of child abuse images (as far as the Lanzarote Convention is concerned) and the mandatory character of website blocking when deleting is not possible, which has, to the regret of the Parliamentary Assembly, not found its way into the final European Union draft directive.
6. Many member states have started to address the issue by developing strong legislation and policies. A reinforced European-wide exchange of information and best practice should thus make a more efficient fight against child abuse images possible. To appropriately reflect the complexity of this subject, the notions of “child abuse images” or “child abuse material” should, in the long term, replace the expression of “child pornography” in all legal texts and political debates.

7. In the light of the successful co-operation with the private sector, the commitment of the Internet service providers (ISP) and the financial sector should be further encouraged in the future, inciting all companies to adhere to approaches of self-regulation and systematic reporting of illegal Internet contents to the authorities.

8. The Assembly therefore calls on the Council of Europe member states:

8.1. as concerns the Lanzarote Convention and the Budapest Convention to:

- 8.1.1. sign and ratify these conventions as soon as possible, if this has not yet been done, and, as concerns member states of the European Union, to implement them in a co-ordinated manner with regard to the upcoming European Union directive;
- 8.1.2. strengthen their relevant national legislation, in particular by creating a strong legal basis for the intervention of law enforcement agencies according to procedures which are transparent and fully respectful of democratic principles and human rights;
- 8.1.3. support the strengthening of the Lanzarote Convention through an additional protocol aimed at covering in more detail offences related to child abuse images;

8.2. as concerns political measures to be taken, to:

- 8.2.1. develop comprehensive national policies tackling the issue from all possible angles, while following a clear "victim-centred approach" aimed at identifying victims and offenders as swiftly as possible, at halting abuse and at assisting victims, including in the context of child-friendly justice systems to be developed according to the Council of Europe Guidelines on child-friendly justice adopted in November 2010;
- 8.2.2. set up efficient mechanisms to interrupt the commercial and non-commercial online distribution of child abuse images, giving priority to the rapid removal of illegal content wherever possible, and including the blocking of websites as a complementary measure when appropriate;
- 8.2.3. develop dialogue with the private sector in order that it takes responsibility for immediately reporting any child abuse images identified and co-operating with law enforcement agencies;
- 8.2.4. support more systematic exchanges of information at European and international level on the one hand and further research on child abuse images and related offences on the other;

8.3. as concerns general awareness of the issue of child abuse images and related crimes, to:

- 8.3.1. strengthen the general dialogue by following a "multi-stakeholder approach": public authorities, law enforcement agencies, civil society organisations, educational institutions and, at individual level, the family and the child, including victims of past offences;
- 8.3.2. empower children and adolescents to protect themselves whenever possible, and to strengthen their media awareness, and to make society as a whole aware of the impact and dangers of an increasing "sexualisation" of children in the media;
- 8.3.3. support the Council of Europe ONE in FIVE Campaign to stop sexual violence against children (2010-2014) by actively contributing to its European activities (including financial support to its parliamentary dimension) and by developing national campaign activities or direct links with existing national policies, including at parliamentary, local and regional level.

# Recommendation 1980 (2011) Combating “child abuse images” through committed, transversal and internationally co-ordinated action

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Author(s): Parliamentary Assembly

Origin - *Assembly debate* on 5 October 2011 (32nd and 33rd Sittings) (see Doc. 12720, report of the Social, Health and Family Affairs Committee, rapporteur: Mr Conde Bajén). *Text adopted by the Assembly* on 5 October 2011 (33rd Sitting).

1. Referring to its Resolution 1834 (2011) on combating “child abuse images” through committed, transversal and internationally co-ordinated action, the Parliamentary Assembly recommends that the Council of Europe take a strong position on the action to be taken to combat child abuse images. The Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (Lanzarote Convention, CETS No. 201) belongs to the most complete and advanced standards in this field, next to the Optional Protocol to the United Nations Convention on the Rights of the Child, on the Sale of Children, Child Prostitution and Child Pornography, the Council of Europe Convention on Cybercrime (Budapest Convention, ETS No. 185) and the Council of Europe Convention on Action against Trafficking in Human Beings (CETS No. 197).
2. However, the articles of the Lanzarote Convention on “child pornography” should be strengthened with regard to the full series of crimes related to child abuse images, including their production, distribution, collection and consultation. The fact that Article 20 (paragraph 1.f) of the convention provides an opt out to member states allowing them not to criminalise the act of “knowingly obtaining access, through information and communication technologies, to child pornography” is not acceptable for the Parliamentary Assembly. Provisions relating to the legal and political measures to be taken to effectively fight child abuse images and related offences should be further developed. These provisions should include the obligation to block websites with illegal content when their rapid deletion is not possible.
3. At national level, the Lanzarote Convention and the upcoming European Union Directive on combating sexual abuse and sexual exploitation of children and child pornography, expected to be adopted by the European Parliament and the European Council before the end of 2011, should be implemented in a co-ordinated manner, so as to ensure a maximum impact of these instruments on national legislation and, finally, the protection of every child.
4. The Assembly welcomes the general commitment of the Committee of Ministers to the protection of children’s rights, not least by initiating the Council of Europe ONE in FIVE Campaign to stop sexual violence against children (2010-2014). It also welcomes the strong involvement of the Council of Europe in the “European Dialogue on Internet Governance (EuroDIG)” and encourages the Committee of Ministers to maintain a high level of activity in this field, also as a united European contribution to the international debate.
5. The Assembly therefore recommends that the Committee of Ministers:
  - 5.1. continue promoting the ratification and implementation of the Lanzarote and Budapest Conventions in all member states;
  - 5.2. elaborate and adopt an additional protocol on child abuse images and related crimes to the Lanzarote Convention as soon as possible, with the purpose of covering offences related to child abuse images in more detail and of reinforcing relevant provisions, in particular by criminalising not only the production and distribution of images but also their intentional consultation and by defining the blocking of illegal websites as a complementary but mandatory legal measure when deleting them fails;

- 5.3. initiate intergovernmental work on the legal responsibility of private players, notably Internet service providers (ISP), in the framework of the Council of Europe agenda on matters of rule of law and of the Steering Committee on Media and New Communication Services (CDMC);
- 5.4. further develop and reinforce the ONE in FIVE Campaign in order to allow the Council of Europe and member states involved to address specific matters of sexual abuse and exploitation of children in an appropriate manner;
- 5.5. ensure that the activities of Council of Europe bodies regarding the protection of children's rights and the right to the freedom of expression are well co-ordinated, inter alia, by creating closer links between the Council of Europe programme "Building a Europe for and with Children" under its next Strategy (2012-2014) and the intergovernmental work undertaken by the CDMC, and by involving the Assembly at an early stage whenever appropriate.



# Resolution 1835 (2011)

## Violent and extreme pornography

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Author(s): Parliamentary Assembly

Origin - Assembly debate on 5 October 2011 (32nd and 33rd Sittings) (see Doc. 12719, report of the Committee on Equal Opportunities for Women and Men, rapporteur: Mr Stuligrosz). Text adopted by the Assembly on 5 October 2011 (33rd Sitting). See also Recommendation 1981 (2011).

1. In recent years, pornography has become a highly lucrative business, in particular due to the increasing importance of the Internet as a means of distribution. At the same time, new types of equipment and their wide availability have made it possible for private individuals to become producers of pornography, which is distributed and exchanged mainly through social media and networks on the Internet.
2. The Parliamentary Assembly expresses deep concern at the public's increased accessibility to violent and extreme pornographic material, graphically portraying scenes of degradation, sexual violence, torture, murder, necrophilia or bestiality for the purposes of sexual arousal.
3. While recalling that freedom of expression is a pillar of democratic societies and a right guaranteed by the European Convention on Human Rights (ETS No. 5), the Assembly underlines that it is possible to set limits to this right when they are prescribed by law and are necessary in the interests of, amongst others, the prevention of crime, the protection of morals and the protection of the rights of others.
4. The Assembly notes the great disparities between Council of Europe member states in the degree of regulation of pornography with, at one end of the spectrum, countries where the production, distribution and possession of pornographic material is totally forbidden, and at the other end, countries where there is hardly any prohibition, even with regard to forms of violent and extreme pornography.
5. It also regrets that a common feature in member states is the poor enforcement of existing laws and regulations on the production and distribution of pornography.
6. Acknowledging that the number of consumers of pornography in Europe has increased, the Assembly warns against the desensitisation resulting from continued exposure or addiction to pornography, and against a process of normalisation in which moral coercion and physical violence may be considered as acceptable.
7. In addition, noting that the portrayed victims are in the great majority women, the Assembly is concerned about the negative impact of violent and extreme pornography on women's dignity and their right to live free from sexual violence. In this regard, the Assembly considers that this type of pornography further erodes the conditions for achieving effective gender equality, alongside other forms of hard and soft pornography, the widespread use of sexualised images of women for commercial purposes and the portrayal of gender stereotypes by the media and the entertainment industry.
8. Furthermore, the Assembly reiterates the need to ensure that children are protected against exposure to violent and extreme pornographic material which might harm their balanced development.
9. In the light of these considerations, the Assembly calls on the member states to:
  - 9.1. as concerns law and policy:
    - 9.1.1. ensure the effective implementation of existing laws regulating the production, distribution and sale of pornographic material;
    - 9.1.2. when appropriate, revise existing laws to ensure these provide adequate sanctions in case of violations, and monitor their compliance and implementation;

