

HUMAN RIGHTS,
DEMOCRACY
AND THE RULE OF LAW

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

DROITS DE L'HOMME,
DÉMOCRATIE
ET ÉTAT DE DROIT

Media Ownership - Transparency - Regulation

Council of Europe Standard Setting

Dr. Silvia Grundmann, LL.M.
Head of Media and Internet Division
DG Human Rights & Rule of Law
Council of Europe





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Head of Media and Internet Division
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Fundamental principles of free and democratic media environment

- Pluralism – diversity of voices, plurality of media types
- Openness and transparency
- Independence
- Accuracy and fairness

European Court of Human Rights

- **Court case law:** True **pluralism** implies not only the theoretical possibility for potential media operators to access the (audio-visual media) market, but it needs to allow effective access so as to guarantee diversity of overall programme content in the audiovisual sector.
- **Consequence for Member States:**
 - Duty of non-interference and
 - a positive obligation to put in place an appropriate legislative and administrative framework to guarantee effective pluralism.

How can the Council of Europe help?

Standard setting through recommendations (soft law)

Implementation through cooperation activities

Recommendation CM/Rec(2007)2 on media pluralism and diversity of media content

Requires that member States ensure that the **public have access to specific information** about the ownership, management and editorial structures of media, as well as their financing.

Addresses the following issues:

- **external (structural) pluralism** and importance of a sufficient variety of media outlets including public service media and their importance for addressing the informational and cultural needs of all sections of society,
- measures promoting **content diversity** and encouragement to a broader spectrum of topics and a wider participation of the public, non-financial and financial (subsidies, advertising) **support measures** for the media,
- **regulation of media ownership** and guidelines on rules to limit the influence of individual companies or persons on the media environment,
- new technologies and interoperability aimed at **promoting the development of new means of communication** and new platforms.

New Recommendation on media pluralism and transparency of media ownership March 2018

Why necessary?

Recommendation 2007 not fit to address new challenges posed notably by internet intermediaries (gatekeepers!).

Addresses:

- **media pluralism**, with emphasis on the online platforms' impact,
- **media ownership regulation and transparency of ownership**,
- **media literacy policies** stressing the importance of coordinated national policies and other measures such as media education for the public (of all ages) to be able to manage their way in the vast media ecosystem.

Steering Committee on Media and Information Society (CDMSI) 2016 - 2017

Standard-setting activities

- Media pluralism and transparency of media ownership
- Role of the internet in the media coverage of electoral campaigns
- Gender equality in the media coverage of elections

Sub-committees:
**Committee of experts
on Media Pluralism
and Transparency of
Media Ownership
(MSI-MED)**

- Internet intermediaries (internet service providers and internet platforms)
- Human rights dimensions of automated data processing techniques - algorithms

**Committee of experts
on Internet
Intermediaries
(MSI-NET)**

Recommendation CM/Rec(2018)1 of the Committee of Ministers to member States on media pluralism and transparency of media ownership

Targeted measures should include

- *Diversity of content*
- *Institutional frameworks for media pluralism*
- *Support measures for the media and media pluralism*
- *Transparency of ownership and control*
- *Prevention of negative effects of concentrations in the media field*

Transparency of media ownership – need for regulatory reinforcement

- **Everything that can influence the editorial line of the media must be visible!**

- Lack of ownership transparency
 - enables uncontrolled media concentration
 - affects the ability of the audience to assess the value of information coming from a particular source

- Lack of ownership transparency requirements in most member states

Transparency of media ownership

I. Requirement (statutory or equally effective) of disclosure of ownership information to the public and to the relevant independent regulatory body

- Names and contact details of media outlets
- Names and contact details of direct owners (recommended threshold of 5% shareholding)
- Names and contact details of beneficial owners
- Owners' involvement in ownership structures of other media, or in media-related or advertising companies which may lead to decision-making influence, or their positions in political parties
- Names of editors
- Changes in ownership and control arrangements of a media outlet

Exceptions and limitations

- Limitations on the scope of the requirement of disclosure (size, audience reach, commercial nature, exercise of editorial control, etc., or a combination of elements)
- Anonymity where disclosure might put the owner at risk or where the owner is a minor or otherwise incapable

Transparency of media ownership

II. Requirement to maintain databases with updated information on media ownership

- Databases to be kept by independent media regulatory authorities or other designated bodies
- Up-to-date data on media ownership/control by market/sector and by geographical levels where appropriate
- Availability to the public free of charge
- Publication of regular reports including:
 - a description of media ownership/control arrangements
 - a description of changes in media ownership during the reporting period,
 - an analysis of the impact of changes on media pluralism.

