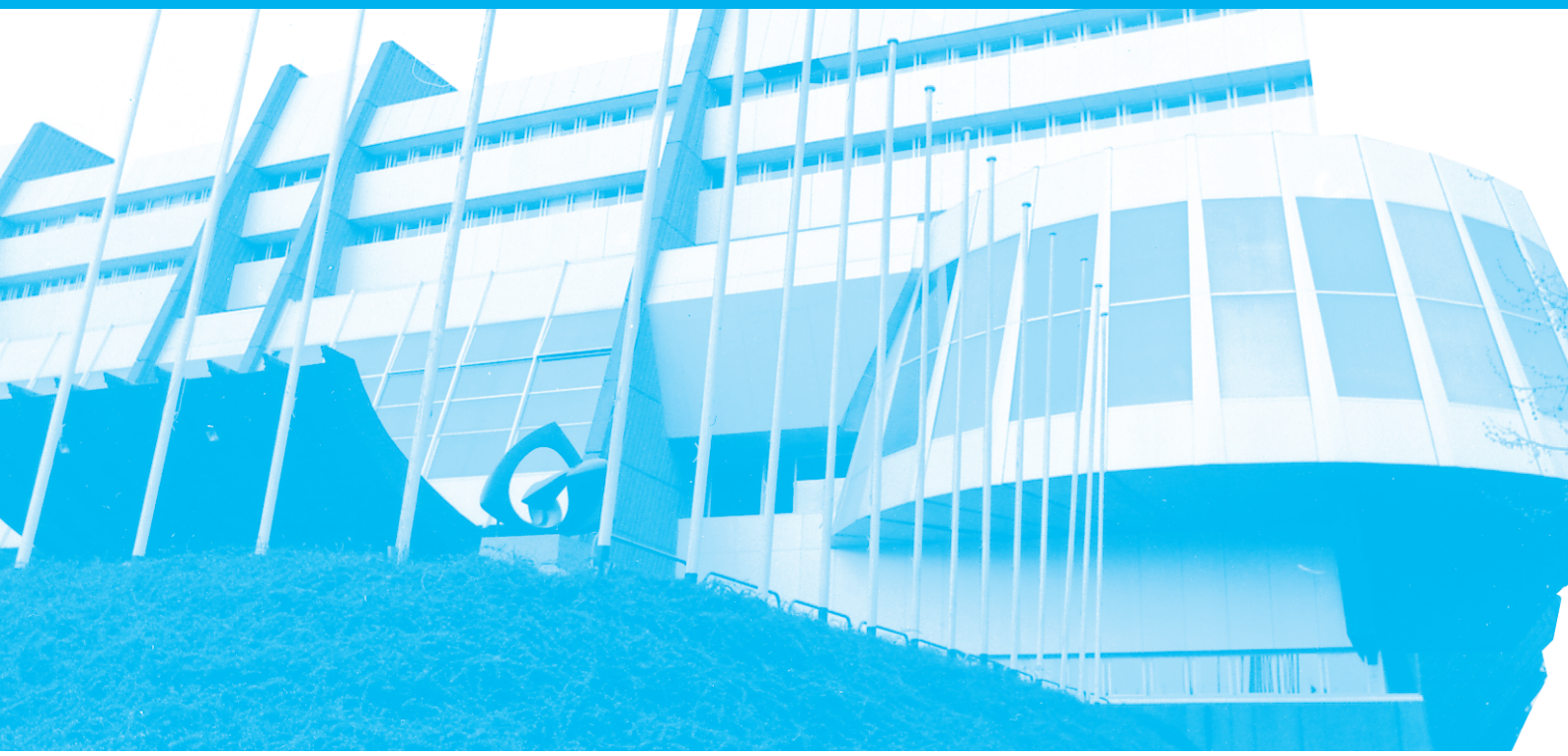
Recommendations and declarations of the Committee of Ministers of the Council of Europe in the field of media and information society



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Recommendations and Declarations of the Committee of Ministers of the Council of Europe in the field of media and information society

Media and Internet Division
Directorate General of Human Rights and Rule of Law

Strasbourg, July 2015

Recommendations and Declarations of the Committee of Ministers in the field of media and information society[1]

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Resolution (52) 45
Restricted seminar of distinguished writers, publicists, editors and leading journalists

(Adopted by the Committee of Ministers on 12 September 1952)

The Committee of Ministers,

Considering that a seminar of distinguished writers, publicists, editors and leading journalists may offer valuable suggestions for making the idea of Europe better known to the public,

Approves the principle of holding such a seminar and instructs the Committee of Cultural Experts to submit a detailed plan for consideration by the Committee of Ministers.

Resolution (52) 73
International circulation of books, works of art and all media of public information or education

(Adopted by the the Committee of Ministers on 22 December 1952)

The Committee of Ministers,

Having regard to Recommendation 33 (1952) on the international circulation of books, works of art and all media of public information or education, adopted by the Consultative Assembly during the Second Part of its Fourth Ordinary Session,

Resolves to recommend to the Governments of Member States which have already signed the general Convention on the international circulation of books, works of art and all media of public information and education, drawn up on the initiative of UNESCO, that they should take the necessary steps to obtain its ratification with the minimum of delay.

Resolution (54) 11
Use of television as a medium for securing the support of the general public for the European idea

(Adopted by the Committee of Ministers on 3 July 1954)

The Committee of Ministers,

Having considered Recommendation 54 of the Consultative Assembly concerning the use of television as a medium for securing the support of the general public for the European idea;

Considering that it is desirable to undertake, with the assistance of the competent organisations, a comprehensive study of certain aspects of this question;

Resolves:

(a) to declare publicly the interest attached by the Council to all questions relating to the use and development of television, and the Council's intention to watch closely all efforts now being made in Europe in this field, which are entirely welcome and to which it is desired to wish as brilliant a success as has just been achieved by Eurovision in the case of the exchange of programmes;

(b) to transmit to Governments, with a request that henceforward they be guided thereby, the suggestions put forward by the Consultative Assembly for the permanent organisation of international relays and for the reduction of their cost; and, further, to ask the European Broadcasting Union and the International Telecommunications Union to continue, in consultation with the Secretariat General of the Council of Europe, their study of the technical and financial aspects of this problem, with a view to submitting firm proposals to the Committee of Ministers;

(c) to request the Bureau for the Protection of Industrial Property and of Literary and Artistic Works at Berne, in consultation with the Secretariats of UNESCO, the I. L. O and the Council of Europe, and after obtaining the views of the non-governmental organisations concerned, and taking cognisance of the studies made by national broadcasting companies, to investigate the legal obstacles in the way of exchange of television programmes, and to make precise recommendations for the removal of such obstacles, while maintaining full protection of authors' rights and related rights;

(d) to invite Member Governments to encourage, insofar as may be possible, and having regard to the achievements of other international organisations in this respect, both the exchange of programmes and the production by their national television services of programmes designed to promote a more intimate knowledge of the cultural, economic and political life of other European peoples and to foster the European idea;

(e) to authorise the Committee of Cultural Experts to establish, in liaison with the Brussels Treaty Organisation, UNESCO and the European Broadcasting Union, a working party for the examination of the cultural problems posed by the development of television; and to instruct the Secretariat General to prepare a report setting out the results achieved.

Resolution (61) 23 Exchange of television programmes

(Adopted by the Committee of Ministers on 15 September 1961)

The Committee of Ministers,

Having regard to the Report of the 6th Session of the Committee of Legal Experts on the Exchange of Television Programmes (Doc. CM (61) 63);

Noting;

that the exchange of programmes between television organisations depends largely on the circulation of recordings;

that such circulation must be subordinate to the same legal conditions in each of the countries concerned;

and that this requirement presupposes the existence of a single international body empowered to issue recording licences on behalf of copyright-holders for and within each country,

Recommends that Governments take care that the exercise of the rights of mechanical reproduction by such an international body shall not be hampered.

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, at the 233rd meeting of the Ministers' Deputies)

The Committee of Ministers,

Considering that the right to freedom of expression includes the freedom to receive and to impart information and ideas without interference by public authority and regardless of frontiers, as laid down in Article 10 of the European Convention on Human Rights;

Considering that under this provision the exercise of this freedom carries with it duties and responsibilities, in particular in connection with the protection of the reputation or rights of others;

Considering that it is desirable to provide the individual with adequate means of protection against the publication of information containing inaccurate facts about him, and to give him a remedy against the publication of information, including facts and opinions, that constitutes an intrusion in his private life or an attack on his dignity, honour or reputation, whether the information was conveyed to the public through the written press, radio, television or any other mass media of a periodical nature;

Considering that it is also in the interest of the public to receive information from different sources, thereby guaranteeing that they receive complete information;

Considering that for these purposes the same principles should apply in respect of all media, although the means available to the individual might vary depending on whether the written press, the radio or television were involved;

Considering that at the present stage only the position of the individual in relation to media of a periodical character, such as newspapers, broadcasting and television should be taken into account and that the protection of the individual against interferences with his privacy or against attacks upon his honour, dignity or reputation should be particularly dealt with,

Recommends to member governments, as a minimum, that the position of the individual in relation to media should be in accordance with the following principles:

1. In relation to information concerning individuals published in any medium, the individual concerned shall have an effective possibility for the correction, without undue delay, of incorrect facts relating to him which he has a justified interest in having corrected, such corrections being given, as far as possible, the same prominence as the original publication.

2. In relation to information concerning individuals published in any medium, the individual concerned shall have an effective remedy against the publication of facts and opinions which constitute:

   i. an interference with his privacy except where this is justified by an overriding, legitimate public interest, where the individual has expressly or tacitly consented to the publication or where publication is in the circumstances a generally accepted practice and not inconsistent with law;

   ii. an attack upon his dignity, honour or reputation, unless the information is published with the express or tacit consent of the individual concerned or is justified by an overriding, legitimate public interest and is a fair criticism based on accurate facts.

3. Nothing in the above principles should be interpreted to justify censorship.

4. In the above principles:

   i. the term "individual" is to include all natural and legal persons as well as other bodies irrespective of nationality or residence, with the exclusion of the state and other public authorities;

   ii the term "medium" covers any means of communication for the dissemination to the public of information of a periodical character, such as newspapers, broadcasting or television;

   iii. the term "effective possibility for the correction" means any possibility which can be used as a means of redress, whether legal or otherwise, such as a right of correction, or a right of reply, or a complaint to press councils;

   iv. the term "remedy" means a form of redress, whether legal or otherwise, such as provided under the law of defamation or a complaint to press councils, which is available to every individual without undue limitation such as unreasonable costs.

5. The above principles shall apply to all media without any distinction. This does not exclude differences in the application of these principles to particular media, such as radio and television, to the extent that this is necessary or justified by their different nature.

Recommends that member governments, when adopting legislation concerning the right of reply, make provision for the right of reply in the press and on radio and television and any other periodical media on the pattern of the minimum rules annexed to this resolution.

APPENDIX TO RESOLUTION (74) 26

MINIMUM RULES REGARDING THE RIGHT OF REPLY TO THE PRESS, THE RADIO AND THE TELEVISION AND TO OTHER PERIODICAL MEDIA

1. Any natural and legal person, as well as other bodies, irrespective of nationality or residence, mentioned in a newspaper, a periodical, a radio or television broadcast, or in any other medium of a periodical nature, regarding whom or which facts have been made accessible to the public which he claims to be inaccurate, may exercise the right of reply in order to correct the facts concerning that person or body.

2. At the request of the person concerned, the medium in question shall be obliged to make public the reply which the person concerned has sent in.

3. By way of exception the national law may provide that the publication of the reply may be refused by the medium in the following cases:

   i. if the request for publication of the reply is not addressed to the medium within a reasonably short time;

   ii. if the length of the reply exceeds what is necessary to correct the information containing the facts claimed to be inaccurate;

   iii. if the reply is not limited to a correction of the facts challenged;

   iv if it constitutes a punishable offence;

   v. if it is considered contrary to the legally protected interests of a third party;

   vi. if the individual concerned cannot show the existence of a legitimate interest.

4. Publication of the reply must be without undue delay and must be given, as far as possible, the same prominence as was given to the information containing the facts claimed to be inaccurate.

5. In order to safeguard the effective exercise of the right to reply, the national law shall determine the person who shall represent any publication, publishing house, radio, television or other medium for the purpose of addressing a request to publish the reply. The person who shall be responsible for the publication of the reply shall be similarly determined and this person shall not be protected by any immunity whatsoever.

6. The above rules shall apply to all media without any distinction. This does not exclude differences in the application of these rules to particular media such as radio and television to the extent that this is necessary or justified by their different nature.

7. Any dispute as to the application of the above rules shall be brought before a tribunal which shall have power to order the immediate publication of the reply.

Resolution (74) 43 on press concentrations

(Adopted by the Committee of Ministers on 16 December 1974, at the 240th meeting of the Ministers' Deputies)

The Committee of Ministers,

1. Considering the need to ensure the implementation of the right to freedom of expression including that of freely receiving and imparting information guaranteed by Article 10 of the European Convention on Human Rights;

2. Believing that the existence of a large diversity of sources of news and views available to the general public is of capital importance in this respect;

3. Conscious of the special role of newspapers in ensuring such diversity of news and views available to the general public;

4. Sharing the concern frequently expressed as to the possible prejudice to the rights guaranteed by Article 10 of the European Convention on Human Rights as a result of a diminution in the total number of newspapers with their own complete editorial units, or of the concentration of the effective control of an increasing number of such newspapers in the same hands;

5. Convinced that such large diversity of news and views depends to no small degree on the existence of properly functioning competition within the press, whilst not denying however that in certain cases a move towards bigger enterprises could consolidate the economic situation of the press and improve its performance;

6. Conscious that a lasting freeze of the existing structure of the press could present a threat to press freedom and public choice;

7. Recognising that there are wide differences between the situations of the press in different member countries inter alia because of factors of geography, history, habits of thought and economic circumstances;

8. Believing however that there exist several possible forms of action open to the public authorities, including the different forms of aid - general, specific, or selective - as defined in Annex I of the report referred to below, which, if suitably adapted, might in certain cases and for a certain time contribute towards some limitation or slowing down of the phenomenon of press concentration;

9. Having regard to the report of the committee of experts accompanying this resolution, recommends the governments of member states to examine the following proposals in the light of their applicability, of which they (the governments of member states) remain the sole judge, to the circumstances prevailing in the member state concerned:

   1. That certain measures of public aid to the press, if suitably adapted, could ensure within the limits indicated below, the survival of newspapers with their own complete editorial units threatened with disappearance or with being taken over as a result of financial difficulties;

   2. That aid given in a selective form should be limited in time and in amount, should be granted on the basis of objective criteria, and should be confined in principle to newspapers whose difficulties can be eliminated by the assistance in question;

3. That, without prejudice to initiatives of which the governments of member states remain the sole judge having regard to the structure and the particular situation of the press in their country, assistance capable of fulfilling the objective referred to above would seem to be possible by means of measures such as:

   a. the institution of a press fund enabling less favourably placed newspapers to obtain subsidies or loans on particularly favourable terms with a view to developing their ability to compete on the market;

   b. the grant of specific aids, for example those resulting from a modulation of the aids described in Chapter V of the accompanying report, designed to give assistance to certain categories of newspapers finding themselves in underprivileged situations and being forced to adapt themselves to changing structural circumstances;

4. That governments already according economic assistance to the press in one form or another should review the structure of those existing arrangements with a view to avoiding any unintended and unforeseen de facto encouragement given thereby to the process of press concentration, nevertheless bearing in mind that, where already accorded, such assistance has become part of the climate in which the press lives and that any sudden diminution of such assistance might precipate the closure or takeover of newspapers in a weak financial position;

5. That, where governments dispose of statutory powers enabling them to forbid the take-over of a daily newspaper by a press group already controlling several other newspapers, and where it may clearly appear that a take-over of this sort would gravely threaten the liberty of expression and the right to information, the governments in question - if they do not already dispose of powers to give financial assistance to the newspaper whose take-over has been refused in the public interest should take the necessary steps to provide themselves with powers enabling them in appropriate cases to accord such financial assistance;

6. That governments encourage efforts to rationalise the methods of production and distribution of newspapers with a view to diminishing publishing costs subject to the reservation that those newspapers least well placed in the market should equally be able to benefit from such efforts, and that, in the case of particular arrangements or technical co-operation agreements between different newspapers, the independence of each newspaper in question can be guaranteed and respected;

7. That finally, governments stimulate efforts by the industry itself to find appropriate measures of adaptation to meet the difficulties the latter is facing, in particular by making the changes which are called for by the complementarity necessary with audio-visual media.