- 9.1.3. establish an obligation for companies to submit all audiovisual works for classification prior to commercial distribution;
- 9.1.4. where applicable, strengthen sanctions for non-compliance with the obligation to submit audiovisual works for classification with the relevant body and sanctions for distributing such material without classification;
- 9.1.5. assess the impact of existing laws and regulations applying to violent and extreme pornography and revise them, if appropriate, taking into account the possibility of:
  - 9.1.5.1. introducing specific legislation to criminalise the production and distribution of violent and extreme pornography;
  - 9.1.5.2. criminalising the possession of violent and extreme pornography, including for personal use;
- 9.1.6. ensure that existing law is implemented in a non-discriminatory way, including with regard to sexual orientation;
- 9.1.7. set up or support the setting up of hotlines or other facilities to provide advice to the public and receive complaints about illegal content;
- 9.2. as regards the protection of minors:
  - 9.2.1. step up their efforts to combat child pornography;
  - 9.2.2. introduce and enforce adequate sanctions for the sale of pornographic material to minors;
  - 9.2.3. enforce adequate sanctions for breaches of the prohibition for adults to be portrayed as minors;
  - 9.2.4. introduce the compulsory classification of all video games, including pornographic and violent games, and make their sale and distribution conditional upon receiving clearance from the relevant classification body;
- 9.3. as concerns research:
  - 9.3.1. encourage and support scientific research to assess the impact of violent and extreme pornographic images on the user, also with a view to investigating the possible links between habitual consumption of violent and extreme pornography and an increased inclination to violent sexual behaviour. Research should also clarify, by means of comparative studies, whether the impact on viewers varies depending on the real or fictitious nature of images;
  - 9.3.2. conduct or encourage regular surveys on standards of obscenity as perceived by the public as well as consultations with civil society;
  - 9.3.3. encourage or support research on the links between pornography, prostitution and trafficking, as well as between violent and extreme pornography and child-abuse images;
- 9.4. as regards training and awareness raising:
  - 9.4.1. develop sex education material and programmes for children and young people;
  - 9.4.2. support training for social workers and health professionals dealing with addiction to pornography;
  - 9.4.3. support training for social workers and law enforcement officials dealing with people who have been coerced into pornography.
- 10. Finally, the Assembly reiterates its call on Council of Europe member and observer states to sign and ratify:
  - 10.1. the Council of Europe Convention on preventing and combating violence against women and domestic violence (CETS No. 210);
  - 10.2. the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (CETS No. 201);
  - 10.3. the Convention on Cybercrime (ETS No. 185).

## Recommendation 1981 (2011) Violent and extreme pornography

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Author(s): Parliamentary Assembly

Origin - Assembly debate on 5 October 2011 (32nd and 33rd Sittings) (see Doc. 12719, report of the Committee on Equal Opportunities for Women and Men, rapporteur: Mr Stuligrosz). Text adopted by the Assembly on 5 October 2011 (33rd Sitting).

1. Recalling its Resolution 1835 (2011) on violent and extreme pornography, the Parliamentary Assembly reiterates its concern at the public's increased accessibility, especially via the Internet, to violent and extreme pornographic material.
2. Taking into account the Committee of Ministers' Recommendation Rec(2001)8 on self-regulation concerning cyber content (self-regulation and user protection against illegal or harmful content on new communications and information services), the Assembly recommends that the Committee of Ministers ask the appropriate bodies of the Council of Europe to carry out a comparative study on the law and regulations applying to forms of violent and extreme pornography in member states and, on this basis, consider whether there is scope for a more harmonised approach, in particular as regards responses to the distribution of violent and extreme pornographic material on the Internet.
3. Furthermore, the Assembly recommends that the Committee of Ministers ask the Executive Council of the European Audiovisual Observatory to ask the observatory to conduct a study on the feasibility of a common system of classification and content descriptors, in order to label the content of audiovisual works.

# Resolution 1843 (2011)

## The protection of privacy and personal data on the Internet and online media

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Author(s): Parliamentary Assembly

Origin - Assembly debate on 7 October 2011 (36th Sitting) (see Doc. 12695, report of the Committee on Culture, Science and Education, rapporteur: Ms Rihter; and Doc. 12726, opinion of the Committee on Legal Affairs and Human Rights, rapporteur: Mr Salles). Text adopted by the Assembly on 7 October 2011 (36th Sitting). See also Recommendation 1984 (2011).

1. While welcoming the epochal progress in information and communication technologies (hereafter “ICTs”) and the resulting positive effects on individuals, societies and human civilisation as a whole, the Parliamentary Assembly notes with concern that the digitalisation of information has caused unprecedented possibilities for the identification of individuals through their data. Personal data are processed by an ever-growing number of private bodies and public authorities throughout the world. Personal information is put into cyberspace by users themselves as well as by third parties. Individuals leave identity traces through their use of ICTs. Profiling of Internet users has become a widespread phenomenon. Companies sometimes monitor employees and business contacts by means of ICTs.
2. In addition, ICT systems are often hacked into in order to obtain data from legal entities, in particular commercial companies, financial institutions, research institutes and public authorities. Such access may cause economic losses to the private sector and may negatively impact the economic well-being of states, public safety or national security.
3. The Assembly is alarmed by these developments which challenge the right to privacy and data protection. In a democratic state governed by the rule of law, cyberspace must not be regarded as a space where the law, in particular that concerning human rights, does not apply.
4. The Assembly recalls the fundamental human right to respect for private and family life, home and correspondence as guaranteed by Article 8 of the European Convention on Human Rights (ETS No. 5). This right includes the right to the protection of personal data as well as the obligation of states to establish appropriate safeguards under domestic law in this regard.
5. The Assembly underlines the need to effectively combat the collection, distribution and consultation of child pornography which are carried out through information and communication technologies, notably through the Internet, as regulated by the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (CETS No. 201).
6. Recalling its long-standing support of the right to protection of privacy, since its Recommendation 509 (1968) on human rights and modern scientific and technological developments, the Assembly welcomes and supports Resolution No. 3 on data protection and privacy in the 3rd millennium, which was adopted by the 30th Council of Europe Conference of Ministers of Justice (Istanbul, 24-26 November 2010).
7. As the Assembly stated in its Resolution 428 (1970) on the declaration on mass communication media and human rights, “where regional, national or international computer databanks are instituted, the individual must not become completely exposed and transparent by the accumulation of information referring to his private life. Data banks should be restricted to the necessary minimum of information required”.

8. Referring to the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (ETS No. 108, hereafter “Convention No. 108”), the Assembly emphasises that the right to the protection of personal data includes, in particular, the right to have such data processed fairly and securely, for specified purposes on a legitimate basis only, and that everyone has the right to know, access and rectify their personal data processed by third parties or to erase personal data which have been processed without the right to do so. Compliance with these obligations must be supervised by an independent authority in accordance with the Additional Protocol to Convention No. 108, regarding supervisory authorities and trans-border data flows (ETS No. 181).

9. The Assembly reaffirms that member states should only agree to transfer personal data to another state or organisation where such state or organisation is a Party to Convention No. 108 and its Additional Protocol or otherwise ensures an equally adequate level of protection for the intended data transfer. Transfers of personal data which violate the right to protection of private life under Article 8 of the European Convention on Human Rights may be the subject of proceedings before the national courts and, as a last resort, before the European Court of Human Rights.

10. The Assembly welcomes the fact that Convention No. 108 has been signed and ratified by nearly all Council of Europe member states – with the regrettable exceptions of Armenia, the Russian Federation, San Marino and Turkey – and notes that Articles 7 and 8 of the Charter of Fundamental Rights of the European Union contain largely the same principles. With the growing globalisation of ICT-based services, it is of utmost urgency for Europe as a whole to adhere to the same standards and seek to involve other countries around the world.

11. While Article 17 of the International Covenant on Civil and Political Rights (hereafter “ICCPR”) recognises the right to privacy, the legal interpretation and practical implementation of this article falls significantly short of European standards. The Assembly therefore believes that any global initiative should be based on Convention No. 108 and its additional protocol, both of which are in principle open for signature by non-member states of the Council of Europe.

12. Although precautionary technologies and software, voluntary self-regulation by ICT companies and private users, as well as improved user awareness, may reduce the risk of interference with privacy and the harmful processing of personal data through ICTs, the Assembly believes that only specific legislation and effective enforcement can sufficiently protect the right to protection of privacy and personal data as required by Article 17 of the ICCPR and Article 8 of the European Convention on Human Rights.