III. Requirement of national/international co-ordination of transparency regimes

- Guidance on coherent implementation of different regulatory regimes
- Exchange of information on media ownership between different national authorities
- Coordinated databases at the international level (MAVISE database)

Transparency of media financing – reducing influence of political/commercial interests on media independence

➤ **Lack of transparent financing: risk of corruption**

- Impact of state advertising, grants, loans, etc. on accuracy/fairness/quality of media reporting
- Impact of structural and contractual relations with other media outlets/advertising companies/political parties on media reporting
- Criteria for the allocation of public funds to the media

➤ **Recommendation CM/Rec(2018)1 encourages member states to:**

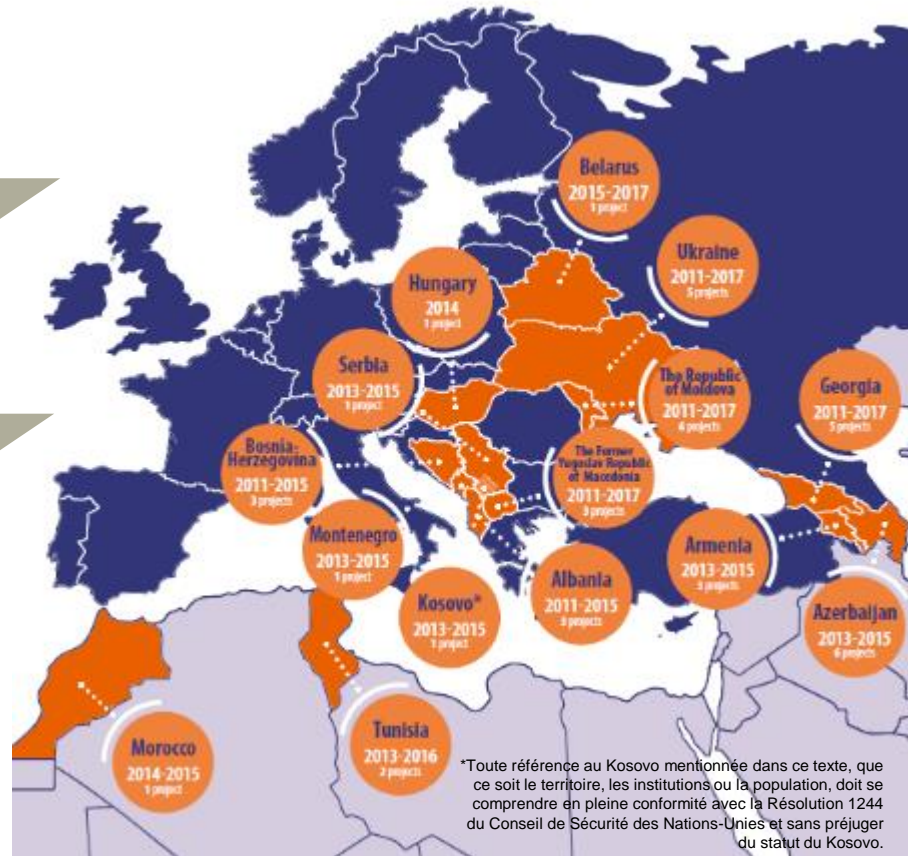
- Set out the disclosure of information on the sources of the media outlet's funding obtained from State funding mechanisms
- Promote disclosure by media outlets of contractual relations with other media or advertising companies and political parties
- Set out clearly defined purposes for state support measures based on predetermined, clear, precise, equitable, objective and transparent criteria

2017 HIGHLIGHTS

publication
on “Media
regulatory
authorities and
Hate speech”

12 programmes
and Projects

[link](#)



assistance programme
co-operation projects

Thank you for your attention

Useful links:

Please visit our
website

Freedom of Expression website:

<http://www.coe.int/en/web/FREEDOM-EXPRESSION>

Platform for protection of journalism and safety of journalists:

<http://www.coe.int/en/web/MEDIA-FREEDOM>