Recommendation No. R (81) 19 of the Committee of Ministers to member states on the access to information held by public authorities[1]

(Adopted by the Committee of Ministers on 25 November 1981, at the 340th meeting of the Ministers' Deputies)

The Committee of Ministers, under the terms of Article 15.b of the Statute of the Council of Europe,

Considering that the aim of the Council of Europe is to achieve greater unity between its members;

Having regard to Assembly Recommendation 854 on access by the public to government records and freedom of information;

Considering the importance for the public in a democratic society of adequate information on public issues;

Considering that access to information by the public is likely to strengthen confidence of the public in the administration;

Considering therefore that the utmost endeavour should be made to ensure the fullest possible availability to the public of information held by public authorities,

Recommends the governments of member states to be guided in their law and practice by the principles appended to this recommendation.

APPENDIX TO RECOMMENDATION NO. R (81) 19

The following principles apply to natural and legal persons. In the implementation of these principles regard shall duly be had to the requirements of good and efficient administration. Where such requirements make it necessary to modify or exclude one or more of these principles, either in particular cases or in specific areas of public administration, every endeavour should nevertheless be made to achieve the highest possible degree of access to information.

1. When Recommendation No. R (81) 19 was adopted, and in application of Article 10.2.*c* of the Rules of Procedure for the meetings of the Ministers' Deputies, the Representatives of Italy and Luxembourg reserved the right of their governments to comply with it or not.

I.

Everyone within the jurisdiction of a member state shall have the right to obtain, on request, information held by the public authorities other than legislative bodies and judicial authorities.

II.

Effective and appropriate means shall be provided to ensure access to information.

III.

Access to information shall not be refused on the ground that the requesting person has not a specific interest in the matter.

IV.

Access to information shall be provided on the basis of equality.

V.

The foregoing principles shall apply subject only to such limitations and restrictions as are necessary in a democratic society for the protection of legitimate public interests (such as national security, public safety, public order, the economic well-being of the country, the prevention of crime, or for preventing the disclosure of information received in confidence), and for the protection of privacy and other legitimate private interests, having, however, due regard to the specific interest of an individual in information held by the public authorities which concerns him personally.

VI.

Any request for information shall be decided upon within a reasonable time.

VII.

A public authority refusing access to information shall give the reasons on which the refusal is based, according to law or practice.

VIII.

Any refusal of information shall be subject to review on request.

Recommendation No. R (85) 8

Declaration Decl-31.01.2007 of the Committee of Ministers on protecting the role of the media in democracy in the context of media concentration

(Adopted by the Committee of Ministers on 31 January 2007 at the 985th meeting of the Ministers' Deputies)

The Committee of Ministers,

Reiterating that media freedoms and pluralism are vital for democracy, given their essential role in guaranteeing free expression of opinions and ideas and in contributing to peoples' effective participation in democratic processes;

Recalling the need, in the context of democratic processes, for diverse views to be expressed and presented to the public and for genuine and lively political debate on matters of general interest, helping people to be better or more fully informed in the context of their democratic participation, as well as the crucial role of the media in achieving these aims and in the functioning of a democratic and participatory public sphere;

Recalling, in this context, the Committee of Ministers' Declaration on the freedom of expression and information of April 1982, its Recommendation No. R (99) 15 on measures concerning media coverage of election campaigns and its Declaration on freedom of political debate in the media of February 2004;

Noting that globalisation and concentration leading to the growth of multinational, including European, media and communications groups are fundamentally changing the media landscape and bringing about opportunities in respect, for example, of market efficiency, diversification of offer and consumer-tailored content, but also the ability to support media outlets which do not turn a profit, finance start-up costs of new media outlets and create jobs;

Noting, however, that these changes also pose challenges in particular as regards preserving diversity of media outlets in small markets, but also in respect of the existence of a multiplicity of channels for the expression of plurality of ideas and opinions and to the existence of adequate spaces for public debate in the context of democratic processes;

Aware, in this context, that a plethora of media outlets in a situation of strong media concentration does not by itself guarantee a diversity of sources of information or that various ideas or opinions can be expressed and presented to the public;

Concerned that media concentration can place a single or a few media owners or groups in a position of considerable power to separately or jointly set the agenda of public debate and significantly influence or shape public opinion, and thus also exert influence on the government and other state bodies and agencies;

Conscious that the above-mentioned position of power could potentially be misused to the detriment of political pluralism or the overall democratic process;

Aware also that the concentration of media ownership can entail conflicts of interest, which could compromise editorial independence and the media's important role as public watchdog, and noting the importance of editorial statutes in this respect;

Concerned that policies designed to promote solely the competitiveness of media systems and market efficiency, tending to reduce ownership-related restrictions, can ultimately be detrimental to the common interest if, as a result, there are no longer sufficient independent and autonomous channels capable of presenting a plurality of ideas and opinions to the public, in order to ensure the existence of adequate space for public debate on matters of general interest;

Mindful of the necessity to preserve those channels and a pluralistic public sphere, in the interest of democracy and democratic processes;

Conscious of the opportunities offered by the development of new communication services and of phenomena such as multimedia, alternative media, community media and consumer-generated content on the Internet, but aware also that their opinion-shaping impact is often dependent upon their content being carried in or reported by mainstream media;

Recalling also the Committee of Ministers' Declaration on human rights and the rule of law in the Information Society of May 2005, which notes that information and communication technologies provide unprecedented opportunities for all to enjoy freedom of expression, but also pose many serious challenges to that freedom, such as state and private censorship;

Noting that it emerges from Article 10 of the European Convention on Human Rights and the relevant case law of the European Court of Human Rights that, as ultimate guarantors of pluralism, states should take positive measures to safeguard and promote a pluralist media landscape to serve democratic society;

Acknowledging, in this respect, that most democratic societies, which are based on the rule of law, have adopted measures to sustain, promote and protect media pluralism, including through market regulation comprising competition law and, where appropriate, sector-specific rules taking into account democratic principles and values;

Recalling also the Committee of Ministers' Recommendations No. R (94) 13 on measures to promote media transparency, No. R (99) 1 on measures to promote media pluralism, No. R (96) 10 on the guarantee of the independence of public service broadcasting and Rec(2000)23 on the independence and functions of regulatory authorities for the broadcasting sector, and its Declaration on the guarantee of the independence of public service broadcasting in member states of 27 September 2006,

Alerts member states to the risk of misuse of the power of the media in a situation of strong concentration of the media and new communication services, and its potential consequences for political pluralism and for democratic processes and, in this context:

I. Underlines the desirability for effective and manifest separation between the exercise of control of media and decision making as regards media content and the exercise of political authority or influence;

II. Draws attention to the necessity of having regulatory measures in place with a view to guaranteeing full transparency of media ownership and adopting regulatory measures, if appropriate and having regard to the characteristics of each media market, with a view to preventing such a level of media concentration as could pose a risk to democracy or the role of the media in democratic processes;

III. Highlights the usefulness of regulatory and/or co-regulatory mechanisms for monitoring media markets and media concentration which, *inter alia*, permit the competent authorities to keep abreast of developments and to assess risks, and which could permit them to identify suitable preventive or remedial action;

IV. Stresses that adequately equipped and financed public service media, in particular public service broadcasting, enjoying genuine editorial independence and institutional autonomy, can contribute to counterbalancing the risk of misuse of the power of the media in a situation of strong media concentration;

V. Stresses that policies designed to encourage the development of not-for-profit media can be another way to promote a diversity of autonomous channels for the dissemination of information and expression of opinion, especially for and by social groups on which mainstream media rarely concentrate.

Declaration Decl-26.09.2007 by the Committee of Ministers on the protection and promotion of investigative journalism

(Adopted by the Committee of Ministers on 26 September 2007 at the 1005th meeting of the Ministers' Deputies)

The Committee of Ministers of the Council of Europe,

1. Recalling Article 10 of the European Convention on Human Rights which guarantees the freedom to receive and impart information and ideas without interference by public authority and regardless of frontiers;

2. Recalling also its declarations on the freedom of expression and information of 29 April 1982 and on freedom of political debate in the media of 12 February 2004 and reiterating the importance of free and independent media for guaranteeing the right of the people to be fully informed on matters of public concern and to exercise scrutiny over public authorities and political affairs, as repeatedly confirmed by the European Court of Human Rights;

3. Convinced that the essential function of the media as public watchdog and as part of the system of checks and balances in a democracy would be severely crippled without promoting such investigative journalism, which helps to expose legal or ethical wrongs that might have been deliberately concealed, and thus contributes to the formation of enlightened and active citizenry, as well as to the improvement of society at large;

4. Acknowledging, in this context, the important work of investigative journalists who engage in accurate, in-depth and critical reporting on matters of special public concern, work which often requires long and difficult research, assembling and analysing information, uncovering unknown facts, verifying assumptions and obtaining corroborative evidence;

5. Emphasising, however, that investigative journalism needs to be distinguished from journalistic practices which involve probing into and exposing people's private and family lives in a way that would be incompatible with Articles 8 and 10 of the European Convention on Human Rights and the related case law of the European Court of Human Rights;

6. Bearing in mind also that investigative journalism could benefit from the adherence of media professionals to voluntarily adopted self-regulatory instruments such as professional codes of conduct and of ethics which take full account of the rights of other people and the role and responsibility of the media in a democratic society;

7. Considering that, because of its very nature, investigative journalism is of particular significance in times of crisis, a notion that includes, but is not limited to, wars, terrorist attacks and natural and man-made disasters, when there may be a temptation to limit the free flow of information for security or public safety reasons;

8. Conscious that in emerging democracies the encouragement and development of investigative journalism is especially important for the stimulation of free public opinion and the entrenchment of a democratic political culture while, at the same time, it is at a greater danger of potential abuse;

9. Bearing in mind the Parliamentary Assembly of the Council of Europe's Recommendation 1506 (2001) on freedom of expression and information in the media in Europe, and in particular its concern about the continuing use of violence as a way of intimidating investigative journalists;

10. Recalling its Recommendation No. R (2000) 7 on the right of journalists not to disclose their sources of information;

11. Welcoming developments in certain member states' domestic case law tending to confirm and uphold the right of journalists to investigate matters of public interest and disclose facts and express opinions in respect of such matters without interference by public authorities,

I. Declares its support for investigative journalism in service of democracy.

II. Calls on member states to protect and promote investigative journalism, having regard to Article 10 of the European Convention on Human Rights, the relevant case law of the European Court of Human Rights and other Council of Europe standards, and in this context:

i. to take, where necessary, suitable measures designed to ensure the personal safety of media professionals, especially those involved in investigative journalism, and promptly investigate all cases of violence against or intimidation of journalists;

ii. to ensure the freedom of movement of media professionals and their access to information in line with Council of Europe standards and facilitate critical and in-depth reporting in service of democracy;

iii. to ensure the right of journalists to protect their sources of information in accordance with Council of Europe standards;

iv. to ensure that deprivation of liberty, disproportionate pecuniary sanctions, prohibition to exercise the journalistic profession, seizure of professional material or search of premises are not misused to intimidate media professionals and, in particular, investigative journalists;

v. to take into consideration and to incorporate into domestic legislation where appropriate the recent case law of the European Court of Human Rights which has interpreted Article 10 of the European Convention of Human Rights as extending its protection not only to the freedom to publish, but also to journalistic research, the important preceding stage which is essential for investigative journalism.

III. Draws the attention of member states to recent worrying developments which might have an adverse effect on journalistic activity and on investigative journalism in particular and calls on member states, if appropriate, to take remedial action, in line with Council of Europe standards, when faced with the following situations:

i. an apparent trend towards increasing limitations on freedom of expression and information in the name of protecting public safety and fighting terrorism;

ii. lawsuits brought against media professionals for acquiring or publishing information of public interest which the authorities sought without good reason to keep undisclosed;

iii. cases of unjustified surveillance of journalists, including the monitoring of their communications;

iv. legislative measures being taken or sought to limit the protection granted to "whistle blowers".

IV. Invites the media, journalists and their associations to encourage and support investigative journalism while respecting human rights and applying high ethical standards.

V. Calls on member states to disseminate widely this declaration, where appropriate accompanied by a translation, and to bring it, in particular, to the attention of relevant governmental bodies, legislators and the judiciary as well as to make it available to journalists, the media and their professional organisations.