13. The Assembly deplores that the absence of globally accepted international legal standards on data protection regarding ICT-based networks and services leads to legal insecurity and to the need for national courts to fill this void through the interpretation of domestic laws on a case-by-case basis, in the light of Article 17 of the ICCPR and Article 8 of the European Convention on Human Rights. This not only exposes individuals to an unequal protection of their rights, but also entails different and changing requirements for ICT companies and users globally, causing virtually unpredictable liabilities.

14. The Assembly welcomes the international co-operation established among independent data protection authorities and supports their efforts to ensure the common international protection of privacy and personal data in the wake of technological progress, as expressed in their resolutions adopted in Madrid in 2009 and Jerusalem in 2010. The Assembly shares their view that Convention No. 108 should be promoted globally, as it is the most advanced set of standards in this sector under public international law.

15. Recalling the Convention on Cybercrime (ETS No. 185), the Assembly welcomes the fact that more than 100 states have passed legislation which complies with the spirit of this convention. Under Articles 2, 3 and 4 of this convention, its parties are obliged to consider as an offence punishable under domestic criminal law any intentional access to, interception of and interference with computer data without the right to do so. Such computer data may include personal data of natural persons or secret data of legal persons on computer networks.

16. Recalling Article 10 of the Convention on Human Rights and Biomedicine (ETS No. 164) and Article 16 of its Additional Protocol concerning Genetic Testing for Health Purposes (CETS No. 203), the Assembly emphasises the right of everyone to the protection of personal health data, including the right to be informed of, and consent to or refuse, any collection and processing of such data through ICTs. Medical and health data of persons require the highest level of data protection, as they constitute one of the core elements of a person's private life and human dignity.

17. The Assembly also recalls the obligation to respect the right to privacy and data protection under the Council of Europe Convention on Access to Official Documents (CETS No. 205), as well as the limits to the protection of personal data under the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (CETS No. 198), and the Convention on Mutual Administrative Assistance in Tax Matters (ETS No. 127) and its amending protocol (CETS No. 208).

18. The Assembly endorses the following general principles concerning the protection of privacy and personal data in an ICT environment:

- 18.1. the protection of private life is a necessary element of human life and the humane functioning of a democratic society; where the privacy of a person is violated, his or her dignity, liberty and security are at stake;
- 18.2. the right to protection of privacy and personal data is a fundamental human right, which imposes on states the obligation to provide an adequate legal framework for such protection against interference by public authorities as well as by private individuals and entities;
- 18.3. everyone must be able to control the use of their personal data by others, including any accessing, collection, storage, disclosure, manipulation, exploitation or other processing of personal data, with the exception of the technically necessary or lawful retention of ICT traffic data and localisation data; the control of the use of personal data shall include the right to know and rectify one's personal data and to have erased from ICT systems and networks all data which were provided without legal obligation;
- 18.4. personal data may not be used by others, unless the person concerned has given his or her prior consent, which requires an expression of consent in full knowledge of such use, namely the manifestation of a free, specific and informed will, and excludes any automatic or tacit usage; consent can be subsequently withdrawn at any time; where consent has been withdrawn, personal data may not be used further;
- 18.5. where personal data are to be used with the intention to exploit such data commercially, the person concerned shall also be informed of this commercial use in advance; where personal data may be used by others, because of individual consent or the public availability of otherwise anonymous data, the intentional accumulation, interconnection, personalisation and use of such accumulated data shall nevertheless require the consent of the person concerned;
- 18.6. personal ICT systems as well as ICT-based communications may not be accessed or manipulated if such action violates privacy or the secrecy of correspondence; access or manipulation through "cookies" or other unauthorised automated devices violate privacy, in particular where such automated access or manipulation serves other interests, especially of a commercial nature;
- 18.7. higher protection should be afforded to private images, personal data of minors or persons with mental or psychological disabilities, personal ethnic data, personal medical, health or sexual data, personal biometric and genetic data, personal political, philosophical or religious data, personal financial data and other information forming part of the core area of private life; higher protection should also be afforded to personal data related to court proceedings or the professional secrecy of lawyers, medical professionals and journalists; such higher protection may be achieved through self-regulatory, technical or legal means ensuring due accountability in case of infringements of data protection or privacy; periods should be specified beyond which such data shall no longer be kept or used;
- 18.8. public and private entities which collect, store, process or otherwise use personal data should be obliged to reduce the amount of such data to the absolute minimum; personal data should be deleted when they are outdated or unused or where the purpose for their collection has been met or no longer exists; the random collection and storage of personal data should be avoided;
- 18.9. everyone should have an effective remedy against any unlawful interference with his or her right to protection of privacy and personal data before domestic courts; voluntary arbitration and self-regulatory bodies as well as independent data protection authorities should complement the judicial system in ensuring the effective protection of this right; public authorities and commercial companies should be encouraged to establish mechanisms for receiving and processing complaints against them by individuals alleging infringements of their right to data protection or privacy, as well as mechanisms for ensuring internal compliance with the right to the protection of privacy and personal data; unlawful infringements of privacy and data protection should be punishable by law.

19. The Assembly welcomes the fact that the Parties to Convention No. 108 have started to prepare a possible revision of this convention in the wake of technological progress and increasingly fierce commercial competition in ICT-based services.
20. The Assembly therefore calls on:
  - 20.1. the Parliaments of Armenia, the Russian Federation, San Marino and Turkey to initiate their ratification of Convention No. 108 without delay, thus enabling their countries to play an active role in the further development of this convention;
  - 20.2. its observer delegations from Canada, Israel and Mexico to initiate debate in their respective parliaments about signing and ratifying Convention No. 108 and participating in its further development. The observer delegations are invited to report on progress in this regard to the Assembly in due course;
  - 20.3. the other states co-operating with the Council of Europe, in particular the Council of Europe's other observer states Japan, the United States and the Holy See, to promote their authorities' accession to Convention No. 108;
  - 20.4. the European Commission for Democracy through Law (Venice Commission) to report to the Assembly on the extent to which the domestic legislation of its member and observer states is in accordance with the universal human right to protection of privacy and personal data in the light of Convention No. 108 and its additional protocol, and on whether those states which are not yet parties to this convention would consider signing and ratifying it.
21. The Assembly asks the Secretary General of the Council of Europe to:
  - 21.1. seek high-level support from the United Nations in promoting accession to Convention No. 108 by states worldwide, in particular through the United Nations Internet Governance Forum (IGF), the International Telecommunication Union and the United Nations Educational, Scientific and Cultural Organization (UNESCO);
  - 21.2. make sure that the broad use of ICTs within the Council of Europe and its extraterritorial legal status do not compromise the protection of privacy and personal data. In this context, the position and work of the Council of Europe's Commissioner for Data Protection should be strengthened and the internal regulatory framework revised accordingly.
22. The Assembly calls on the European Union to continue to support broad accession to Convention No. 108 and its Additional Protocol and to become itself a party once the necessary amendments enabling this accession have entered into force.
23. Welcoming international efforts by different stakeholders to ensure the right to protection of personal data in the ICT environment, such as the Madrid 2009 and Jerusalem 2010 resolutions by independent data protection authorities and the various data protection initiatives by the International Chamber of Commerce, the Assembly invites all stakeholders to join forces with the Council of Europe in order to ensure that individual initiatives do not contradict one another or risk being used in order to blur a common approach to the universal right to respect for privacy and the protection of personal data, or to lower existing legal standards.

# Recommendation 1984 (2011)

## The protection of privacy and personal data on the Internet and online media

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Author(s): Parliamentary Assembly

Origin - Assembly debate on 7 October 2011 (36th Sitting) (see Doc. 12695, report of the Committee on Culture, Science and Education, rapporteur: Ms Rihter; and Doc. 12726, opinion of the Committee on Legal Affairs and Human Rights, rapporteur: Mr Salles). Text adopted by the Assembly on 7 October 2011 (36th Sitting).

1. Referring to its Resolution 1843 (2011) on the protection of privacy and personal data on the Internet and online media, the Parliamentary Assembly welcomes and supports Resolution No. 3 on data protection and privacy in the 3rd millennium adopted by the 30th Council of Europe Conference of Ministers of Justice (Istanbul, 24-26 November 2010) and calls for a plan of action for the promotion of common legal standards to guarantee the protection of privacy and personal data on networks and services based on information and communications technologies (ICTs) throughout Europe and beyond, in the framework of the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (ETS No. 108, hereafter "Convention No. 108").