Declaration Decl-20.02.2008/1 of the Committee of Ministers on protecting the dignity, security and privacy of children on the Internet

(Adopted by the Committee of Ministers on 20 February 2008 at the 1018th meeting of the Ministers' Deputies)

The Committee of Ministers of the Council of Europe,

Recalling the fundamental right to freedom of expression and to receive and impart information and ideas without interference by public authorities and regardless of frontiers, as guaranteed by Article 10 of the Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights – ETS No. 5);

Recalling the 1989 United Nations Convention of the Rights of the Child, in particular the inherent right for children to dignity, to special protection and care as is necessary for their well-being, to protection against all forms of discrimination or arbitrary or unlawful interference with their privacy and to unlawful attacks on their honour and reputation;

Convinced that the well-being and best interests of children are fundamental values shared by all member states, which must be promoted without any discrimination;

Convinced that the Internet is an important tool for children's everyday activities, such as communication, information, knowledge, education and entertainment;

Concerned however by the enduring presence of content created by children which can be damaging to their dignity, security, privacy and honour both now and in the future as adults;

Recalling the Committee of Ministers' Declaration on freedom of communication on the Internet, adopted on 28 May 2003, which stresses that the exercise of such freedom should not prejudice the dignity or fundamental rights and freedoms of others, especially children;

Conscious that the traceability of children's activities via the Internet may expose them to criminal activities, such as the solicitation of children for sexual purposes, or otherwise illegal or harmful activities, such as discrimination, bullying, stalking and other forms of harassment, by others;

Recalling the measures to protect children referred to in the 2001 Convention on Cybercrime (ETS No. 185), in particular concerning child pornography, and the 2007 Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (CETS No. 201), in particular concerning the solicitation of children for sexual purposes;

Convinced of the need to inform children about the enduring presence and risks of the content they create on the Internet and, in this connection, of the need to develop and promote their information literacy, defined as the competent use of tools providing access to information, the development of critical analysis of content and the appropriation of communication skills to foster citizenship and creativity, as referred to in Recommendation Rec(2006)12 of the Committee of Ministers on empowering children in the new information and communications environment;

Aware that communication using new technologies and new information and communication services must respect the right to privacy and to secrecy of correspondence, as guaranteed by Article 8 of the European Convention on Human Rights and as elaborated by the case law of the European Court of Human Rights, as well as the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (ETS No. 108);

Concerned by the profiling of information and the retention of personal data regarding children's activities for commercial purposes;

Noting the outcome documents of the United Nations World Summit on the Information Society (Geneva, 2003 – Tunis, 2005), in particular the 2005 Tunis Agenda for the Information Society which reaffirmed the commitment to effective policies and frameworks to protect children and young people from abuse and exploitation through information and communication technologies;

Noting also the mandate of the United Nations Internet Governance Forum, in particular to identify emerging issues regarding the development and security of the Internet and to help find solutions to the issues arising from the use and misuse of the Internet, of concern to everyday users;

Aware of the emerging tendency for certain types of institutions, such as educational establishments, and prospective employers to seek information about children and young people when deciding on important issues concerning their lives,

Declares that, other than in the context of law enforcement, there should be no lasting or permanently accessible record of the content created by children on the Internet which challenges their dignity, security and privacy or otherwise renders them vulnerable now or at a later stage in their lives;

Invites member states together, where appropriate, with other relevant stakeholders, to explore the feasibility of removing or deleting such content, including its traces (logs, records and processing), within a reasonably short period of time.

Declaration Decl-20.02.2008/2 of the Committee of Ministers on the allocation and management of the digital dividend and the public interest

(Adopted by the Committee of Ministers on 20 February 2008 at the 1018th meeting of the Ministers' Deputies)

The Committee of Ministers of the Council of Europe,

Recalling the commitment of member states to the fundamental right to freedom of expression and information, as guaranteed by Article 10 of the Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights – ETS No. 5);

Stressing the importance for democratic societies of the existence of a wide variety of independent and autonomous media, permitting the reflection of diversity of ideas and opinions, as stated in the Committee of Ministers' Declaration on the freedom of expression and information (29 April 1982);

Conscious of the advantages and opportunities but also the challenges for free and pluralist communication offered by digital technology, and of the need to safeguard essential public interest objectives in the digital environment, including freedom of expression and access to information, media pluralism and cultural diversity, social cohesion, democratic participation, consumer protection and privacy;

Aware of the fact that technical and legislative choices involved in the switchover to the digital environment should not be determined by economic factors alone but ought also to take account of social, cultural and political factors, and agreeing that a balance must be struck between economic interests and objectives of common interest;

Conscious that a balance might need to be struck between the development of a purely market-based approach to spectrum allocation and management, on the one hand, and the promotion of pluralism, cultural and linguistic diversity and access of the public to audiovisual services in Europe, in particular free-to-air broadcasting, on the other hand;

Aware, in particular, that radio spectrum will be freed as a result of the switchover from analogue to digital broadcasting and conscious of the need for states to take decisions in respect of the allocation and management of this scarce public resource in the common interest;

Stressing that the digital dividend[1] is an excellent opportunity to meet the rapidly growing demand for new services and that it can open up the spectrum for broadcasters to significantly develop and expand their services while, at the same time, ensuring that other important social and economic uses, such as broadband applications or mobile multimedia capable of contributing to overcome the digital divide, are taken into account when allocating and managing this valuable resource;

1. The radio spectrum freed as a result of the switchover from analogue to digital broadcasting.

Mindful of the importance of stepping up efforts to ensure effective and equitable access for all persons to the new communication services, education and knowledge, especially with a view to preventing digital exclusion and to narrowing or, ideally, bridging the digital divide;

Recalling Recommendation Rec(2003)9 on measures to promote the democratic and social contribution of digital broadcasting, and in particular its citizen-oriented approach and stipulations regarding the transition to digital broadcasting;

Recalling also Recommendation Rec(2007)3 on the remit of public service media in the information society, underlining the fundamental role of public service media in the new digital environment, which is to promote the values of democratic societies, in particular respect for human rights, cultures and political pluralism, offering a wide choice of programmes and services to all sectors of the public and promoting social cohesion, cultural diversity and pluralist communication accessible to everyone;

Recognising, without prejudice to ongoing efforts within other international fora to find a harmonised approach, the right of member states to define their own policies regarding the transition from analogue to digital broadcasting, and the use of the digital dividend, understood as radio spectrum capacity freed as a result of the switchover to the digital environment;

Aware of the different situations in which various member states find themselves with regard to the digital dividend for geographical, historical, political, cultural, linguistic or other reasons, which may be accommodated through international co-ordination and planning, but make rigid harmonisation difficult;

Stressing the need to guarantee to users stable reception of digital terrestrial broadcasting services and to resolve interference problems before a decision, if any, is taken to put broadcasting services and mobile telephone services in the same or adjacent bands,

Declares that member states:

i. should acknowledge the public nature of the digital dividend resulting from the switchover and the need to manage such a public resource efficiently in the public interest, taking account of present and foreseeable future needs for radio spectrum;

ii. should pay special attention to the promotion of innovation, pluralism, cultural and linguistic diversity, and access of the public to audiovisual services in the allocation and management of the digital dividend and, for this purpose, take in due account the needs of broadcasters and of the media at large, both public service and commercial media, as well as those of other existing or incoming spectrum users;

should also consider the benefit that the allocation and management of the digital dividend may bring to society in terms of an increased number of diversified audiovisual services, including mobile services, with potentially improved geographical coverage and interactive capability, as well as services offering high definition technology, mobile reception, or easier and more affordable access.

Declaration Decl-26.03.2008 of the Committee of Ministers on the independence and functions of regulatory authorities for the broadcasting sector

(Adopted by the Committee of Ministers on 26 March 2008 at the 1022nd meeting of the Ministers' Deputies)

The Committee of Ministers of the Council of Europe,

Considering that the aim of the Council of Europe is to achieve a greater unity between its members for the purpose of safeguarding and realising the ideals and principles which are their common heritage and facilitating their economic and social progress;

Bearing in mind Article 10 of the European Convention on Human Rights (ETS No. 5), guaranteeing the right to freedom of expression, which includes the freedom to hold opinions and to receive and impart information and ideas without interference by public authorities and regardless of frontiers;

Recalling the importance for democratic societies of the existence of a wide range of independent and autonomous means of communication, making it possible to reflect the diversity of ideas and opinions and the absence of any arbitrary controls or constraints on participants in the information process, on media content or on the transmission and dissemination of information, as set out in the Declaration on the freedom of expression and information (29 April 1982);

Recalling its Recommendation Rec(2000)23 to member states on the independence and functions of regulatory authorities for the broadcasting sector, and its Recommendation Rec(2003)9 to member states on measures to promote the democratic and social contribution of digital broadcasting, as well as its Declaration on the guarantee of the independence of public service broadcasting in the member states (27 September 2006);

Mindful of the case law of the European Court of Human Rights and the relevant decisions of the European Commission of Human Rights, in particular when the latter states that a licensing system not respecting the requirements of pluralism, tolerance and broadmindedness, without which there is no democratic society, would infringe Article 10, paragraph 1, of the European Convention on Human Rights and that the rejection by a state of a licence application must not be manifestly arbitrary or discriminatory, and thereby contrary to the principles set out in the preamble to the Convention and the rights secured therein;

Recalling the commitment made by member states in the Political Declaration of the 7th European Ministerial Conference on Mass Media Policy (Kyiv, 10 and 11 March 2005) to undertake to ensure that the regulatory measures which they may take with regard to the media and new communication services will respect and promote the fundamental values of pluralism and diversity, respect for human rights and non-discriminatory access;

Recalling the objective of Recommendation Rec(2000)23 that, to guarantee the existence of a wide range of independent and autonomous media in the broadcasting sector, it is essential to provide for adequate and proportionate regulation of that sector, in order to guarantee the freedom of the media whilst at the same time ensuring a balance between that freedom and other legitimate rights and interests;

Underlining the important role played by the traditional and digital broadcasting media in modern, democratic societies in particular for informing the public, for the free formation of public opinion and the expression of ideas and for scrutinising the activities of public authorities as underlined in its Recommendation Rec(2003)9 as well as in its Declaration on the guarantee of the independence of public service broadcasting in the member states;

Noting the overview concerning the legislative framework of members states and its practical implementation, as well as legal and institutional solutions developed in particular countries regarding regulatory authorities in the broadcasting sector, and which is reproduced in the appendix hereto;

Welcoming, in this context, the situation in many Council of Europe member states where, in line with Recommendation Rec(2000)23, the independent and efficient regulation of the broadcasting sector in the public interest, as well as the independence, transparency and accountability of regulatory authorities for the broadcasting sector, is ensured by law and in practice;

Concerned, however, that the guidelines of Recommendation Rec(2000)23 and the main principles underlining it are not fully respected in law and/or in practice in other Council of Europe member states due to a situation in which the legal framework on broadcasting regulation is unclear, contradictory or in conflict with the principles of Recommendation Rec(2000)23, the political and financial independence of regulatory authorities and its members is not properly ensured, licences are allocated and monitoring decisions are made without due regard to national legislation or Council of Europe standards, and broadcasting regulatory decisions are not made available to the public or are not open to review;

Aware that a 'culture of independence', where members of regulatory authorities in the broadcasting sector affirm and exercise their independence and all members of society, public authorities and other relevant players including the media, respect the independence of the regulatory authorities, is essential to independent broadcasting regulation;

Aware that independent broadcasting regulatory authorities can only function in an environment of transparency, accountability, clear separation of powers and due respect for the legal framework in force;

Aware of the new challenges to the regulation of the broadcasting landscape resulting from concentration in the broadcasting sector and technological developments in broadcasting, in particular digital broadcasting;

I. Affirms that the 'culture of independence' should be preserved and, where they are in place, independent broadcasting regulatory authorities in member states need to be effective, transparent and accountable and therefore;

II. Declares its firm attachment to the objectives of the independent functioning of broadcasting regulatory authorities in member states;

III. Calls on member states to:

- implement, if they have not yet done so, Recommendation Rec(2000)23 on the independence and functions of regulatory authorities for the broadcasting sector, with particular reference to the guidelines appended thereto, and having regard to the opportunities and challenges brought about by political, economic and technological changes in Europe;
- provide the legal, political, financial, technical and other means necessary to ensure the independent functioning of broadcasting regulatory authorities, so as to remove risks of political or economic interference;
- disseminate widely the present declaration and, in particular, bring it to the attention of the relevant authorities, the media and of broadcasting regulatory authorities in particular, as well as to that of other interested professional and business players;

IV. Invites broadcasting regulatory authorities to:

- be conscious of their particular role in a democratic society and their importance in creating a diverse and pluralist broadcasting landscape;

– ensure the independent and transparent allocation of broadcasting licences and monitoring of broadcasters in the public interest;

– contribute to the entrenchment of a 'culture of independence' and, in this context, develop and respect guidelines that guarantee their own independence and that of their members;

– make a commitment to transparency, effectiveness and accountability;

V. Invites civil society and the media to contribute actively to the 'culture of independence', which is vital for the adequate regulation of broadcasting in the new technological environment, by monitoring closely the independence of these authorities, bringing to the attention of the public good examples of independent broadcasting regulation as well as infringements on regulators' independence.

APPENDIX TO THE DECLARATION BY THE COMMITTEE OF MINISTERS ON THE INDEPENDENCE AND FUNCTIONS OF REGULATORY AUTHORITIES FOR THE BROADCASTING SECTOR

Introduction

At its 3rd meeting, in June 2006, the Steering Committee on Media and New Information Services (CDMC) discussed the implementation of non-binding instruments in its area of competence, in particular that of Recommendation Rec(2000)23 on the independence and functions of regulatory authorities for the broadcasting sector. It asked the Secretariat to collect information with a view to assessing the situation as regards the independence and functions of regulatory authorities in the broadcasting sector in member states.

In October 2006, the Bureau of the CDMC examined a first draft document prepared by the Secretariat and decided that this draft should be reviewed with a view "to develop in greater detail the possible deficiencies in the legislative framework of member states and its practical implementation, without however naming specific countries. The second part, which includes information on the situation in the member states, should be a factual overview of legal and institutional solutions developed in particular countries regarding regulatory authorities in the broadcasting sector, using as a template the main requirements of the recommendation, providing information on whether the safeguards of the regulatory authorities' independence and functioning laid down in the recommendation are observed in practice in the particular country".

This document contains an overview on the implementation of Recommendation Rec(2000)23 and, more particularly, information on the independence of regulatory authorities in the Council of Europe member states. The document examines the legal framework and practice on broadcasting regulatory authorities and broadcasting regulation in member states and the degree of compliance with regard to the guidelines set out in Recommendation Rec(2000)23.

This overview was prepared on the basis of information provided by member states on their legal frameworks. It also takes account of information gathered from other sources which include reports by the Parliamentary Assembly, the OSCE Special Representative on Freedom of the Media, a report by the Open Society Institute on broadcasting in Europe,[1] information provided by the European Platform of Regulatory Authorities (EPRA),[2] as well as information from international and national non-governmental organisations.

OVERVIEW OF THE LEGISLATIVE FRAMEWORK OF MEMBERS STATES AND ITS PRACTICAL IMPLEMENTATION AS WELL AS LEGAL AND INSTITUTIONAL SOLUTIONS DEVELOPED IN PARTICULAR COUNTRIES REGARDING REGULATORY AUTHORITIES IN THE BROADCASTING SECTOR

I. LEGISLATIVE FRAMEWORK

1. According to Recommendation Rec(2000)23 of the Committee of Ministers to member states on the independence and functions of regulatory authorities for the broadcasting sector (hereafter 'the recommendation'), an appropriate legal framework is essential for the setting up and proper functioning of a

1. Open Society Institute, EU Monitoring and Advocacy Programme (2005) "Television Across Europe: Regulation, Policy and Independence".
2. In particular a background paper on "The Independence of Regulatory Authorities" prepared by the EPRA Secretariat for the 25th EPRA meeting, Prague, 16-18 May 2007, doc EPRA/2007/02.

broadcasting regulator. Laws and regulations should indicate clearly how and by whom members are nominated, the ways of making them accountable, how the regulatory authority is financed and what its competencies are in order to ensure the financial and political independence of the authority and its members (cf. Appendix to the recommendation, Section I, paragraphs 1 and 2).

2. All Council of Europe member states have at least some basic legal provisions on broadcasting regulation. However, not all broadcasting regulators are established by law as independent authorities, neither are all required by law to act independently.

3. Almost all member states have clear legal provisions on the financing and competencies of the regulator and the nomination of its members. A number of laws, however, do not address all relevant matters. For those states where the broadcasting sector is not regulated by an independent body but by government bodies or bodies directly under the authority of a ministry or minister, rules on independent financing or the independent nomination of members can be considered redundant. In other cases, there is no apparent reason why the law does not provide the details required by the recommendation.

4. In general, the majority of Council of Europe member states' laws on broadcasting regulation seem to provide an adequate protection for the independence of regulatory authorities. However, it would appear that, in a number of member states, the legal framework does not protect the independence of regulatory authorities as required by the recommendation. In particular, the rules on the appointment of members to the regulatory authority often do not provide members adequate protection against political pressure (see below for further details).

It has also been reported that, in a number of member states, public authorities have failed to respect the legal framework or have taken advantage of legal loopholes to interfere with the independence of the regulatory authority (see below for further details).

5. In a number of member states, laws have been described as too vague or contradictory, making it difficult for regulatory authorities to reach consistent and objective decisions. In some cases, contradictory and seemingly arbitrary decisions by the broadcasting regulator have been explained by the fact that frequent changes to the broadcasting legislation give rise to uncertainty about the legal and regulatory framework in force at a particular point in time.

6. The quantity and detail of the regulations vary considerably between member states. However, there does not seem to be a clear link between the amount of detail in a country's legislation on broadcasting regulation and the regulatory authority's independence. In fact, some of the regulatory authorities that are governed by a very limited set of rules are considered in practice to operate relatively independently. Some importance has been attributed to a 'culture of independence' where law makers, government and other players, under the scrutiny of society at large, respect the regulatory authorities' independence without being explicitly required to do so by law.

II. APPOINTMENT, COMPOSITION AND FUNCTIONING

7. According to the recommendation (cf. the Appendix thereto, Section II, paragraph 3), the rules governing regulatory authorities in the broadcasting sector should secure their independence and protect them against any interference, in particular by political and economic interests.

8. The majority of the broadcasting regulatory authorities in Council of Europe member states are established by law as autonomous bodies. However, certain of them are government bodies or bodies directly under the authority of a ministry or minister. These regulators often depend on the administrative support of the ministry to which they are attached and seldom manage their own budget independently. In some such cases, the authorities concerned are said to succeed in working independently, usually due to a longstanding practice of independence or comprehensive regulatory frameworks which provide clear guidelines on the regulatory authorities' competences. Almost all of the authorities which are not formally established as autonomous agencies but which are reported to work independently in practice seem to be found in longstanding democracies with relatively low levels of corruption, where the transparency of public bodies in general is ensured and where independent media and a vibrant civil society keep the regulatory authority's work under close scrutiny.

9. To guarantee the independence of members of regulatory authorities from political and economic pressure, the recommendation calls on member states to ensure that regulatory bodies have incompatibility rules, preserving their members from being under the influence of political powers or prohibiting them from

holding interests in enterprises of other organisations in the media or related sectors (cf. Appendix to the Recommendation, Section II, paragraph 4).

10. Most Council of Europe member states have rules that prohibit members of regulatory authorities from holding political office; the number of states that also ban them from having commercial interests in the media sector is lower. Indeed, in certain cases, the incompatibility rules for members of regulatory authorities go beyond the guidelines appended to the recommendation and members of regulatory authorities are not permitted to work in the media business or engage in politics for several years after the expiry of their mandate. To prevent members from signing over their commercial interests in a media business to a family member, the law in some member states also requires that close relatives of members give up commercial interests in the media. This requirement extends on occasion to relatives holding political office.

However, in other member states, the framework seeking to guarantee the independence of members of regulatory authorities is far less satisfactory and, in many cases, incompatibilities do not extend to potentially conflicting relations with or interests in media businesses or politics.

11. In certain Council of Europe member states, the members of regulatory authorities have the power to decide over a member's possible conflict of interest, or a member can choose not to make use of his or her voting rights, should personal interests be at stake in a regulatory decision. Another practice is for the other members to decide to exclude a member in case of proven conflict of interest.

12. To guarantee the integrity of the members of regulatory authorities, the recommendation calls for rules designed to ensure that members of regulatory authorities are appointed in a democratic and transparent manner (cf. Appendix to the recommendation, Section II, paragraph 5).

13. In most Council of Europe member states, the members of regulatory authorities are appointed by the parliament or by the head of state at the proposal of parliament. In some member states, in order to ensure that the membership of the regulatory authority reflects the country's social and political diversity, part or all of the members are nominated by non-governmental groups which are considered to be representative of society. Further, in a few member states, the law provides objective selection criteria for the appointment of members.

By contrast, in a number of countries, members are appointed by sole decision of one state authority, e.g. the head of state or a state department, often without clearly specified selection criteria. The appointment of members of regulatory authorities by the head of state and/or parliament has sometimes been criticised advancing that, in such cases, membership would represent or reproduce political power structures.

14. Concerns have often been raised that the nominating or appointing bodies could exert pressure on the members after their appointment. In fact, in some member states, the members of regulatory authorities are frequently accused of acting on behalf of the state body that designated them or political formation behind the designating or appointing authority.

15. To avoid that dismissal be used as a means of political pressure, the recommendation calls for precise rules on the possibility to dismiss members. Accordingly, dismissal should only be possible in case of non-respect of the rules of incompatibility, duly noted incapacity to exercise a member's functions and conviction (by a court of law) for a serious criminal offence. An appeal before the competent courts should be possible against any dismissal (see Appendix to the recommendation, Section II, paragraphs 6 and 7).

16. Whereas in a majority of member states regulations exist on the dismissal of members, they are not always limited to the list of justifications for dismissal provided for by the recommendation. In a number of member states, the law stipulates that members of regulatory authorities can be dismissed if convicted of an offence, but it is not always specified that this has to be a serious offence as opposed to a minor or administrative offence.

17. In some member states, to avoid dismissal procedures being used as a means of exerting pressure on members, members of regulatory authorities cannot be dismissed at all. This practice has apparently given rise to concern in at least one member state, where members could not be held accountable and dismissed for licensing decisions that were allegedly in violation of national law.

III. FINANCIAL INDEPENDENCE

18. Another key factor for ensuring the independence of regulatory authorities is their funding arrangements, which, according to the recommendation, should be specified in law in accordance with a clearly defined plan, and with reference to the estimated cost of the regulatory authorities' activities, so as to allow them to carry out their functions fully and independently (cf. Appendix to the recommendation, Section III, paragraphs 9 to 11).

19. The majority of Council of Europe member states have legal provisions defining the source of funding of the regulatory body. By contrast, in at least a quarter of member states, the legal framework does not appear to be clear on this subject.

20. It is common practice amongst many regulatory authorities in Council of Europe member states to receive their funding directly through fees in order to be independent from public authorities' decision making. Nonetheless, the laws of a large number of member states specify that the regulatory authority is to be financed by the state budget. In some member states, the law mentions clearly that public authorities must not use their financial decision-making power to interfere with the independence of the regulatory authority; however in most countries where the regulatory authority is financed by the state budget no such precautions are laid down in the law.

21. In some member states, the law stipulates that the regulatory authority proposes its annual budget plan which then has to be automatically approved by a specific state body (or the approval of such a body being a formality). However, in at least a third of all Council of Europe member states, no clear rules exist to ensure that the approval for the regulatory authority's funding is not up to the discretion of such other state bodies.

22. It would appear that, despite the law envisaging an independent funding plan for the regulatory authority, in certain Council of Europe member states those authorities claim to feel under threat of or have experienced pressure from governments which go back on agreed funding plans and/or use funding decisions as leverage in political power struggles.

Reportedly, in more than one case, broadcasting regulatory authorities which, according to the law should be financed independently, in practice received their revenue from the state because of a weak broadcasting market or because the licence fee collecting system was ineffective. In at least two member states, the regulatory authority did not publicly disclose the source of their revenue after the licence fee system had collapsed.

23. In addition, many regulators also complain that they are not given the means (in particular human resources) to adequately perform their duties (see below for further details).

IV. POWERS AND COMPETENCE

24. According to the recommendation, the legislator should entrust the regulatory authority with the power to adopt regulations and guidelines concerning broadcasting activities as well as internal rules (cf. Appendix to the recommendation, Section IV, paragraph 12).

25. In a significant number of Council of Europe member states, the law clearly stipulates that regulatory authorities have the power to adopt regulations and guidelines concerning broadcasting activities and have the power to adopt internal rules. However, in at least a quarter of the member states, the legal framework does not foresee such rights. In at least two member states, these powers are in fact expressly vested upon another body or authority.

26. An essential task of the broadcasting regulatory authority should be the granting of licences. The basic conditions and criteria governing the granting and renewal of broadcasting licences should be clearly defined in the law. The regulations governing the broadcasting licensing procedure should be clear and precise and should be applied in an open, transparent and impartial manner and decisions should be made public. Calls for tenders should also be made public, should define a number of conditions to be met by the applicants and specify the content of the licence application (cf. Appendix to the recommendation, Section IV, paragraph 13 to 17).

27. The above-mentioned requirements are fully met in some Council of Europe member states and partially in many of them. In particular, the majority of regulatory authorities in Council of Europe member states are given the competence to award broadcasting licences. However, in at least one fifth of all member states, a body other than a broadcasting regulator awards broadcasting licences. Further, the legislation of not less than nine member states fail to define clearly the basic conditions and criteria for the granting and renewal of broadcasting licences.

28. In almost half of all Council of Europe member states, tender procedures are insufficiently detailed. It would appear that, in at least 18 member states, there are no legal provisions requiring that the licence tendering process be public. In a comparable number of member states, the law does not specify on the selection criteria to be met by applicants for licences. Again, in almost one in two member states, the legal framework is either silent or provides insufficient detail on the content of licence applications.

29. Even though licensing decisions are often criticised, the majority of regulatory authorities seem to award licenses in a manner which is consistent with the recommendation. Nevertheless, in a number of Council of Europe member states, the broadcasting licensing procedure allegedly lacks transparency, is arbitrary or politically biased. It is claimed that, in many cases, this is due to a lack of regulations and licence selection criteria, and frequent revisions of the law apparently add to the confusion.

30. In addition, some broadcasting authorities have not been able to enforce the law when allocating licenses, because regulations were not clear as to the distribution of competences in the licensing process or because broadcasting regulators were not given the authority and/or financial means to establish or to implement an effective licensing system.

31. Another essential function of regulatory authorities should be the monitoring of broadcasters' compliance with their commitments and obligations. Regulatory authorities should have the power to consider complaints and there should be no *a priori* monitoring. Regulatory authorities should have the power to impose sanctions in cases of violations. The sanctions have to be defined by law and should start with a warning (cf. Appendix to the recommendation, Section IV, paragraphs 18 to 23).

32. The laws in almost all Council of Europe member states envisage an independent body to monitor broadcasters' compliance with the law and with licence conditions. This task is usually entrusted to the regulatory body that awards licenses although, in some countries, the law creates a separate independent authority for that purpose. There are, however, some member states where organs that are under the direct authority of or answerable to governmental authorities are vested with monitoring duties.

33. Hardly any of the legislations in member stipulate clearly that monitoring should be conducted only after broadcasting, although practice is broadly in compliance with this requirement.

34. In most member states, regulatory authorities are empowered to impose sanctions as prescribed by law. However, in at least seven member states, there are either no provisions on the body that would enforce sanctions or this function is carried out directly by government bodies or authorities.

Many member states give details on the sanctions that can be handed down in cases of violations of the laws or licence requirements. However, the lower end of the scale is not always a warning. Further, in a small number of member states, the law contains no details on possible sanctions.

It might be added that, only in about one quarter of Council of Europe member states, the law explicitly allows monitoring bodies to consider third party complaints concerning broadcasters' activities.

35. Almost all regulatory authorities in Council of Europe member states are by law required to monitor the respect of licence conditions. Many regulators have performed their monitoring duties successfully for many years, interpreting and developing licence requirements, on occasion in cooperation with broadcasters, in order to best protect the rules defined in national legislation. A significant number of bodies, however, allegedly monitor insufficiently or not at all because they do not have the necessary financial or human resources to do so.

36. On a number of occasions, regulators have been accused of applying sanctions arbitrarily or inconsistently. Further, in a few countries, complaints have been made that the sanctions were too harsh or too lax, motivated by archaic moral ideas or that they were politically motivated. This has apparently been due to vague licence conditions or broadcasting requirements with regulators being uncertain about how to interpret those conditions. It has also been argued that some regulatory authorities do not have the political support or are not given the means to enforce sanctions.

V. ACCOUNTABILITY

37. In its final part (cf. Appendix to the recommendation, Section V, paragraphs 25 to 27), the recommendation states that regulatory authorities should be accountable to the public for their activities, for example by means of publishing annual reports. The recommendation also underlines that regulatory authorities should make their decisions public and should only be supervised in respect of the lawfulness of their activities and the correctness and transparency of their financial activities.

38. In many member states, regulatory authorities are accountable to state bodies or authorities, for example the parliament, the head of state or the auditing authorities. By contrast, broadcasting regulatory authorities are accountable by law to the public in only a few cases. That said, in at least eight Council of Europe member states, the law clearly requires regulatory authorities to make their decisions public, while many other legal frameworks are silent on these issues.

In at least eight of the member states where the law prescribes that regulatory authorities are accountable to a state body or to the public, the legal framework does not specify clearly that the regulatory authorities can only be supervised in respect of the lawfulness of their activities and the correctness and transparency of their financial activities. Moreover, in a number of member states, regulatory authorities cannot be held accountable by law to anyone.

39. In approximately half of the Council of Europe member states, the law prescribes that decisions of the broadcasting regulator are open to review (usually by a court of justice). However, in other member states, decisions cannot be challenged before the courts.

40. The majority of regulatory bodies in Council of Europe member states publish their decisions in annual reports. In some countries where regulatory bodies are accountable by law to parliament and/or the head of state, it has been alleged that annual reports were rejected and regulatory authorities dissolved not on objective grounds but for political reasons.