2. The Assembly recommends that the Committee of Ministers:

- 2.1. actively seek the signature and ratification of Convention No. 108 and its Additional Protocol regarding supervisory authorities and transborder data flows (ETS No. 181) by the European Union and those member states which have not yet done so, and call on all Parties to Convention No. 108, which have not yet done so, to accept the amendments enabling the European Union to accede to this convention;
- 2.2. encourage and support, through Council of Europe member states' permanent representations to the United Nations, the signature and ratification of Convention No. 108 by non-member states, in particular those states which are observers to the Council of Europe or are parties to enlarged partial agreements or signatories to other Council of Europe conventions;
- 2.3. provide adequate budgetary resources within the secretariat of the Council of Europe for the further legal development of Convention No. 108 in line with Resolution No. 3 of the 30th Council of Europe Conference of Ministers of Justice, and call on member and observer states, as well as the European Union, to provide voluntary additional funding for such work;
- 2.4. fully support, for that purpose, the work undertaken by the Consultative Committee of Convention No. 108, to reinforce the protection of all people regarding the use and storage of personal data, to ensure identical protection for everyone, regardless of the place of storage or where those responsible for the storage are located, and to avoid the risk of dumping in terms of protection;
- 2.5. invite the Parties to Convention No. 108 to:
  - 2.5.1. take account of Assembly Resolution 1843 (2011) when revising the convention;
  - 2.5.2. not lower the established protection of privacy and personal data;
  - 2.5.3. establish a mechanism for monitoring compliance of parties with their obligations under this convention;
  - 2.5.4. bear in mind Assembly Resolution 1744 (2010) on extra-institutional actors in the democratic system when consulting private stakeholders;
- 2.6. promote the signature and ratification of the Convention on Cybercrime (ETS No. 185) by all member states as well as by non-member states;



- 2.7. promote the signature and ratification of the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (CETS No. 201) by all member states as well as by non-member states;
- 2.8. ask its relevant instances dealing with bioethics to propose standards for the ICT-based processing of medical and health data in accordance with the Convention on Human Rights and Biomedicine (ETS No. 164) and its additional protocols;
- 2.9. ask the Secretary General of the Council of Europe to ensure, through the adoption of specific internal rules and regulations, the protection of privacy and personal data of members of Council of Europe bodies as well as Council of Europe staff, and to reinforce the position of the Council of Europe's Commissioner for Data Protection;
- 2.10. bring this recommendation and Resolution 1843 (2011) to the attention of the competent ministries and data protection authorities in member states

# Resolution 1877 (2012)

## The protection of freedom of expression and information on the Internet and online media

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Author(s): Parliamentary Assembly

Origin - Assembly debate on 25 April 2012 (15th Sitting) (see Doc. 12874 and Addendum, report of the Committee on Culture, Science, Education and Media, rapporteur: Ms Postanjyan). Text adopted by the Assembly on 25 April 2012 (15th Sitting). See also Recommendation 1998 (2012).

1. The Parliamentary Assembly recalls the universal right to freedom of expression and information under Article 10 of the European Convention on Human Rights (ETS No. 5, hereafter “the Convention”) and Article 19 of the United Nations International Covenant on Civil and Political Rights. This right is typically exercised through the media and, nowadays in particular, through media based on new information and communication technologies (hereafter “ICTs”) such as the Internet and online media, including mobile communication devices.
2. Aligning itself with the United Nations Millennium Declaration of 8 September 2000, the Assembly welcomes the fast growth in access to ICT-based media by the general public globally. Hence, it seems much more difficult for non-democratic regimes to deprive their population of information and an exchange of opinions necessary for any popular control of government. The Assembly strongly condemns the restrictions of access to the Internet and online media applied by the governments of China, Belarus and other countries.
3. The Assembly also welcomes the new possibilities for individuals to share publicly, through the Internet and online media, information which is of public concern, such as information about misgovernment, corruption and organised crime as well as human rights violations. In this respect, the Assembly appreciates the efforts of journalists and media to collect, analyse and disseminate in a professional manner the raw information provided by Internet sources.
4. Recalling its Resolution 1729 (2010) on the protection of “whistle-blowers”, the Assembly reaffirms the right of everyone to disclose information of public concern which corresponds to the right of the public to be informed under Article 10 of the Convention. Member States must not curtail the right of the public to be informed by restricting the right of individuals to disclose information of public concern, for example by applying defamation and insult laws as well as national security and anti-terrorist laws in an overly broad and non-proportional manner.
5. Referring to Articles 10, paragraph 2, and 17 of the Convention, the Assembly recalls, however, that no State, group or person may exercise freedom of expression and information for the destruction of any rights and freedoms set forth in the Convention, in particular the right to life, the right to a fair trial, the right to respect for private life and the right to protection of property. The Assembly puts strong emphasis on Article 20 of the United Nations International Covenant on Civil and Political Rights which stipulates that any propaganda for war and any advocacy of national, racist or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law.
6. Recalling its Recommendation 1543 (2001) on racism and xenophobia in cyberspace, the Assembly regrets that some member States have not yet signed and ratified the Additional Protocol to the Convention on Cybercrime, concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems (ETS No. 189). This protocol may be applicable, for example, in cases of incitement through the Internet to violence and terrorism based on racist or religious extremism.

7. Referring to the wide criticism and concerns over the restriction of fundamental rights and freedoms, most notably the freedom of expression and communication privacy, raised by Internet stakeholders and governments as regards the Anti-Counterfeiting Trade Agreement (ACTA) of 1 October 2011, the Assembly invites member States which are signatories to ACTA to pursue public consultations about future domestic legislation resulting from ACTA, taking into account Assembly Resolution 1744 (2010) on extra-institutional actors in the democratic system. Such domestic legislation must respect in particular Articles 6, 8 and 10 of the European Convention on Human Rights and Article 1 of its first Protocol (ETS No. 9). ACTA parties which are also Parties to the Convention on Cybercrime (ETS No. 185) or the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (ETS No. 108) should not derogate from the latter conventions, in accordance with Article 1 of ACTA.

8. Article 10 of the European Convention on Human Rights prohibits public authorities from restricting freedom of expression and information, but also provides the obligation for member States to ensure that this fundamental freedom is not threatened by any non-governmental or private sector participants. In this context, the Assembly refers also to Committee of Ministers Recommendation CM/Rec(2007)16 on measures to promote the public service value of the Internet and the Declaration of the Committee of Ministers of 29 September 2010 on network neutrality.

9. The Assembly notes that access to ICT-based media for each individual and the public at large is mainly determined by private intermediaries. Many of them, such as Internet access or service providers and mobile phone or telecommunications companies, have a dominant position vis-à-vis individual users because they are system-relevant or exercise significant market power. In this context, the Assembly welcomes Resolution 17/4 on human rights and transnational corporations and other business enterprises adopted by the United Nations Human Rights Council on 16 June 2011.

10. The Assembly is concerned that the intermediaries of ICT-based media might unduly restrict the access to, and dissemination of, information for commercial and other reasons without informing their users and in breach of user rights. Due to the complex corporate and technical structures of such intermediaries, their often unclear corporate localisation and their co-operation with corporate partners in other countries, users may have difficulties in determining court jurisdiction in such cases.

11. In order to protect freedom of expression and information on the Internet and online media, the Assembly calls on the member States of the Council of Europe to:

- 11.1. ensure, in accordance with Article 10 of the Convention and the case law of the European Court of Human Rights, respect for freedom of expression and information on the Internet and online media by public as well as private entities, while respecting the protection of privacy and personal data;
- 11.2. encourage intermediaries of ICT-based media to set up self-regulatory codes of conduct for the respect of their users' right to freedom of expression and information, and to create or join commercial associations with such codes of conduct and the power to implement them against non-compliant members;
- 11.3. ensure that intermediaries of ICT-based media are transparent to the public and inform users of any measures which may impact their right to freedom of expression and information; such transparency may include the requirement to publicise corporate policies affecting the dissemination of, or access to, information and opinions;
- 11.4. implement Committee of Ministers Recommendation CM/Rec(2007)16 on measures to promote the public service value of the Internet; particular attention should be paid to the obligation not to refuse their services, not to provide their services in a discriminatory manner, or terminate services to users without the right to do so;
- 11.5. hold intermediaries of ICT-based media responsible for unlawful content, if they are the author of such content or have the obligation under national law to remove unlawful third-party content; particular emphasis should be paid to child pornography and content which incites racist and xenophobic discrimination, hatred, violence or terrorism;
- 11.6. seek to ensure that intermediaries of ICT-based media can be held accountable for violations of their users' right to freedom of expression and information; this shall include ensuring the jurisdiction of domestic courts in case of violations, in accordance with Articles 10 and 13 of the Convention;
- 11.7. review, if need be, the mandate of their national regulatory authorities for audiovisual media and telecommunications in order to reinforce freedom of expression and information on the Internet and online media in accordance with this resolution.

# Recommendation 1998 (2012)

## The protection of freedom of expression and information on the Internet and online media

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Author(s): Parliamentary Assembly

Origin - Assembly debate on 25 April 2012 (15th Sitting) (see Doc. 12874 and addendum, report of the Committee on Culture, Science, Education and Media, rapporteur: Ms Postanjyan). Text adopted by the Assembly on 25 April 2012 (15th Sitting).