Declaration Decl-11.02.2009 of the Committee of Ministers on the role of community media in promoting social cohesion and intercultural dialogue

(Adopted by the Committee of Ministers on 11 February 2009 at the 1048th meeting of the Ministers' Deputies)

The Committee of Ministers of the Council of Europe,

Considering 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 that are their common heritage;

Recalling the importance for democratic societies of a wide variety of free and independent media, which are able to reflect a diversity of ideas and opinions and contribute to the mutual enrichment of cultures, as stated in its Declaration on the freedom of expression and information (29 April 1982);

Reaffirming that media pluralism and diversity of media content are essential for the functioning of a democratic society and are the corollaries of the fundamental right to freedom of expression and information as guaranteed by Article 10 of the Convention for the Protection of Human Rights and Fundamental Freedoms (ETS No. 5), given their essential role in guaranteeing free expression of opinions and ideas and in contributing to effective participation in democratic processes by many groups and individuals;

Recalling its Recommendation CM/Rec(2007)2 on media pluralism and diversity of media content, which calls on member states to encourage the development of different types of media, including community, local, minority or social media, capable of making a contribution to pluralism and diversity and providing a space for dialogue, while responding to the specific needs or requests of certain groups in civil society and serving as a factor of social cohesion and integration;

Recalling also its Declaration on protecting the role of the media in democracy in the context of media concentration (31 January 2007), which stresses that policies designed to encourage the development of not-for-profit media can be another way to promote a diversity of autonomous channels for the dissemination of information and expression of opinion, especially for and by social groups on which mainstream media rarely concentrate;

Bearing in mind its Recommendation No. R (97) 21 on the media and the promotion of a culture of tolerance, which stresses that the media can make a positive contribution to the fight against intolerance, especially when they foster a culture of understanding between different ethnic, cultural and religious groups in civil society;

Recalling also its Recommendation No. R (97) 20 on hate speech, which recommends that member states take appropriate steps to combat hate speech and ensure that such steps form part of a comprehensive approach to the phenomenon, which also targets its social, economic, political, cultural and other root causes;

Convinced, in this context, that member states should, in particular, while respecting the principle of editorial independence, encourage the media to contribute to intercultural dialogue, as defined in the Council of Europe White Paper on Intercultural Dialogue (May 2008), so as to promote mutual respect, pluralism, tolerance and broadmindedness, and to prevent potential conflicts through discussions and the wider democratic participation of persons belonging to all ethnic, cultural, religious or other communities;

Recalling the importance of the Framework Convention for the Protection of National Minorities (ETS No. 157), in particular as regards the obligation of the Parties to recognise the right of persons belonging to national minorities to receive and impart information in the minority language and to ensure that persons belonging to national minorities are not discriminated against in their access to the media and are granted the possibility of creating and using their own media;

Recalling also the European Charter for Regional or Minority Languages (ETS No. 148), in particular as regards the obligation of the Parties to ensure, facilitate and/or encourage the creation of media outlets in regional or minority languages;

Bearing in mind the political documents adopted at the 7th European Ministerial Conference on Mass Media Policy (Kyiv, March 2005), which underline, *inter alia*, the need to foster intercultural dialogue via the media, paying particular attention to the interests of persons belonging to minority groups and to minority community media; and, more specifically, the objective set out in the Action Plan to examine how different types of media can play a part in promoting social cohesion and integrating all communities and generations;

Bearing in mind also the provisions of the UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions, adopted on 20 October 2005, which stipulates the right of the Parties to formulate and implement their cultural policies and to adopt measures to protect and promote intercultural dialogue and the diversity of cultural expressions;

Recalling the recommendations of the UNESCO Maputo Declaration on fostering freedom of expression, access to information and empowerment of people, adopted on 3 May 2008, regarding the particular contribution that all three tiers of broadcasters – public service, commercial and community – make to media diversity and, in particular, the role of community broadcasters in fostering under-represented or marginalised populations' access to information, means of expression and participation in decision-making processes, and stressing the need to improve conditions for the development of community media;

Recalling Parliamentary Assembly Recommendation 1466 (2000) on "Media education" especially as concerns the need for the involvement of different stakeholders in an active dialogue on media education, *inter alia*, educational bodies, parents' organisations, media professionals, Internet service providers, NGOs, etc.;

Recalling the European Parliament Resolution of 25 September 2008 on "Community Media in Europe" (INI/2008/2011), which stresses that community media are an effective means of strengthening cultural and linguistic diversity, social inclusion and local identity, as well as media pluralism;

Recalling also the Joint Declaration on Diversity in Broadcasting of the United Nations Special Rapporteur on Freedom of Opinion and Expression, the Organisation for Security and Co-operation in Europe (OSCE) Representative on Freedom of the Media, the Organisation of American States (OAS) Special Rapporteur on Freedom of Expression and the African Commission on Human and Peoples' Rights (ACHPR) Special Rapporteur on Freedom of Expression and Access to Information in Africa, adopted on 14 December 2007, stating that community broadcasting should be explicitly recognised in law as a distinct form of broadcasting and benefit from fair and simple licensing procedures;

Understanding community media, also referred to in different sources as "third sector", "minority media", or "social or civic media", as complementary to public service media and commercial media, and noting that community media operate in many Council of Europe member states and in over 115 countries worldwide;

Convinced that community media, which by definition and by their very nature are close to their audiences, serve many societal needs and perform functions that neither commercial nor public service media can meet or undertake fully and adequately;

Recognising the contribution of community media in fostering public debate, political pluralism and awareness of diverse opinions, notably by providing various groups in society – including cultural, linguistic, ethnic, religious or other minorities – with an opportunity to receive and impart information, to express themselves and to exchange ideas;

Conscious that in today's radically changed media landscape, community media can play an important role, notably by promoting social cohesion, intercultural dialogue and tolerance, as well as by fostering community engagement and democratic participation at local and regional level, as documented by research;

Recognising that minority community media, by using the language of their audience, are able to reach out effectively to minority audiences;

Aware that while community media can play a positive role for social cohesion and intercultural dialogue, they may also, in certain cases, contribute to social isolation or intolerance; conscious that to avoid this risk, community media should always respect the essential journalistic values and ethics common to all media;

Recognising the crucial contribution of community media in developing media literacy through the direct involvement of citizens in the process of creation and distribution of media content, as well as through the organisation of training programmes, issues that are particularly important in the digital environment;

Recognising the role of community media in developing innovation and creativity of citizens, which is also vital for increasing diversity of content;

Noting that community media, taking the form of broadcasting and/or other electronic media projects, as well as print format, may share to a greater or lesser extent some of the following characteristics: independence from government, commercial and religious institutions and political parties; a not-for-profit nature; voluntary participation of members of civil society in the devising and management of programmes; activities aiming at social gain and community benefit; ownership by and accountability to the communities of place and/or of interest which they serve; commitment to inclusive and intercultural practices,

Declares its support for community media, with a view to helping them play a positive role for social cohesion and intercultural dialogue, and in this connection:

i. Recognises community media as a distinct media sector, alongside public service and private commercial media and, in this connection, highlights the necessity to examine the question of how to adapt legal frameworks which would enable the recognition and the development of community media and the proper performance of their social functions;

ii. Draws attention to the desirability of allocating to community media, to the extent possible, a sufficient number of frequencies, both in analogue and digital environments, and ensuring that community broadcasting media are not disadvantaged after the transition to the digital environment;

iii. Underlines the need to develop and/or support educational and vocational programmes for all communities in order to encourage them to make full use of available technological platforms;

iv. Stresses the desirability of:

    a. recognising the social value of community media and examining the possibility of committing funds at national, regional and local level to support the sector, directly and indirectly, while duly taking into account competition aspects;

    b. encouraging studies of good practice in community media, and facilitating co-operation and the exchange of good practice, including exchanges with such media in other regions of the world, as well as between community media and other interested media, for example by exchanging programmes and content or by developing joint projects;

    c. facilitating capacity building and training of community media staff, for example via training schemes within the framework of lifelong learning and media literacy, as well as staff and volunteer exchanges with other media and internship arrangements, which could enhance the quality of community media programmes;

    d. encouraging the media's contribution to intercultural dialogue through initiatives such as the setting up of a network to exchange information and support and facilitate initiatives which exist in this field in Europe;

v. Invites community media to be conscious of their role in promoting social cohesion and intercultural dialogue and, to this end, to elaborate and adopt or, if appropriate, review codes of professional ethics or internal guidelines and to ensure that they are respected.

Declaration Decl-13.01.2010 of the Committee of Ministers on measures to promote the respect of Article 10 of the European Convention on Human Rights

(Adopted by the Committee of Ministers on 13 January 2010 at the 1074th meeting of the Ministers' Deputies)

Freedom of expression and information, including freedom of the media, are indispensable for genuine democracy and democratic processes. When those freedoms are not upheld, accountability is likely to be undermined and the rule of law can also be compromised. All Council of Europe member states have undertaken to secure to everyone within their jurisdiction the fundamental right to freedom of expression and information, in accordance with 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."

The enforcement mechanism provided for in the European Convention on Human Rights, namely the European Court of Human Rights, operates in relation to alleged violations of Article 10 brought before the Court after exhaustion of domestic remedies. This mechanism, together with the execution procedure, has achieved considerable results and continues to contribute to improving respect for the fundamental right to freedom of expression and information.

In addition to redress for violations, other means for the protection and promotion of freedom of expression and information and of freedom of the media are essential components of any strategy to strengthen democracy. The Council of Europe has adopted a significant body of standards in this area which give guidance to member states. It is important to strengthen the implementation of those standards in the law and practice of member states. The promotion of the respect of Article 10 of the European Convention on Human Rights is therefore a priority area for Council of Europe action. It requires the active support, engagement and co-operation of all member states.

Various Council of Europe bodies and institutions are able, within their respective mandates, to contribute to the protection and promotion of freedom of expression and information and of freedom of the media. The Committee of Ministers, the Parliamentary Assembly, the Secretary General, the Commissioner for Human Rights and other bodies are all active in this area. The action taken by other institutions, such as the Organisation for Security and Co-operation in Europe (OSCE) Representative on Freedom of the Media, as well as civil society organisations, must also be acknowledged and welcomed.

The Committee of Ministers welcomes the proposals made by the Steering Committee on the Media and New Communication Services (CDMC) to increase the potential for Council of Europe bodies and institutions to promote, within their respective mandates, respect of Article 10 of the European Convention on Human Rights.

In line with those proposals, the Committee of Ministers invites the Secretary General to make arrangements for improved collection and sharing of information and enhanced co-ordination between the secretariats of the different Council of Europe bodies and institutions, without prejudice to their respective mandates and to the independence of those bodies and institutions.

The Committee of Ministers calls on all member states to co-operate with the relevant bodies and institutions of the Council of Europe in ensuring compliance of national law and practice with the relevant standards of the Council of Europe, guided by a spirit of dialogue and co-operation.

The Secretary General is further invited to report to the Committee of Ministers and to the Parliamentary Assembly on the implementation of these arrangements and to conduct within three years an evaluation on their functioning and effectiveness.

Declaration Decl-26.05.2010 of the Committee of Ministers on enhanced participation of member states in Internet governance matters – Governmental Advisory Committee (GAC) of the Internet Corporation for Assigned Names and Numbers (ICANN)

(Adopted by the Committee of Ministers on 26 May 2010 at the 1085th meeting of the Ministers' Deputies)

1. All Council of Europe member states have undertaken to secure within their jurisdiction the rights and freedoms set out in the European Convention on Human Rights.

2. The Internet and other information and communication technologies (ICTs) serve to promote the exercise and enjoyment of human rights and fundamental freedoms and therefore have high public service value.[1] Enabling access to and use of the Internet and ICTs, as well as ensuring their protection, should therefore be high priorities for member states' policies with regard to Internet governance.

3. The Tunis Agenda for the Information Society[2] defines Internet governance as "the development and application by governments, the private sector and civil society, in their respective roles, of shared principles, norms, rules, decision-making procedures, and programmes that shape the evolution and use of the Internet". Further, it reaffirms that "the management of the Internet encompasses both technical and public policy issues and should involve all stakeholders and relevant intergovernmental and international organisations". It recognises that "Policy authority for Internet-related public policy issues is the sovereign right of states" and that states "have rights and responsibilities for international Internet-related public policy issues". It also underlines that, "Intergovernmental organisations have had and should continue to have a facilitating role in the co-ordination of Internet-related public policy issues".

4. Council of Europe member states have a shared responsibility to take reasonable measures to ensure the ongoing functioning, stability, openness and universality of the Internet; solidarity in interstate relations is important in this context.[3]

1. Recommendation CM/Rec(2007)16 of the Committee of Ministers to member states on measures to promote the public service value of the Internet.
2. The Tunis Agenda on the Information Society was adopted by the second phase of the United Nations World Summit on the Information Society (WSIS), held in Tunis from 16 to 18 November 2005.
3. Resolution on Internet governance and critical Internet resources adopted by the 47 Council of Europe member states at the 1st Council of Europe Conference of Ministers responsible for Media and New Communication Services (Reykjavik, 28-29 May 2009).

5. Public policy authority with regard to the Internet and the related responsibilities concern, on the one hand, technical co-ordination of shared global resources and, on the other hand, human rights and fundamental freedoms, in particular, freedom of expression, privacy and freedom of assembly. The rights protected under the European Convention on Human Rights and its protocols extend also to questions related to physical safety and integrity, education and property.

6. The private sector's leadership in the management of critical Internet resources and ongoing efforts of non-state actors to promote the universality of the Internet and to ensure the stability, security, robustness and resilience of its networks should be acknowledged and welcomed.

7. In particular, the International Corporation for Assigned Names and Numbers (ICANN) plays a key role in ensuring the operational stability, security and resilience of the Internet. Moreover, in implementing its mission and in line with the Tunis Agenda objectives, ICANN has embraced a multi-stakeholder approach in its organisational structures and processes, and promotes open and transparent policy-development.

8. ICANN's Governmental Advisory Committee (GAC) can play a key role in ensuring that technical decisions on, and activities carried out in connection with, the management of Internet resources under ICANN's remit take full account of international human rights law and other public policy objectives. GAC can also contribute to promoting transparency and accountability in the management of those resources.

9. At present, GAC's secretariat services depend on ad hoc arrangements made by specific national authorities. The European Commission has facilitated these services in the past. Efforts are currently underway to establish a competent, independent and more stable secretariat for GAC.

10. The Council of Europe could encourage due consideration of fundamental rights and freedoms in ICANN policy-making processes. At the conference in Reykjavik in 2009, the Council of Europe Ministers responsible for Media and New Communication Services undertook to further explore the relevance of Council of Europe values in this field and, if necessary, ways in which to provide advice to the various corporations, agencies and entities that manage critical Internet resources with a transnational function. This is to ensure that they take full account of international law, including international human rights law. Further, if appropriate, international supervision and accountability of the management of those resources should be promoted.

11. The Committee of Ministers therefore:

- encourages an active participation of all Council of Europe member states in GAC or other forms of involvement in ICANN's work with the objective of promoting the Council of Europe's values and standards in the multi-stakeholder governance of the Internet;
- invites the Secretary General to make arrangements for the Council of Europe to participate as an observer in GAC's activities and to explore, in consultation with GAC, ICANN and other relevant stakeholders, ways in which the Council of Europe can contribute to arrangements concerning GAC's secretariat, subject to budget neutrality.

Declaration of the Committee of Ministers on the Digital Agenda for Europe

(Adopted by the Committee of Ministers on 29 September 2010 at the 1094th meeting of the Ministers' Deputies)

Article 1 of the European Convention on Human Rights ("the Convention" – ETS No. 5) provides that the state parties shall "secure to everyone within their jurisdiction" the rights and freedoms protected by the Convention. Council of Europe standards and values apply to both offline and online environments.[1]

Guaranteeing all human rights and fundamental freedoms in the online environment, including the right to respect for private life, the right to freedom of religion, the right to freedom of expression, the prohibition of discrimination, the protection of human dignity, the right to freedom of assembly and association, the right to the protection of property, the right to education and ensuring the openness and security of the Internet, are prerequisites for ensuring peoples' full participation in online social and economic activities and for the effective exercise of democratic citizenship. The value of quality content, in particular that provided by professional media, should be underlined in this context.

Growing numbers of people rely on the Internet and information and communication technologies (ICTs) as essential tools for their everyday activities (communication, information, knowledge, commercial transactions). People therefore expect the Internet and the ICT infrastructure and services to be accessible, affordable, secure, reliable and ongoing. Consequently, the Internet and other ICTs have high public service value.[2]

The Council of Europe ministers responsible for media and new communication services agreed to continue to develop the notion of the public service value of the Internet and, in that context, to explore, *inter alia*, the extent to which universal access to the Internet should be developed as part of member states' provision of public services.[3]

The ministers responsible for information society policy of the European Union member states and the European Economic Area agreed on the Granada Ministerial Declaration on the European Digital Agenda[4] (Granada Ministerial Declaration). Subsequently, in the framework of its communication "A Digital Agenda for Europe", the European Commission mapped out a number of action lines to boost the economic activity and deliver economic and social benefits to European citizens in the online environment.[5]

1. Resolution "Internet governance and critical Internet resources", adopted at the 1st Council of Europe Conference of Ministers responsible for Media and New Communication Services (Reykjavik, Iceland, 28-29 May 2009).
2. Recommendation CM/Rec(2007)16 of the Committee of Ministers to member states on measures to promote the public service value of the Internet.
3. Political Declaration and Action Plan adopted at the 1st Council of Europe Conference of Ministers responsible for Media and New Communication Services (Reykjavik, Iceland, 28-29 May 2009).
4. The Granada Ministerial Declaration on the European Digital Agenda was agreed on the occasion of the Informal Ministerial Meeting in Granada, Spain, 18 and 19 April 2010.
5. Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of Regions: "A Digital Agenda for Europe", COM(2010)245.

The Granada Ministerial Declaration and the Digital Agenda for Europe promote the public service value of the Internet by reaffirming and supporting related policy objectives. They set important benchmarks for its delivery to all citizens and seek also to bolster the digital economy for the benefit of both citizens and businesses alike, paving the way for the creation of a single market for online content and products in European Union member states. These texts also promote ICT research and innovation strategies in the provision of public services and in addressing education, environmental, energy, health and demographic challenges.

Emphasis is also placed on users as active participants in, and competent contributors to, the development of the digital society and innovation. Considerable importance is attached to empowering users to fully exploit the economic, social and cultural opportunities and benefits offered by the Internet and ICTs.

The Granada Ministerial Declaration and the Digital Agenda for Europe suggest developing further the creation, production and dissemination of creative content, including that of a cultural and journalistic nature in the online environment. In this respect, they signal, *inter alia,* the need to embrace innovative intellectual property-related business models. Furthermore, they confirm the relevance of public policies on the digitisation and dissemination of European cultural heritage for the promotion of the fundamental values of pluralism and of cultural and linguistic diversity.

A number of Council of Europe instruments on the protection and exercise of rights and fundamental freedoms on the Internet share the vision and the objectives of the action lines of the above-mentioned Granada Ministerial Declaration and the Digital Agenda for Europe. The commonality of goals pursued by the Council of Europe and the European Union on public policy issues related to Internet governance is also highlighted in the framework of the pan-European dialogue on Internet governance (EuroDIG), which the Council of Europe strongly supports.

The follow-up to Committee of Ministers' Recommendation CM/Rec(2007)16 to member states on measures to promote the public service value of the Internet is an important objective for Council of Europe member states. The member states' ministers responsible for media and new communication services have agreed to pursue co-operation on media and new communication services fields with a view to providing common responses to developments regarding the media and the provision of media-like services, in particular as regards the respect for freedom of expression and information, the right to private life and the dignity of human beings. They also agreed to explore a broader legal response to the need to protect the cross-border flow of media and media-like content and, more generally, Internet traffic.[6]

The Committee of Ministers therefore:

- welcomes the Granada Ministerial Declaration and the Digital Agenda for Europe, as well as the elaboration of policy initiatives aimed at implementing their forward-looking action lines;
- emphasises that the Council of Europe values of human rights, democracy and the rule of law are essential in the building of an inclusive and open pan-European digital society and declares that the Council of Europe will contribute to achieving this objective in the context of its work;
- encourages Council of Europe member states generally to promote the objectives of the Digital Agenda for Europe in their respective domestic activities as a means for promoting the public service value of the Internet and ICTs;
- invites the European Union to co-operate with the Council of Europe in this field.

6. Political Declaration, Action Plan and Resolution "Critical Internet Resources and Internet Governance", adopted at the 1st Council of Europe Conference of Ministers responsible for Media and New Communication Services (Reykjavik, Iceland, 28-29 May 2009).

Declaration of the Committee of Ministers on network neutrality

(Adopted by the Committee of Ministers on 29 September 2010 at the 1094th meeting of the Ministers' Deputies)

1. The member states of the Council of Europe have repeatedly expressed their commitment to the protection and promotion of human rights on the Internet. This applies in particular to the fundamental rights to freedom of expression and information regardless of frontiers, the right to respect for private life and correspondence, the right to freedom of thought and religion, the right to freedom of association, the right to education and the right to the protection of property, as well as to related procedural rights guaranteed by the European Convention on Human Rights (ETS No. 5).

2. Recommendation CM/Rec(2007)16 of the Committee of Ministers to member states on measures to promote the public service value of the Internet underlines people's significant reliance on the Internet as an essential tool for their everyday activities (communication, information, knowledge, commercial transactions) and the resulting legitimate expectation that Internet services be accessible and affordable, secure, reliable and ongoing.

3. Electronic communication networks have become basic tools for the free exchange of ideas and information. They help to ensure freedom of expression and access to information, pluralism and diversity and contribute to the enjoyment of a range of fundamental rights. A competitive and dynamic environment may encourage innovation, increasing network availability and performance and lowering costs, and can promote the free circulation of a wide range of content and services on the Internet. However, users' right to access and distribute information online and the development of new tools and services might be adversely affected by non-transparent traffic management, content and services' discrimination or impeding connectivity of devices.

4. Users should have the greatest possible access to Internet-based content, applications and services of their choice, whether or not they are offered free of charge, using suitable devices of their choice. Such a general principle, commonly referred to as network neutrality, should apply irrespective of the infrastructure or the network used for Internet connectivity. Access to infrastructure is a prerequisite for the realisation of this objective.

5. There is an exponential increase in Internet traffic due to the growing number of users and new applications, content and services that take up more bandwidth than ever before. The connectivity of existing types of devices is broadened as regards networks and infrastructure, and new types of devices are connected. In this context, operators of electronic communication networks may have to manage Internet traffic. This management may relate to quality of service, the development of new services, network stability and resilience or combating cybercrime.

6. In so far as it is necessary in the context described above, traffic management should not be seen as a departure from the principle of network neutrality. However, exceptions to this principle should be considered with great circumspection and need to be justified by overriding public interests. In this context, member states should pay due attention to the provisions of Article 10 of the European Convention on Human Rights and the related case law of the European Court of Human Rights. Member states may also find it useful to refer to the guidelines of Recommendation CM/Rec(2008)6 of the Committee of Ministers to member states on measures to promote the respect for freedom of expression and information with regard to Internet filters.

7. Reference might also be made in this context to the European Union regulatory framework on electronic communications whereby national regulatory authorities are tasked with promoting users' ability to access and distribute information and to run applications and services of their choice.

8. Users and service, application or content providers should be able to gauge the impact of network management measures on the enjoyment of fundamental rights and freedoms, in particular the rights to freedom of expression and to impart or receive information regardless of frontiers, as well as the right to respect for private life. Those measures should be proportionate, appropriate and avoid unjustified discrimination; they should be subject to periodic review and not be maintained longer than strictly necessary. Users and service providers should be adequately informed about any network management measures that affect in a significant way access to content, applications or services. As regards procedural safeguards, there should be adequate avenues, respectful of rule of law requirements, to challenge network management decisions and, where appropriate, there should be adequate avenues to seek redress.

9. The Committee of Ministers declares its commitment to the principle of network neutrality and underlines that any exceptions to this principle should comply with the requirements set out above. This subject should be explored further within a Council of Europe framework with a view to providing guidance to member states and/or to facilitating the elaboration of guidelines with and for private sector actors in order to define more precisely acceptable management measures and minimum quality-of-service requirements.

Declaration of the Committee of Ministers on the management of the Internet protocol address resources in the public interest

(Adopted by the Committee of Ministers on 29 September 2010 at the 1094th meeting of the Ministers' Deputies)

1. Fundamental rights and Council of Europe standards and values apply to online information and communication environments, and in particular to the Internet, as much as they do to the offline world. This stems, *inter alia*, from Article 1 of the European Convention on Human Rights ("the Convention" – ETS No. 5) whereby member states undertake to "secure to everyone within their jurisdiction" the rights and freedoms protected by the Convention (without online/offline distinction).[1]

2. The right to respect for private life and the right to freedom of expression and access to information, guaranteed respectively by Articles 8 and 10 of the Convention, are fundamental requirements in a democratic society and are highly relevant to online environments.

3. Access to Internet resources is indeed crucial for the exercise and full enjoyment of the fundamental right to freedom of expression and for access to information. The lack of users' confidence in respect of their privacy may discourage full participation in online activities.

4. The Internet has public service value, understood as people's significant reliance on the Internet as an essential tool for their everyday activities and the resulting legitimate expectation that Internet services be accessible and affordable, secure, reliable and ongoing. In co-operation with relevant stakeholders, Council of Europe member states should take all necessary measures to promote the public service value of the Internet. They should, *inter alia*, encourage the private sector to contribute to promoting the delivery of the public service value of the Internet to everyone and develop public policies to supplement the operation of market forces where these are insufficient.[2]

5. Internet protocol addresses are essential for the functioning of the Internet. Their technical architecture and allocation have a bearing on the exercise of fundamental rights and freedoms. The identification features incorporated into the Internet protocol addresses of devices used to connect to the Internet allow for the profiling of users' activities and communications. Traffic data generated as a result of the use of mobile devices and other objects connected by means of Internet protocols may be misused or subjected to unwarranted supervision.

1. Resolution "Internet governance and critical Internet resources", adopted at the 1st Council of Europe Conference of Ministers responsible for Media and New Communication Services (Reykjavik, Iceland, 28-29 May 2009).
2. Recommendation CM/Rec(2007)16 of the Committee of Ministers to member states on measures to promote the public service value of the Internet.

6. To the extent that information on users' activities and communications, as well as traffic data, amount to personal data,[3] they should be treated and used in full compliance with the requirements of the right to respect for private life guaranteed under Article 8 of the Convention and the related case law of the European Court of Human Rights. The principles enshrined in the Council of Europe Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (ETS No. 108) are also relevant in this connection.

7. Internet protocol version 4 (IPv4) addresses are a scarce resource, nearing exhaustion. This poses challenges in respect of the continuing expansion of the Internet and to its ongoing functioning. It would be desirable that unallocated or unused IPv4 addresses are managed in the public interest. The objective should be to offer to everyone stable and ongoing access to Internet resources.

8. This scarcity of addresses will be resolved by the new Internet protocol version 6 (IPv6) which offers a far larger address space. In addition to its potential for triggering growth in Internet services and applications and improved built-in security, IPv6 offers an excellent opportunity to facilitate effective and equitable access for all persons to new communication services. It can also play an important part in improving access to education and knowledge. It is therefore important to support the least developed countries in building information technology infrastructures with a view to achieving an inclusive information society and bridging the digital divide.

9. However, IPv6 is not backwards compatible with IPv4. This issue should be addressed in an appropriate manner. It is important to prepare for the application of the technical parameters of IPv6 and to implement them in a timely and effective fashion in all sectors. All stakeholders, whether state authorities or non-state actors, should recognise the importance of interoperability requirements of the new protocol at both hardware and software level.

10. States can make a considerable contribution to the transition both in the context of their own responsibility for implementing IPv6 in the public sector and by fostering greater synergy among non-state actors in the adoption of IPv6 in their activities. States should, in particular, create an enabling environment for the private sector to play its growth-driving role and encourage the preparation for migration to and deployment of IPv6. This should build on existing positive institutional arrangements for Internet protocol address allocation.

11. The Committee of Ministers, therefore, declares that:

- Internet protocol address resources should be regarded as shared public resources and allocated and managed in the public interest by the entities entrusted with these tasks, taking into account the present and future needs of Internet users;
- timely and effective deployment of IPv6 in the public sector should be ensured and swift preparations for migration to and deployment of IPv6 in the private sector should be encouraged and promoted;
- as appropriate, identification features incorporated into Internet protocol addresses that are assigned to Internet users or devices connected to the Internet should be regarded and treated as personal data.

3. According to Article 2 of the Council of Europe Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (ETS No. 108) "personal data" means any information relating to an identified or identifiable individual.

Declaration by the Committee of Ministers on the protection of freedom of expression and information and freedom of assembly and association with regard to Internet domain names and name strings

(Adopted by the Committee of Ministers on 21 September 2011 at the 1121st meeting of the Ministers' Deputies)

1. Freedom of expression and the right to receive and impart information, and their corollary, the freedom of the media, are indispensable for genuine democracy and democratic processes, as is freedom of assembly and association. All Council of Europe member states have undertaken to secure these freedoms to everyone within their jurisdiction in accordance with Articles 10 and 11 of the European Convention on Human Rights (ETS No. 5).

2. The Internet offers significant opportunities to enhance the exercise and full enjoyment of human rights and freedoms. The Committee of Ministers affirmed the public service value of the Internet in Recommendation CM/Rec(2007)16 on measures to promote the public service value of the Internet and provided guidelines to member states on necessary measures that should be taken to promote this value. The United Nations Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression has recently rightly stated that "by acting as a catalyst for individuals to exercise their right to freedom of opinion and expression, the Internet also facilitates the realisation of a range of other human rights".

3. Citizens' communication and interaction in online environments and their participation in activities that involve matters of public interest can bring positive, real-life, social change. When freedom of expression and the right to receive and impart information and freedom of assembly are not upheld online, their protection offline is likely to be undermined and democracy and the rule of law can also be compromised.

4. Action by a state that limits or forbids access to specific Internet content constitutes an interference with freedom of expression and the right to receive and impart information. In Europe, such an interference can only be justified if it fulfils the conditions of Article 10, paragraph 2, of the European Convention on Human Rights and the relevant case law of the European Court of Human Rights.