1. Referring to its Resolution 1877 (2012) on the protection of freedom of expression and information on the Internet and online media, the Parliamentary Assembly recalls the Action Plan of the 3rd Summit of the Heads of State and Government of the Council of Europe (Warsaw, 2005) which instructed the Organisation to elaborate principles and guidelines to ensure respect for human rights and the rule of law in the information society and to address challenges created by the use of information and communication technologies (ICTs) with a view to protecting human rights against violations stemming from the abuse of such technologies.
2. The Assembly therefore recommends that the Committee of Ministers:
  - 2.1. take account of Resolution 1877 (2012) in its own work and forward it to the competent national ministries and regulatory authorities responsible for media based on ICTs;
  - 2.2. develop guidelines on domestic jurisdiction over, and the legal and corporate responsibility of, private companies which are intermediaries for ICT-based media, focusing such work in particular on the responsibility of intermediaries for the functioning of the Internet and online media and the respect for freedom of expression and information;
  - 2.3. co-operate with the European Commission and the European Union Body of European Regulators for Electronic Communications (BEREC) to ensure a common application of Article 10 of the European Convention on Human Rights (ETS No. 5) and Article 11 of the Charter of Fundamental Rights of the European Union with regard to freedom of expression and information on ICT-based media;
  - 2.4. promote the signature and ratification of the Convention on Cybercrime (ETS No. 185) and its Additional Protocol concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems (ETS No. 189) by all member States as well as by non-member States and the European Union.

# Recommendation 2001 (2012) Protection of and access to the audiovisual cultural heritage

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Author(s): Parliamentary Assembly

Origin - Text adopted by the Standing Committee, acting on behalf of the Assembly, on 25 May 2012 (see Doc. 12929, report of the Committee on Culture, Science, Education and Media, rapporteur: Ms Fiala).

1. Culture is an element of crucial importance in our societies. Through cultural education, individuals and communities are able to fully comprehend, appreciate, respect and enjoy human rights and democracy.
2. Today, cultural education takes place largely through the media. Audiovisual media provide a good basis for common cultural experiences of the public at large. However, old films and recordings are vanishing due to their material fragility. With the advent of digital media, new means have appeared for preserving and accessing audiovisual material. At the same time, the production of audiovisual material has been increased by user-generated material on the Internet. As the sheer volume of audiovisual material makes it impossible to preserve it all, appraising, selecting and sampling such material will increasingly become a key element for preserving the audiovisual cultural heritage.
3. The copyright of audiovisual material may in some cases restrict its distribution through the Internet. It is important that the interests of authors, performers and other rights holders are recognised when seeking satisfactory solutions to permit wide public access to audiovisual material. Specific attention should be paid to educational and research purposes which are permitted under copyright law.
4. Welcoming such initiatives as the European Commission's "European Film Gateways" and the Internet library project "Europeana", the Parliamentary Assembly recognises the need for establishing networks of public and private institutions active in the audiovisual heritage in Europe. The Assembly also notes commercial projects such as the Google Book Library Project, but emphasises that guaranteeing the diversity of the audiovisual heritage may also require public support, especially where audiovisual material does not appeal to a sufficiently large and commercially important group of viewers.
5. The Assembly supports such national initiatives as the National Audiovisual Institute (Ina) in France, the "Memoriav" association for the preservation of the audiovisual heritage in Switzerland and the German "Kinemathek" museum for film and television. More member States should follow these examples and set up public audiovisual archives, libraries and museums.
6. All Council of Europe member States should make an inventory of their audiovisual cultural heritage and protect it at national and, where appropriate, regional levels, and they must develop strategies for easier and more sustainable access to their audiovisual cultural heritage.
7. As the importance of traditional public libraries with printed books is declining, public authorities should develop and expand audiovisual libraries, which may be accessible to users in library buildings or through the Internet. As is usual for libraries, copyright might be limited to educational and research purposes under national law.
8. Public service broadcasters and production companies have generated large quantities of audiovisual material and hold a vast collection of archives of the audiovisual heritage. This material is of considerable value to the public. Every effort should be made to overcome outstanding copyright issues and to ensure that authors, performers and other rights holders receive fair and proper reward for their work while ensuring that such material is also, wherever possible, both preserved and made publicly available through archives. The Assembly urges that consideration be given to arrangements which ensure that the audiovisual heritage is not permanently hidden from public view, but is properly recorded and preserved with a view to professional preservation and possible public display.

9. Some schools have set up media competency training for pupils. Such training should be enlarged and material which is considered part of the audiovisual cultural heritage should be used for educational and research purposes.

10. The Assembly emphasises the importance accorded by the European Convention for the Protection of the Audiovisual Heritage (ETS No. 183) and its Protocol on the Protection of Television Productions (ETS No. 184) to the protection of audiovisual material for our societies in Europe. The ratification of these instruments by all member States should be sought. However, technological developments may call for new specific rules.

11. The Assembly believes that a second protocol to the European Convention for the Protection of the Audiovisual Heritage would help member States to make the audiovisual cultural heritage accessible through audiovisual archives and libraries. Such a protocol would strengthen the protection of the audiovisual cultural heritage through public audiovisual libraries and help States to understand the possibilities of using copyright-protected audiovisual material for educational and research purposes.

12. The Assembly therefore recommends that the Committee of Ministers:

- 12.1. call on the member States which have not yet done so to sign and ratify the European Convention for the Protection of the Audiovisual Heritage and its Protocol on the Protection of Television Productions;
- 12.2. instruct its competent steering committee to study the feasibility of drawing up a second protocol to the European Convention for the Protection of the Audiovisual Heritage, which could help States in setting up public audiovisual libraries by establishing a system of appraising, selecting or sampling audiovisual material to be made accessible for educational and research purposes;
- 12.3. invite its competent steering committee to develop guidelines for ensuring access to the audiovisual heritage for people with disabilities, for instance by adding subtitles or sign language for the hearing impaired and additional soundtracks for the visually impaired;
- 12.4. having regard to the memorandum of understanding signed between the Council of Europe and the European Broadcasting Union, invite the latter to develop, in partnership with the Council of Europe, joint strategies and concrete action for the protection of audiovisual material held by public service broadcasters in Europe and to facilitate access to this material.

# Resolution 1954 (2013)

## National security and access to information

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Author(s): Parliamentary Assembly

Origin - *Assembly debate* on 2 October 2013 (32nd Sitting) (see Doc. 13293, report of the Committee on Legal Affairs and Human Rights, rapporteur: Mr Díaz Tejera; and Doc. 13315, opinion of the Committee on Culture, Science, Education and Media, rapporteur: Mr Franken). *Text adopted by the Assembly* on 2 October 2013 (32nd Sitting). See also Recommendation 2024 (2013).

1. The Parliamentary Assembly recalls the importance of the principle of transparency, including access to information held by public authorities, for democracy and good governance in general and for the fight against corruption in particular.
2. It welcomes the fact that the Council of Europe was the first intergovernmental organisation to elaborate an international legal instrument on access to information, namely the Council of Europe Convention on Access to Official Documents (CETS No. 205), and recalls its Opinion 270 (2008) on the draft convention in which the Assembly had encouraged the Committee of Ministers to improve the text with a view to ensuring even greater transparency. The convention still requires four ratifications in order to enter into force.
3. The Assembly considers legitimate, well-defined national security interests as valid grounds for withholding information held by public authorities. At the same time, access to information forms a crucial component of national security, by enabling democratic participation, sound policy formulation and public scrutiny of State action.
4. Recalling the Siracusa Principles on the Limitation and Derogation Provisions in the International Covenant on Civil and Political Rights, the Assembly strongly confirms that the systematic violation of human rights undermines national security and may jeopardise international peace and security. A State responsible for such violation shall not invoke national security as a justification.
5. Recalling its Resolution 1838 (2011) on abuse of State secrecy and national security: obstacles to parliamentary and judicial scrutiny of human rights violations, and its Resolution 1675 (2009) on the state of human rights in Europe: the need to eradicate impunity, the Assembly stresses the need to place reasonable limits upon the use of national security to justify restrictions to access to information.
6. In particular, the Assembly confirms its position, expressed in paragraph 4 of Resolution 1838 (2011), that information concerning the responsibility of State agents who have committed serious human rights violations such as murder, enforced disappearance, torture or abduction does not deserve to be protected as secret. Such information should not be shielded from judicial or parliamentary scrutiny under the guise of "State secrecy".
7. The Assembly welcomes the adoption, on 12 June 2013, by a large assembly of experts from international organisations, civil society, academia and national security practitioners, of the "Global Principles on National Security and the Right to Information" ("the Tshwane Principles"), which are based on existing standards and good practices of States and international institutions. The Tshwane Principles are designed to give guidance to legislators and relevant officials throughout the world with a view to reaching an appropriate balance between public interests both in national security and in access to information.
8. The Assembly supports the Tshwane Principles and calls on the competent authorities of all member States of the Council of Europe to take them into account in modernising their legislation and practice concerning access to information.

9. The Assembly wishes to stress, in particular, the following principles.
  - 9.1. As a general rule, all information held by public authorities should be freely accessible; in addition, business enterprises, including private military and security companies, have the responsibility to disclose information in respect of situations, activities or conduct that may reasonably be expected to have an impact on the enjoyment of human rights.
  - 9.2. Exceptions to the rule of free access to information which are based on national security, or other equally important public interests, must be provided for by law, pursue a legitimate purpose and be necessary in a democratic society.
  - 9.3. Limitations to the rule of free access to information, including the rule of the neutrality of the Internet, should be interpreted restrictively. The burden of demonstrating the legitimacy of any restriction rests with the public authority seeking to withhold information.
  - 9.4. Rules on the procedure for the classification and declassification of information and the designation of persons authorised to perform these tasks should be clear and publicly accessible. Information may be withheld on national security grounds for only as long as is necessary to protect a legitimate national security interest. Public archives containing secret information should periodically review whether the legitimacy of secrecy still exists on national security grounds.
  - 9.5. As a safeguard against overly broad exceptions, access to information should be granted even in cases normally covered by a legitimate exception, where public interest in the information in question outweighs the authorities' interest in keeping it secret. An overriding public interest can typically be found where the publication of the information in question would:
    - 9.5.1. make an important contribution to an ongoing public debate;
    - 9.5.2. promote public participation in political debate;
    - 9.5.3. expose serious wrongdoings, including human rights violations, other criminal offences, abuse of public office and deliberate concealment of serious wrongdoing;
    - 9.5.4. improve accountability for the running of public affairs in general and the use of public funds in particular;
    - 9.5.5. benefit public health or safety.
  - 9.6. Information about serious violations of human rights or humanitarian law should not be withheld on national security grounds in any circumstances.
  - 9.7. A person who discloses wrongdoings in the public interest (whistle-blower) should be protected from any type of retaliation, provided he or she acted in good faith and followed applicable procedures.
  - 9.8. Requests for access to information should be dealt with in a reasonable time. Decisions to refuse access should be duly motivated, open to appeal before an independent national authority and ultimately subject to judicial review. Upon receipt of a request for information, a public authority should in principle confirm or deny whether it holds the requested information.
  - 9.9. Public oversight bodies in charge of overseeing the activities of the security services should be independent from the executive and have relevant expertise, robust powers of investigation and full access to protected information.
10. The neutrality of the Internet requires that public authorities, Internet service providers and others abstain from using invasive wiretapping technologies, such as deep packet inspection, or from otherwise interfering with the data traffic of Internet users.
11. Recalling Recommendation No. R (2000) 7 of the Committee of Ministers on the rights of journalists not to disclose their sources of information, the Assembly reiterates that the following measures should not be applied if their purpose is to circumvent the right of journalists not to disclose information identifying a source:
  - 11.1. interception orders or actions concerning communication or correspondence of journalists or their employers;
  - 11.2. surveillance orders or actions concerning journalists, their contacts or their employers;
  - 11.3. search or seizure orders or actions concerning private or business premises, belongings or correspondence of journalists or their employers, or personal data related to their professional work.



12. The Assembly calls on all the member States of the Council of Europe which have not yet done so to sign and ratify the Council of Europe Convention on Access to Official Documents and to implement and, in due course, further improve the convention in the spirit of the Tshwane Principles.

13. The Assembly is worried about recent disclosures on large-scale surveillance of communications by secret services and resolves to follow up this important issue in due course.

# Recommendation 2024 (2013)

## National security and access to information

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Author(s): Parliamentary Assembly

Origin - *Assembly debate* on 2 October 2013 (32nd Sitting) (see Doc. 13293, report of the Committee on Legal Affairs and Human Rights, rapporteur: Mr Díaz Tejera; and Doc. 13315, opinion of the Committee on Culture, Science, Education and Media, rapporteur: Mr Franken). *Text adopted by the Assembly* on 2 October 2013 (32nd Sitting).

1. The Assembly refers to its Resolution 1954 (2013) on national security and access to information and invites the Committee of Ministers to:
  - 1.1. examine ways and means to promote the entry into force and speedy implementation of the Council of Europe Convention on Access to Official Documents (CETS No. 205);
  - 1.2. to review the Council of Europe's own policies regarding access to information and classification and declassification of documents in light of the Assembly's resolution;
  - 1.3. encourage member States of the Council of Europe to take into account the "Global Principles on National Security and the Right to Information", adopted on 12 June 2013 by an assembly of experts from international organisations, civil society, academia and national security practitioners, in particular concerning the points highlighted in the above-mentioned resolution, in modernising their legislation and practice

# Resolution 1970 (2014)

## Internet and politics: the impact of new information and communication technology on democracy

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Author(s): Parliamentary Assembly

Origin - *Assembly debate* on 29 January 2014 (5th Sitting) (see Doc. 13386, report of the Committee on Culture, Science, Education and Media, rapporteur: Ms Anne Brasseur; and Doc. 13399, opinion of the Committee on Political Affairs and Democracy, rapporteur: Mr Hans Franken). *Text adopted by the Assembly* on 29 January 2014 (5th Sitting). See also Recommendation 2033 (2014).

1. The Parliamentary Assembly notes that the expansion of the Internet has had major consequences in terms of the exercise of the fundamental rights which are central to the construction of our democratic societies, such as the right to freedom of information, expression, opinion, assembly and association, and the protection of an individual's privacy.
2. This expansion and the exponential acceleration of the capacity for transmission on the network have put an end to the concentration of informative power and changed the paradigm of communication. The public space has been enlarged and the web has become an enormous unbounded field, a veritable global forum where all individuals can seek and exchange information, share knowledge, express opinions on any subject and become committed to an idea or a cause.
3. The upheavals caused by the Internet have altered the relationship between the political world and citizens and the balance between representative democracy and direct democracy. They make it imperative for us to discuss both the new prospects that are opening up for a stronger and more dynamic form of democracy and the new dangers which may undermine it, along with the role that legislators should play in this process.
4. The Internet helps citizens to rally together and ensures increased visibility for their action. It has also radically changed institutional communication and the structure of the relationship between voters and the political parties, as well as among citizens, elected representatives and government departments. More broadly, it has extended the possibilities for participation in political life. The Internet is thus an essential part of modern democracy, and the political institutions must take account of the plethora of citizen participation initiatives which take shape on the web.
5. The development of communication technologies in future will allow the use of electronic voting for the expansion of the traditional mechanisms of democracy. This process should be gradual.
6. However, the Assembly does not think that in today's complex world it would be possible to replace the universal-suffrage model of political representation with any sort of model based primarily on processes of direct democracy through electronic channels, even supposing that everyone had access to the consultation procedures and voted via the Internet and that appropriate means were found to remove all obstacles to the general use of electronic voting.
7. The definition and implementation of policies necessitate a number of long-term choices, requiring complex negotiations and involving conflicting interests which are difficult to balance; such complexity is not sufficiently appreciated in the decision-making processes on the web, which must necessarily simplify the content of discussions. Public policies also require internal coherency and co-ordination, to which the fragmentation of the decision-making process on the web would set up insuperable obstacles.

8. Lastly, in such a system, those people – having more resources and necessarily fewer in number – who would de facto dictate the final decisions would neither be known nor required to account for these decisions, and would therefore wield a type of power which was both illegitimate and unaccountable. In this case we can no longer speak of democracy.

9. Participation and representation are inseparable; this requires representative democracy to be genuinely participative. For several years now, the Assembly has been regularly observing the erosion of public confidence in political institutions. In order to halt this tendency, politicians should listen more, develop citizen participation and promote active citizenship.

10. In this regard, the Assembly notes that the Internet and social media are opening new doors to enlarged dialogue between citizens and elected representatives and stimulating more dynamic participation in democratic life. We must seize this opportunity to reconnect the democratic institutions, via the Internet, with the citizens who have moved away from them, and develop, particularly in our parliaments, the capacities and competences required for exploiting this positive potential provided by the Internet.

11. Alongside the elected representatives, the political parties have an extremely important role to play; the Assembly invites them to reflect on their relations with their electoral bases and on the use of new information and communication technology in order to develop permanent dialogue with voters and involve them in devising, and subsequently implementing, their political programmes.

12. However, the Assembly is aware that the Internet increases the risks of abuses and aberrations liable to jeopardise human rights, the rule of law and democracy: it accommodates the expression of intolerance, hatred and violence against children and women; it fuels organised crime, international terrorism and dictatorships; it also intensifies the risk of biased information and manipulation of opinion, and facilitates insidious monitoring of our private lives.

13. Control over the lawful use of data processed on the web is difficult: national legislations on data protection differ and privacy policies of the transnational Internet corporations – which are the world's largest personal data operators – are subject only to the law of the States where the corporations are registered. It is especially worrying that personal data have been reduced to tradeable goods and are misused for commercial or political purposes, posing a serious threat to the protection of private lives. In addition, the increased use of new semantic polling techniques can lead to the manipulation of public opinion and distort political processes.