5. In particular, as specified in Principle 3 of the Declaration of the Committee of Ministers on freedom of communication on the Internet of 28 May 2003, states should not, through general blocking or filtering measures, exercise prior control of content made available on the Internet unless such measures are taken on the basis of a provisional or final decision on the illegality of such content by the competent national authorities and in full respect for the strict conditions of Article 10, paragraph 2, of the European Convention on Human Rights. These measures should concern clearly identifiable content and should be proportionate. This should not prevent the installation of filters for the protection of minors, in particular in places accessible to them, such as schools or libraries.

6. The Committee of Ministers has stated, in its Declaration on human rights and the rule of law in the Information Society of 13 May 2005, that member states should maintain and enhance legal and practical measures to prevent state and private censorship. In addition, Recommendation CM/Rec(2008)6 of the Committee of Ministers to member states on measures to promote the respect for freedom of expression and information with regard to Internet filters includes guidelines for using and controlling Internet filters in general, and more specifically in relation to the protection of children and young people.

7. Expressions contained in the names of Internet websites, such as domain names and name strings, should not, a priori, be excluded from the scope of application of legal standards on freedom of expression and the right to receive and impart information and should, therefore, benefit from a presumption in their favour. The addressing function of domain names and name strings and the forms of expressions that they comprise, as well as the content that they relate to, are inextricably intertwined. More specifically, individuals or operators of websites may choose to use a particular domain name or name string to identify and describe content hosted in their websites, to disseminate a particular point of view or to create spaces for communication, interaction, assembly and association for various societal groups or communities.

8. The need to provide safeguards for freedom of expression in legal frameworks related to the management of domain names which identify a country in the Internet addressing system has been affirmed by constitutional oversight bodies of specific Council of Europe member states.

9. On the other hand, instances of measures proposed in other Council of Europe member states to prohibit the use of certain words or characters in domain names and name strings are a source of concern. They may raise issues under Articles 10 and 11 of the European Convention on Human Rights within their own jurisdiction. In a cross-border context they may have an impact on content accessible in other states' territories. They may also set negative precedents which, if replicated and generalised, could thwart the vitality of Internet expression and have devastating effects on Internet freedom.

10. The protection of freedom of expression and the right to receive and impart information and freedom of assembly and association is relevant to policy development processes which are taking place in the Internet Corporation for Assigned Names and Numbers (ICANN) to expand the domain name space so as to include new top-level domain extensions that contain generic expressions. In this context, state and non-state stakeholders should be attentive to and uphold the guarantees in international law on freedom of expression and the right to receive and impart information and on freedom of assembly and association, to the extent that they apply to certain generic expressions that may be proposed in the future as top-level domain names. These considerations should guide relevant policy development and implementation processes.

11. Against this background, the Committee of Ministers:

- declares its support for the recognition by member states of the need to apply fundamental rights safeguards to the management of domain names;
- alerts to the risk which over-regulation of the domain name space and name strings entails for the exercise of freedom of expression and the right to receive and impart information and of freedom of assembly and association; as a form of interference, any regulation should meet the conditions of Articles 10 and 11 of the European Convention on Human Rights and the related case law of the European Court of Human Rights;
- undertakes to pursue further standard-setting work with a view to providing guidance to member states on this subject;
- recalls the Resolution on Internet governance and critical Internet resources adopted by the ministers of states participating in the 1st Council of Europe Conference of Ministers responsible for Media and New Communication Services held in Reykjavik on 28 and 29 May 2009, and invites the competent Council of Europe bodies to work with relevant corporations, agencies and other entities that manage or contribute to the management of the domain name space in order for decisions to take full account of international law, including international human rights law.

Declaration by the Committee of Ministers on Internet governance principles

(Adopted by the Committee of Ministers on 21 September 2011 at the 1121st meeting of the Ministers' Deputies)

1. The Internet is an aggregate of a vast range of ideas, technologies, resources and policies developed on the assertion of freedom and through collective endeavours in the common interest. States, the private sector, civil society and individuals have all contributed to build the dynamic, inclusive and successful Internet that we know today. The Internet provides a space of freedom, facilitating the exercise and enjoyment of fundamental rights, participatory and democratic processes, and social and commercial activities.

2. The above has inspired a shared vision of Internet governance which was put on record in the Declaration of Principles enunciated in the Geneva phase of the World Summit on the Information Society in December 2003. The Tunis Agenda, adopted at the second phase of the World Summit on the Information Society in November 2005, defined Internet governance as the development and application by governments, the private sector and civil society, in their respective roles, of shared principles, norms, rules, decision-making procedures and programmes that shape the evolution and use of the Internet.

3. The Internet governance discussions taking place in different national and international fora are a tangible result of this vision. They have fostered dialogue among state, private sector and civil society actors and contributed to shape common views on Internet policies and, more broadly, Internet governance. Seeking to preserve and consolidate this approach, Internet communities, international organisations and other actors have engaged in efforts to pronounce the core values of the Internet and have developed guidelines on various aspects of Internet governance.

4. The Council of Europe has participated in these processes and its 47 member states have supported, in a number of standard-setting instruments, measures aimed at ensuring a maximum of rights on the Internet subject to a minimum of restrictions, while offering the level of security that people are entitled to expect. This stems from the Council of Europe member states' undertaking to secure to everyone within their jurisdiction the rights and freedoms protected by the Convention for the Protection of Human Rights and Fundamental Freedoms (ETS No. 5).

5. In order to ensure a sustainable, people-centred and rights-based approach to the Internet, it is necessary to affirm the principles of Internet governance which acknowledge human rights and fundamental freedoms, democracy and the rule of law, as well as the basic tenets of Internet communities as they have been developed in the processes mentioned above.

6. As a contribution to this ongoing, inclusive, collaborative and open process, the Committee of Ministers of the Council of Europe:

- affirms the principles set out below, which build on Internet governance principles progressively developed by stakeholders and Internet communities;
- declares its firm commitment to these principles and underlines that they should be upheld by all member states in the context of developing national and international Internet-related policies;
- encourages other stakeholders to embrace them in the exercise of their own responsibilities.

INTERNET GOVERNANCE PRINCIPLES

1. Human rights, democracy and the rule of law

Internet governance arrangements must ensure the protection of all fundamental rights and freedoms and affirm their universality, indivisibility, interdependence and interrelation in accordance with international human rights law. They must also ensure full respect for democracy and the rule of law and should promote sustainable development. All public and private actors should recognise and uphold human rights and fundamental freedoms in their operations and activities, as well as in the design of new technologies, services and applications. They should be aware of developments leading to the enhancement of, as well as threats to, fundamental rights and freedoms, and fully participate in efforts aimed at recognising newly emerging rights.

2. Multi-stakeholder governance

The development and implementation of Internet governance arrangements should ensure, in an open, transparent and accountable manner, the full participation of governments, the private sector, civil society, the technical community and users, taking into account their specific roles and responsibilities. The development of international Internet-related public policies and Internet governance arrangements should enable full and equal participation of all stakeholders from all countries.

3. Responsibilities of states

States have rights and responsibilities with regard to international Internet-related public policy issues. In the exercise of their sovereignty rights, states should, subject to international law, refrain from any action that would directly or indirectly harm persons or entities outside of their territorial jurisdiction. Furthermore, any national decision or action amounting to a restriction of fundamental rights should comply with international obligations and in particular be based on law, be necessary in a democratic society and fully respect the principles of proportionality and the right of independent appeal, surrounded by appropriate legal and due process safeguards.

4. Empowerment of Internet users

Users should be fully empowered to exercise their fundamental rights and freedoms, make informed decisions and participate in Internet governance arrangements, in particular in governance mechanisms and in the development of Internet-related public policy, in full confidence and freedom.

5. Universality of the Internet

Internet-related policies should recognise the global nature of the Internet and the objective of universal access. They should not adversely affect the unimpeded flow of transboundary Internet traffic.

6. Integrity of the Internet

The security, stability, robustness and resilience of the Internet as well as its ability to evolve should be the key objectives of Internet governance. In order to preserve the integrity and ongoing functioning of the Internet infrastructure, as well as users' trust and reliance on the Internet, it is necessary to promote national and international multi-stakeholder co-operation.

7. Decentralised management

The decentralised nature of the responsibility for the day-to-day management of the Internet should be preserved. The bodies responsible for the technical and management aspects of the Internet, as well as the private sector should retain their leading role in technical and operational matters while ensuring transparency and being accountable to the global community for those actions which have an impact on public policy.

8. Architectural principles

The open standards and the interoperability of the Internet as well as its end-to-end nature should be preserved. These principles should guide all stakeholders in their decisions related to Internet governance. There should be no unreasonable barriers to entry for new users or legitimate uses of the Internet, or unnecessary burdens which could affect the potential for innovation in respect of technologies and services.

9. Open network

Users should have the greatest possible access to Internet-based content, applications and services of their choice, whether or not they are offered free of charge, using suitable devices of their choice. Traffic management measures which have an impact on the enjoyment of fundamental rights and freedoms, in particular the right to freedom of expression and to impart and receive information regardless of frontiers, as well as the right to respect for private life, must meet the requirements of international law on the protection of freedom of expression and access to information, and the right to respect for private life.

10. Cultural and linguistic diversity

Preserving cultural and linguistic diversity and fostering the development of local content, regardless of language or script, should be key objectives of Internet-related policy and international co-operation, as well as in the development of new technologies.

Declaration of the Committee of Ministers on the protection of freedom of expression and freedom of assembly and association with regard to privately operated Internet platforms and online service providers

(Adopted by the Committee of Ministers on 7 December 2011 at the 1129th meeting of the Ministers' Deputies)

1. Freedom of expression and the right to receive and impart information and its corollary, freedom of the media, are indispensable for genuine democracy and democratic processes. Through their scrutiny and in the exercise of their watchdog role, the media provide checks and balances to the exercise of authority. The right to freedom of expression and information as well as freedom of the media must be guaranteed in full respect of Article 10 of the European Convention on Human Rights (ETS No. 5, hereinafter "the Convention"). The right to freedom of assembly and association is equally essential for people's participation in the public debate and their exercise of democratic citizenship, and it must be guaranteed in full respect of Article 11 of the Convention. All Council of Europe member states have undertaken, in Article 1 of the Convention, to "secure to everyone within their jurisdiction the rights and freedoms" protected by the Convention (without any online/offline distinction).

2. People, notably civil society representatives, whistleblowers and human rights defenders, increasingly rely on social networks, blogging websites and other means of mass communication in aggregate to access and exchange information, publish content, interact, communicate and associate with each other. These platforms are becoming an integral part of the new media ecosystem. Although privately operated, they are a significant part of the public sphere through facilitating debate on issues of public interest; in some cases, they can fulfil, similar to traditional media, the role of a social "watchdog" and have demonstrated their usefulness in bringing positive real-life change.

3. In addition to opportunities, there are challenges to the effective exercise of freedom of expression and to the right to impart and receive information in the new media ecosystem. Direct or indirect political influence or pressure on new media actors may lead to interference with the exercise of freedom of expression, access to information and transparency, not only at a national level but, given their global reach, also in a broader international context. Decisions concerning content can also impinge on the right to freedom of assembly and association.

4. Distributed denial-of-service attacks against websites of independent media, human rights defenders, dissidents, whistleblowers and other new media actors are also a matter of growing concern. These attacks represent an interference with freedom of expression and the right to impart and receive information and, in certain cases, with the right to freedom of association. Companies that provide web hosting services lack the incentive to continue hosting those websites if they fear that the latter will come under attack or if their content may be regarded as sensitive. Furthermore, the companies concerned are not immune to undue interference; their decisions sometimes stem from direct political pressure or from politically motivated economic compulsion, invoking justification on the basis of compliance with their terms of service.

5. These developments illustrate that free speech online is challenged in new ways and may fall victim to action taken by privately owned Internet platforms and online service providers. It is therefore necessary to affirm the role of these actors as facilitators of the exercise of the right to freedom of expression and the right to freedom of assembly and association.

6. Interference with content that is released into the public domain through these means or attempts to make entire websites inaccessible should be judged against international standards designed to secure the protection of freedom of expression and the right to impart and receive information, in particular the provisions of Article 10 of the Convention and the related case law of the European Court of Human Rights. Furthermore, impediments to interactions of specific interest communities should be measured against international standards on the right to freedom of assembly and association, in particular the provisions of Article 11 of the Convention and the related case law of the European Court of Human Rights.

7. The Committee of Ministers, therefore:

- alerts member states to the gravity of violations of Articles 10 and 11 of the European Convention on Human Rights which might result from politically motivated pressure exerted on privately operated Internet platforms and online service providers, and of other attacks against websites of independent media, human rights defenders, dissidents, whistleblowers and new media actors;
- underlines, in this context, the necessity to reinforce policies that uphold freedom of expression and the right to impart and receive information, as well as the right to freedom of assembly and association, having regard to the provisions of Articles 10 and 11 of the Convention and the related case law of the European Court of Human Rights;
- confirms its commitment to continue to work to address the challenges that these matters pose for the protection of freedom of expression and access to information.

Declaration of the Committee of Ministers on public service media governance

(Adopted by the Committee of Ministers on 15 February 2012 at the 1134th meeting of the Ministers' Deputies)

I. AS REGARDS PUBLIC SERVICE MEDIA IN A DEMOCRATIC SOCIETY

1. Freedom of expression, and free and pluralist media, are indispensable to genuine democracy. Media are the most important tool for freedom of expression in the public sphere, enabling people to exercise the right to seek and receive information. Council of Europe member states have undertaken to secure to everyone within their jurisdiction the fundamental right to freedom of expression and information, in accordance with Article 10 of the European Convention on Human Rights (ETS No. 5).

2. In a democratic society, people should be able to understand, contribute to and participate in the decision-making processes which concern them. Public service media play a fundamental part in sustaining this right through their mandate to ensure, via the relevant modes of delivery, universal access to impartial news and a diverse range of high-quality content which meets the needs of the wide variety of audiences.

3. The primary mission of public service media is to support general interest objectives such as social progress, public awareness of democratic processes, intercultural understanding and societal integration, and to achieve this through a varied and high-quality mix of content. As an important public source of unbiased information and diverse political opinions, public service media must remain independent from political or economic interference and achieve high editorial standards of impartiality, objectivity and fairness.

4. Public service media should be subject to constant public scrutiny and be accountable and transparent when performing their functions as they have the obligation to serve the public in all its diversity, including minority communities that would not be served in a purely commercial market. Public service media must also take into account the gender equality perspective in terms of both content and staff.

5. Editorially independent public service media help counterbalance the risk of misuse of power in a situation of excessive concentration of media, services and platforms.

6. For some public service media organisations, the transition from state broadcaster to public service media has yet to be completed. The challenge is both to secure independence from the state and also to earn the trust of the audience by using that independence to exercise genuine editorial autonomy. For all public service media, new skills and approaches will be needed to complement, or in some cases replace, long-established ways of functioning.