14. The Internet belongs to everyone; therefore, it belongs to no one and has no borders. We must preserve its openness and neutrality. However, the Internet must not be allowed to become a gigantic prying mechanism, operating beyond all democratic control. We must prevent the web from becoming a *de facto* no-go area, a sphere dominated by hidden powers in which no responsibility can be clearly assigned to anyone.

15. The accountability of Internet operators is therefore a key issue which the Assembly is currently dealing with via two reports on the right to Internet access and on co-ordinated strategies for effective Internet governance. At the European Union level, the "Code of EU online rights" and the "Digital Agenda for Europe" initiatives are also concerned with this issue.

16. Web surfers can help make the Internet a safer environment which respects human rights and the operators must shoulder their responsibilities in fighting abuses and aberrations. Self-regulation is vital here to guarantee Internet neutrality and should be encouraged; it would not, however, appear to be sufficient.

17. States must take concerted action and adopt common rules, while ensuring that the supervisory mechanisms themselves do not threaten fundamental freedoms, to protect the Internet as an area of freedom. The revelations about the operations of intelligence agencies which go beyond any legal framework by ordering systematic intrusions into private life are unacceptable; this must lead us to reflect seriously on the price we pay for our security and on the precautions which we must take in order to avoid annihilating the space for freedom on the Internet.

18. National parliaments provide key forums for discussing democracy and the possible renewal of the democratic system in the Internet age; they must, however, open up, intensively involve all stakeholders – such as state institutions, private entities and commercial companies – and mobilise the whole of civil society for the debate on democracy, politics and the Internet.

19. Accordingly, the Assembly recommends that the member States, and in particular their national parliaments:

- 19.1. increase the capacity of the political – and in particular the parliamentary – institutions to use new information and communication technology to improve the transparency of the decision-making

- process and dialogue with citizens, in particular through social networks, parliamentary Internet channels and other platforms allowing citizens to provide feedback;
- 19.2. continue, in this context, developing targeted Internet training programmes for elected representatives, modernising the websites of parliaments and governments and improving the use of online consultation and participation facilities;
  - 19.3. not merely reproduce traditional tools online but reach out to citizens in the virtual spaces they are creating and think creatively about the Internet's potential as a platform for engagement and knowledge sharing;
  - 19.4. use the Internet more effectively as a source of aggregate data that can be used to identify citizens' preferences and needs so that the political agenda on all levels of government better reflects the issues of concern to society, while bearing in mind the long-term effects in the context of the general interest;
  - 19.5. take advantage of the functions of the Internet to boost co-operation between the authorities, civil society and universities with a view to developing and implementing initiatives to promote political and democratic engagement among citizens;
  - 19.6. combat the socio-cultural inequalities which perpetuate the digital divide, including by introducing educational programmes aimed at teenagers and young students so that they acquire the necessary competences for using the Internet as well-informed web surfers;
  - 19.7. promote the convergence of education in the new media and education for democratic citizenship and human rights, which should take due account of the advantages and problems of the Internet, and develop programmes capable of reaching the various age brackets and social groups; these programmes should mobilise school and university circles, social partners and the media;
  - 19.8. invite universities to develop academic courses in the area of data science, including ethical, technical, legal, economic and societal aspects;
  - 19.9. initiate, both at the national level and within the Council of Europe, discussions on norms and mechanisms, keeping pace with the development of the technologies, required for:
    - 19.9.1. creating a safe space on the web while also guaranteeing freedom of expression as set out in Article 10 of the European Convention on Human Rights (ETS No. 5) and the protection of private life as set out in Article 8;
    - 19.9.2. preventing the risk of information distortion and manipulation of public opinion, and consider, for instance:
      - 19.9.2.1. devising coherent regulations and/or incentives for self-regulation concerning the accountability of the major Internet operators;
      - 19.9.2.2. establishing an independent institution with sufficient powers, technical competences and resources to give expert opinions on the algorithms of the search engines which filter and regulate access to information and knowledge on the web, while averting the risk that such an institution could undermine the very nature of freedom of expression;
      - 19.9.2.3. developing principles and general standards for regulating the new semantic polling practices;
      - 19.9.2.4. devising regulations that must be applied by companies offering Internet communication systems to prevent the abuse of individuals' personal or family life by trolling activities, while maintaining a balance with freedom of expression;
  - 19.10. ensure on the one hand respect for human rights on the web and, on the other, freedom of the Internet, and take action within the international bodies responsible for Internet governance to preserve these rights and this freedom throughout the world, especially where democracy has been weakened, threatened or abolished;
  - 19.11. unreservedly support the proposal to launch the preparation of a Council of Europe white paper on democracy, politics and the Internet set out by the Assembly in its Recommendation 2033 (2014) "Internet and politics: the impact of new information and communication technology on democracy".

- 19.12. pursue the reflection, in close co-operation with the European Commission for Democracy through Law (Venice Commission), with a view to elaborating a protocol to the European Convention on Human Rights on the right to participate in the conduct of public affairs, as stressed in Resolution 1746 (2010) and Recommendation 1928 (2010) "Democracy in Europe: crisis and perspectives", and pay special attention to the role of the Internet and other digital tools of participation, such as social networks, online discussion platforms, electronic voting and open government initiatives.

# Recommendation 2033 (2014) Internet and politics: the impact of new information and communication technology on democracy

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Author(s): Parliamentary Assembly

Origin - *Assembly debate* on 29 January 2014 (5th Sitting) (see Doc. 13386, report of the Committee on Culture, Science, Education and Media, rapporteur: Ms Anne Brasseur; and Doc. 13399, opinion of the Committee on Political Affairs and Democracy, rapporteur: Mr Hans Franken). *Text adopted by the Assembly* on 29 January 2014 (5th Sitting).

1. The Parliamentary Assembly, referring to its Resolution 1970 (2014) on the Internet and politics: the impact of new information and communication technology on democracy, stresses the strategic importance of these technologies for the development of democracy and the major impact that the Internet is having on relations between political parties, elected representatives and citizens, as well as individuals' and social groups' perception of participation in political life.
2. The debate on democracy and the possible renewal of the system of representative democracy in the Internet age must take place at the national level, but it also requires a European dimension to ensure that each member State can benefit from the experience and expertise of the others, and that the States can work together to build up an environment conducive to a mode of Internet development consonant with a common European vision, in order to guarantee fundamental rights and the protection of private life.
3. Accordingly, the Assembly recommends that the Committee of Ministers:
  - 3.1. launch without delay the preparation of a Council of Europe white paper on democracy, politics and the Internet, to serve as a major Council of Europe contribution to the global work on the subject of Internet governance;
  - 3.2. closely associate the Parliamentary Assembly with all stages of the design and formulation of this white paper;
  - 3.3. involve all the national parliaments and governments of the member States in the collective discussion process, as well as the political parties and, where practicable, intelligence agencies, the main Internet operators, the media – particularly public broadcasting services and national and European media associations – universities, human rights non-governmental organisations (NGOs) and associations defending Internet users' rights;
  - 3.4. use the Internet and social media for this project in order to widely consult civil society on how to renew our systems of representative democracy via the optimum exploitation of the positive potential of the Internet;
  - 3.5. centre the analysis in particular on the exercise of fundamental freedoms (individual and collective) and their protection on the web, and on citizen participation in the decision-making process and in public life by means of the Internet, and study, in this context:
    - 3.5.1. how best to reconcile three fundamental requirements: preserving the openness and neutrality of the Internet; protecting rights to fundamental freedoms and particularly web-surfers' privacy; ensuring national security and effective action against crime;
    - 3.5.2. how to use the Internet to reinforce participation of the general public in the governance of our societies;

- 3.6. take into consideration in this analysis:
  - 3.6.1. foreseeable developments, in view of the rapid technological progress in this field;
  - 3.6.2. the relations between the State and commercial operators and between the State and citizens, and the networks of relations among social groups, between commercial companies and users and between political parties and the electorate;
  - 3.6.3. the existing legislative framework and the gaps that need to be filled by the development of legal instruments or various modes of self-regulation, notably in order to prevent manipulation and use of the Internet for criminal purposes or with a view to destabilising a democratic regime;
  - 3.6.4. training individuals to use the Internet responsibly in order to, among other things, protect themselves from specific dangers;
- 3.7. invite other partners and in particular the European Union to participate in this project and look into the expediency of involving the Internet Governance Forum.



# Resolution 2001 (2014)

## Violence in and through the media

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Author(s): Parliamentary Assembly

Origin - *Assembly debate* on 24 June 2014 (22nd Sitting) (see Doc. 13509, report of the Committee on Culture, Science, Education and Media, rapporteur: Sir Roger Gale; and Doc. 13536, opinion of the Committee on Social Affairs, Health and Sustainable Development, rapporteur: Ms Maryvonne Blondin). *Text adopted by the Assembly* on 24 June 2014 (22nd Sitting). See also Recommendation 2048 (2014).

1. The Parliamentary Assembly notes that the media play a major role in the daily life of modern societies. In this context, it is alarming that incidents of extreme violence have been perpetrated by individuals who have had intensive prior exposure to violence in the media. It is therefore of utmost importance for democratic societies to address this correlation appropriately.
2. Over the last decade, the media landscape has changed due, in particular, to the enormous growth of the Internet and online media. These media, and a convergence of traditional media with online social networks with user-to-user content, have created new forms of media violence which they disseminate. Existing policies and regulations regarding media violence therefore face challenges both legally and in practical terms.
3. Violence in and through the media can take different forms, ranging from the implied or verbal to the depiction of psychological or physical violence, including sexual violence. Such violence can be targeted at fictional characters or human beings, with the distinction between the two categories being blurred by technological advances in computer-animated images. The interactivity of computer games, Internet tools (social networks, chat rooms, search engines, online shopping, and so on) and the universal accessibility of those media (via “smartphones”) create numerous possibilities for users to actively steer the violence found in and conveyed through the media, and to identify with it.
4. Because they are very active in certain new media, children (up to the age of 18) are especially exposed to the new forms of violence found in and conveyed through the media, and to all the attendant risks; their situation therefore deserves particular attention.
5. A particularly serious aspect of these developments is media incitement to violence, namely the advocacy of violent behaviour through a media product or service. Cyber-bullying is a form of interpersonal aggression which uses the Internet and mobile phones as weapons, but may be a consequence of incitement to violence through the media. Together with other contributory factors, such aggression might also lead to self-harm or suicide.
6. The perception of violence may differ among individuals and societies and may evolve over time, but it is generally recognised in Europe that freedom of expression and information under Article 10 of the European Convention on Human Rights (ETS No. 5) applies neither to child pornography nor to hate speech. Child pornography and child abuse images as serious violations of children’s rights have been covered by the Assembly in its work leading to Resolution 1834 (2011) and Recommendation 1980 (2011) on combating “child abuse images” through committed, transversal and internationally co-ordinated action. Violence may also be insidiously conveyed through the media, for example in the depiction of the hyper-sexualisation of children.
7. In order to address media violence effectively, all stakeholders need to recognise and assume their respective responsibilities and to be aware of the particular vulnerability of children in this sphere. States have the obligation to combat illegal forms of media violence, to protect minors against the harmful effects of media violence and to ensure access of users to information about the violence of a media service or product. The producers, and in particular commercial producers, of media with violent content bear editorial and commercial responsibility. Users, as well as parents of young users, are also responsible for such use.

8. While it is difficult to prove a direct causality between the exposure of a person to a violent media service or product and a subsequent act of aggression or violence by that person, the general impact of media violence on the behaviour of individuals and societies as a whole cannot be denied. Commercial producers of violent media content bear a social responsibility for combating violence in society. Strict licensing requirements, higher transparency obligations or dissuasive fiscal measures may therefore be appropriate under these circumstances.

9. Measures applied by public authorities against media violence need to be prescribed by law and necessary in a democratic society. They must not be used to curb political opposition or otherwise violate the right to freedom of expression and information under Article 10 of the European Convention on Human Rights. News and current affairs media need to report on acts of violence, but should respect the rights of victims depicted in such media, as well as the rights of children viewing them.

10. Consequently, convinced that governments, national parliaments and media service providers have a responsibility to combat violence in the media, the Assembly asks them to take the following measures:

- 10.1. any incitement to violence through the media shall be prohibited by law in accordance with Article 20 of the International Covenant on Civil and Political Rights; the direct use of media in order to inflict psychological violence upon others, such as through cyber-bullying, should be prohibited by law;
- 10.2. the production, public display, sale and possession of media with gratuitous violence which violates human dignity shall be punishable by law; human dignity is at stake if a human being is prominently portrayed in a dehumanised way as a legitimate object of explicit and gratuitous physical, psychological or sexual violence and suffering;
- 10.3. the production, public display and sale of media whose violent content is likely to impair the physical, mental or moral development of children and adolescents shall be restricted under the domestic law of member States; national regulations shall take due account of the fact that the access to such media content requires prior age verification of users;
- 10.4. those who produce media in which violence plays a central part should be obliged by law to indicate publicly the type, level and quantity of violence of such media; authors of violent media content should identify themselves or be traceable through the editors of media or the providers of media services or products, unless the latter bear legal responsibility for such content;
- 10.5. the providers of media services or products (such as broadcasters, Internet access or service providers, providers of mobile telecommunications media as well as sellers of videos, games or print media) must ensure that all media services or products which are knowingly made accessible through them indicate publicly the level and type of violence they contain, particularly if violence is a central part of the content;
- 10.6. the providers of media services or products should be required to provide hotlines or other public complaint mechanisms, which can be used if difficulties are experienced with violent media content or violence through the media. Such complaint mechanisms should be complemented by a code of conduct regarding media violence, which includes content rating and access restrictions, as well as co-operation with law-enforcement authorities in cases of potentially illegal content;
- 10.7. the producers of media reception devices (such as television sets, video players, mobile audiovisual communication devices, personal computers or smart phones) should be encouraged to provide built-in or free-of-charge add-on technical equipment to filter violent content in accordance with standardised indicators of such content; parents should be made aware of the availability of such filtering for the protection of their children; for this purpose, user-friendly manuals, made available free of charge upon request, should contain relevant information and guidance.

11. The Assembly recommends that member States:

- 11.1. devise and implement national programmes to raise awareness both of violence and of media skills for people who work with children, for families and for children themselves;
- 11.2. create, in co-operation with media companies and media professionals, organisations which rate media violence, develop measures for protection against media violence and monitor compliance with such measures; where such organisations do not exist, the public regulatory authorities of member States should have such competences;

- 11.3. criminalise the production, distribution and possession of violent and extreme pornography, in particular where images of violence and aggression towards children are concerned;
- 11.4. provide education about media violence in school curricula and in teacher training programmes.

12. The Assembly invites:

- 12.1. media professionals to develop, through their professional organisations, a code of conduct for journalists, photographers and editors dealing with violent media content;
- 12.2. the European Broadcasting Union and the Association of Commercial Television in Europe to fully address the problem of media violence in the context of connected television, that is television sets with Internet access.

# Recommendation 2048 (2014)

## Violence in and through the media

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Author(s): Parliamentary Assembly

Origin - *Assembly debate* on 24 June 2014 (22nd Sitting) (see Doc. 13509, report of the Committee on Culture, Science, Education and Media, rapporteur: Sir Roger Gale; and Doc. 13536, opinion of the Committee on Social Affairs, Health and Sustainable Development, rapporteur: Ms Maryvonne Blondin). *Text adopted by the Assembly* on 24 June 2014 (22nd Sitting).

1. Referring to its Resolution 2001 (2014) on violence in and through the media, the Parliamentary Assembly welcomes the Council of Europe's youth campaign against hate speech online and encourages member States to actively support the campaign.
2. As violent media services and products are produced throughout Europe, including in countries which are not members of the European Union, the Council of Europe is the appropriate authority to address this subject from a European perspective, based on Article 10 of the European Convention on Human Rights (ETS No. 5), which sets the standards for all 47 member States of the Council of Europe.
3. Recalling the important legal and political guidance provided by the Committee of Ministers in its Recommendation No. R (97) 19 on the portrayal of violence in the electronic media, as well as Recommendation No. R (89) 7 concerning principles on the distribution of videograms having a violent, brutal or pornographic content, the Assembly believes that further work is necessary in this field.
4. The Assembly therefore recommends that the Committee of Ministers:
  - 4.1. instigate the preparation of practical guidance to parents, teachers and providers of media services and products on how to deal with violence in the media and its effects on individuals and society as a whole, and how to counteract its potential impact;
  - 4.2. encourage, through relevant partnerships between intergovernmental bodies and private stakeholders, possibly in co-operation with the European Union and UNESCO, the standardised rating of violent content by the producers and access providers of such content throughout Europe and beyond;
  - 4.3. call on governments of member States to forward this recommendation and Resolution 2001 (2014) on violence in and through the media to their regulatory authorities and public service broadcasters.



Since the creation of the Council of Europe, the Parliamentary Assembly has discussed topics linked to the mission and the values of the Organisation and adopted texts that state its opinion and bring it to the attention of the Committee of Ministers for possible action.

This compilation presents all the resolutions and recommendations of the Parliamentary Assembly of the Council of Europe in the field of media and information society up to 2014, in particular in reference to Article 10 of the European Convention on Human Rights.

#### Article 10 of the European Convention on Human Rights

"1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.

2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary."

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The Council of Europe is the continent's leading human rights organisation. It comprises 47 member states, 28 of which are members of the European Union. All Council of Europe member states have signed up to the European Convention on Human Rights, a treaty designed to protect human rights, democracy and the rule of law. The European Court of Human Rights oversees the implementation of the Convention in the member states.