7. The Committee of Ministers has always provided unfaltering support for public service media, calling on member states to secure the necessary legal, political and organisational conditions for their independence and to provide adequate means for their functioning. In keeping with this, it has adopted Recommendation Rec(96)10 on the guarantee of the independence of public service broadcasting and Recommendation CM/Rec(2007)3 on the remit of public service media in the information society, as well as the Declaration on protecting the role of the media in democracy in the context of media concentration (31 January 2007), and has expressed its support for Parliamentary Assembly Recommendation 1878 (2009) on "The funding of public service broadcasting" (reply of 26 April 2010).

II. AS REGARDS PUBLIC SERVICE MEDIA IN A NEW MEDIA ENVIRONMENT

8. Media across Europe face rapid and profound change and, as a result, public service media find themselves in an unprecedented period of transition. The emergence of digital media brings about certain challenges to media as they strive to provide multimedia, interactive and non-linear services.

9. The development of new information and communication technologies gives public service media an unrivalled opportunity to fulfil their remit in new and more effective ways, allowing them to offer better-targeted and more interactive content and services. It also allows public service media to enter into a meaningful dialogue with their audiences, engaging them as stakeholders, participants and co-creators, rather than as simply passive recipients. This is particularly relevant to services aimed at youth, whose use of Internet-delivered, mobile and participatory media is significant. Successful adaptation and adoption of new platforms assist public service media in fulfilling additional purposes within their public service remit.

III. AS REGARDS THE NEED FOR AN EFFECTIVE NEW SYSTEM OF GOVERNANCE

10. A robust and forward-looking system of governance is essential for the successful transition of public service media to a new media environment. Public service media need to show that their own governance systems subject any decision to proper scrutiny, while ensuring that any external oversight (by governments or independent regulators) do not undermine the organisation's independence. As is also the case for public service media undergoing a transition from state to public institutions, it is essential to define the necessary levels of independence from the state. This should be balanced by accountability to a wide range of stakeholders and coupled with a culture that is open to new ideas and which demonstrates high levels of professional integrity. For public service media seeking to justify continuing levels of public funding, it is important to demonstrate that funding decisions and resource allocations are focused entirely on meeting public needs of all citizens, irrespective of their gender and background, and that the organisation's assessment of its future requirements is rooted in its public service remit.

11. An appropriate system of governance is a decisive factor in the ability of both member states and the public service media they support to meet these and future challenges, and take full advantage of the new opportunities offered by digital technologies and platforms. The effective governance of public service media, to the equal benefit of all members of the public, is an important element and a specific example of the larger concept of good governance in democratic society. In order to fulfil its role, governance should expand beyond the narrow understanding of the concept as related to appointment procedures and the composition of boards of public service media. Governance should therefore be broadly defined so as to include:

- the legal frameworks through which the state ensures an appropriate balance between the independence and accountability of public service media;
- the regulations and practices through which public service media ensure that their processes and culture are the most appropriate to fulfil their remit and best serve the public interest;
- an active and meaningful dialogue with its wider stakeholders including new levels of interaction, engagement and participation.

12. A properly functioning governance system depends on a number of conditions. These include the processes through which the support of the key stakeholders – including the state – is secured, the existence of an appropriate level of independence from government or other public and private interests, and the procedural guarantees ensuring that the decisions of public service media are consistent with their remit, are properly taken and fully implemented.

13. It is of great concern for all member states that public service media governance should be addressed, and where necessary rethought and reconstructed, so as to ensure that public service media can take advantage of the new possibilities to overcome present and future challenges and obstacles.

14. The Committee of Ministers therefore:

- declares that the duty of public service media to promote the values of democracy and diversity within and through their content and services remains of utmost importance in the new dynamic media environment. Public service media play a vital role in supporting such non-commercial objectives as social progress, public interest and ability to engage with democratic processes, gender equality, intercultural understanding and societal integration. These can be achieved through a

varied and high-quality mix of content and services adhering to the highest professional standards which public service media have offered and will continue to deliver;

– alerts member states to the risks to pluralism and diversity in the media and, in consequence, to democratic debate and engagement, should the current model which includes public service, commercial and community media not be preserved and if the transitions from State to public service and from broadcasting to public service media are not successfully completed;

– reiterates member states' commitment to firmly support the remit, funding, editorial and organisational independence of public service media operating on any relevant platform, and underlines the importance of this support which has not always been uniformly thorough and sufficiently timely;

– encourages the establishment of dialogue at different levels with all stakeholders, including civil society and the public at large.

Declaration of the Committee of Ministers on the desirability of international standards dealing with forum shopping in respect of defamation, "Libel Tourism", to ensure freedom of expression

(Adopted by the Committee of Ministers on 4 July 2012 at the 1147th meeting of the Ministers' Deputies)

1. The full respect for the right of all individuals to receive and impart information, ideas and opinions, without interference by public authorities and regardless of frontiers constitutes one of the fundamental principles upon which a democratic society is based. This is enshrined in the provisions of Article 10 of the European Convention on Human Rights ("the Convention", ETS No. 5). Freedom of expression and information in the media is an essential requirement of democracy. Public participation in the democratic decision-making process requires the public to be well informed and to have the possibility of freely discussing different opinions.

2. Article 10 of the Convention also states that the right to freedom of expression "carries with it duties and responsibilities". However, states may only limit the exercise of this right to protect the reputation or rights of others, as long as these limitations are "prescribed by law and are necessary in a democratic society". In this respect, in its reply to Parliamentary Assembly Recommendation 1814 (2007) "Towards decriminalisation of defamation", adopted on 7 October 2009, the Committee of Ministers endorsed the Parliamentary Assembly's views and called on member states to take a proactive approach in respect of defamation by examining domestic legislation against the case law of the European Court of Human Rights ("the Court") and, where appropriate, aligning criminal, administrative and civil legislation with those standards. Furthermore, the Committee of Ministers recalled Parliamentary Assembly Recommendation 1589 (2003) on "Freedom of expression in the media in Europe".

3. The European Commission of Human Rights and the Court have, in several cases, reaffirmed a number of principles that stem from paragraphs 1 and 2 of Article 10. The media play an essential role in democratic societies, providing the public with information and acting as a watchdog,[1] exposing wrongdoing and inspiring political debate, and therefore have specific rights. The media's purpose is to impart information and ideas on all matters of public interest.[2] Their impact and ability to put certain issues on the public agenda entails responsibilities and obligations. Among these is to respect the reputation and rights of others and their right to a private life. Furthermore, "subject to paragraph 2 of Article 10 (art. 10-2), [freedom of expression] is applicable not only to 'information' or 'ideas' that are favourably received or regarded as inoffensive or as a matter of indifference, but also to those that offend, shock or disturb the State or any sector of the population".[3]

1. Goodwin v. United Kingdom, European Court of Human Rights, 27 March 1996, paragraph 39.
2. De Haes and Gijsels v. Belgium, European Court of Human Rights, 24 February 1997, paragraph 37.
3. Handyside v. United Kingdom, European Court of Human Rights, 7 December 1976, paragraph 49.

4. In defamation cases, a fine balance must be struck between guaranteeing the fundamental right to freedom of expression and protecting a person's honour and reputation. The proportionality of this balance is judged differently in different member states within the Council of Europe. This has led to substantial variations in the stringency of defamation law or case law, for example different degrees of attributed damages and procedural costs, varying definitions of first publication and the related statute of limitations or the reversal of the burden of proof in some jurisdictions. The Court has established case law in this respect: "In determining the length of any limitation period, the protection of the right to freedom of expression enjoyed by the press should be balanced against the rights of individuals to protect their reputations and, where necessary, to have access to a court in order to do so. It is, in principle, for Contracting states, in the exercise of their margin of appreciation, to set a limitation period which is appropriate and to provide for any cases in which an exception to the prescribed limitation period may be permitted".[4]

LIBEL TOURISM AND ITS RISKS

5. The existing differences between national defamation laws and the special jurisdiction rules in tort and criminal cases have given rise to the phenomenon known as "libel tourism". Libel tourism is a form of "forum shopping" when a complainant files a complaint with the court thought most likely to provide a favourable judgment (including in default cases) and where it is easy to sue. In some cases a jurisdiction is chosen by a complainant because the legal fees of the applicant are contingent on the outcome ("no win, no fee") and/or because the mere cost of the procedure could have a dissuasive effect on the defendant. The risk of forum shopping in cases of defamation has been exacerbated as a consequence of increased globalisation and the persistent accessibility of content and archives on the Internet.[5]

6. Anti-defamation laws can pursue legitimate aims when applied in line with the case law of the Court, including as far as criminal defamation is concerned. However, disproportionate application of these laws may have a chilling effect and restrict freedom of expression and information. The improper use of these laws affects all those who wish to avail themselves of the freedom of expression, especially journalists, other media professionals and academics. It can also have a detrimental effect, for example on the preservation of information, if content is withdrawn from the Internet due to threats of defamation procedures. In some cases libel tourism may be seen as the attempt to intimidate and silence critical or investigative media purely on the basis of the financial strength of the complainant ("inequality of arms"). In other cases the very existence of small media providers has been affected by the deliberate use of disproportionate damages by claimants through libel tourism. This shows that libel tourism can even have detrimental effects on media pluralism and diversity. Ultimately, the whole of society suffers the consequences of the pressure that may be placed on journalists and media service providers. The Court has developed a body of case law that advocates respect for the principle of proportionality in the use of fines payable in respect of damages and considers that a disproportionately large award constitutes a violation of Article 10 of the Convention.[6] The Committee of Ministers also stated this in its Declaration on Freedom of Political Debate in the Media of 12 February 2004.[7]

7. Libel tourism is an issue of growing concern for Council of Europe member states as it challenges a number of essential rights protected by the Convention such as Article 10 (freedom of expression), Article 6 (right to a fair trial) and Article 8 (right to respect for private and family life).

8. Given the wide variety of defamation standards, court practices, freedom of speech standards and a readiness of courts to accept jurisdiction in libel cases, it is often impossible to predict where a defamation/libel claim will be filed. This is especially true for web-based publications. Libel tourism thereby also demonstrates elements of unfairness. There is a general need for increased predictability of jurisdiction, especially for journalists, academics and the media.

9. The situation described in the previous paragraph has been criticised in many instances. Further, in a 2011 Joint Declaration, the United Nations (UN) Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Organisation for Security and Co-operation in Europe (OSCE) Representative on freedom of the media, the Organisation of American States (OAS) Special Rapporteur on freedom of expression and the African Commission on Human and Peoples' Rights (ACHPR) Special

4. Times Newspapers Ltd. (Nos. 1 and 2) v. United Kingdom, European Court of Human Rights, 10 March 2009, paragraph 46.
5. Times Newspapers Ltd. (Nos. 1 and 2) v. United Kingdom, European Court of Human Rights, paragraph 45.
6. Tolstoy Miloslavsky v. United Kingdom, European Court of Human Rights, 13 July 1995, paragraph 51.
7. "Damages and fines for defamation or insult must bear a reasonable relationship of proportionality to the violation of the rights or reputation of others, taking into consideration any possible effective and adequate voluntary remedies that have been granted by the media and accepted by the persons concerned."

Rapporteur on freedom of expression and access to information in Africa stated that jurisdiction in legal cases relating to Internet content should be restricted to states to which those cases have a real and substantial connection.

10. Procedural costs may discourage defendants from presenting a defence thus leading to default judgments. Compensations may be considered disproportionate in the member state where the claim is being enforced due to the failure to strike an appropriate balance between freedom of expression and protection of the honour and reputation of persons.

MEASURES TO PREVENT LIBEL TOURISM

11. The prevention of libel tourism should be part of the reform of the legislation on libel/defamation in member States in order to ensure better protection of the freedom of expression and information within a system that strikes a balance between competing human rights.

12. With a view to further strengthening the freedom of expression and information in member states, an "inventory" of the Court's case law in respect of defamation could be established with a view to suggesting new action if need be. Further, if there is a lack of clear rules as to the applicable law and indicators for the determination of the personal and subject matter jurisdiction, such rules should be created to enhance legal predictability and certainty, in line with the requirements set out in the case law of the Court. Finally, clear rules as to the proportionality of damages in defamation cases are highly desirable.

13. Against this background, the Committee of Ministers:

- alerts member States to the fact that libel tourism constitutes a serious threat to the freedom of expression and information;
- acknowledges the necessity to provide appropriate legal guarantees against awards for damages and interest that are disproportionate to the actual injury, and to align national law provisions with the case law of the Court;
- undertakes to pursue further standard-setting work with a view to providing guidance to member States.

Declaration of the committee of Ministers on risks to fundamental rights stemming from digital tracking and other surveillance technologies

(Adopted by the Committee of Ministers on 11 June 2013 at the 1173rd meeting of the Ministers' Deputies)

1. The propensity to interfere with the right to private life has significantly increased as a result of rapid technological development and of legal frameworks which are slow to adapt.

2. Data processing in the information society which is carried out without the necessary safeguards and security can raise major human rights related concerns. Legislation allowing broad surveillance of citizens can be found contrary to the right to respect of private life. These capabilities and practices can have a chilling effect on citizen participation in social, cultural and political life and, in the longer term, could have damaging effects on democracy. They can also undermine the confidentiality rights associated to certain professions, such as the protection of journalists' sources, and even threaten the safety of the persons concerned. More generally, they can endanger the exercise of freedom of expression and the right to receive and impart information protected under Article 10 of the European Convention on Human Rights.

3. In this connection, it is recalled that, in accordance with Article 8 of the European Convention on Human Rights, Council of Europe member states have undertaken to secure to everyone within their jurisdiction the right to respect of private and family life, home and correspondence. Restrictions to this right can only be justified when it is necessary in a democratic society, in accordance with the law and for one of the limited purposes set out in Article 8, paragraph 2, of the Convention.

4. As a corollary to the Convention and relevant case law of the European Court of Human Rights, member states have negative obligations, that is, to refrain from interference with fundamental rights, and positive obligations, that is, to actively protect these rights. This includes the protection of individuals from action by non-state actors.

5. People nowadays rely on a growing range of both fixed-location and mobile electronic devices which enhance their possibilities to communicate, participate and manage their everyday lives. However, a growing number of these devices are equipped with software that are capable of collecting and storing data, including personal data (e.g. keystrokes that reveal passwords) and private information such as user generated content, websites visited, and geographical locations that potentially allow tracking and surveillance of people. This data can reveal delicate and/or sensitive personal information (such as financial, health, political, religious preferences, sexual habits) which can be aggregated to provide detailed and intimate profiles of them.

6. Tracking and surveillance technologies can be used in the pursuit of legitimate interests, for example to develop new services, improve user experience or facilitate network management, as well as law enforcement. On the other hand, they may also be used for unlawful purposes that lead to illegal access, data interception or interference, system surveillance, and misuse of devices or other forms of malpractice; for example, geo-location tracking could be used to stalk women and make them more vulnerable to gender-related abuse and violence.

7. In all cases, the modalities for processing personal data should comply with relevant Council of Europe standards. This implies ensuring that law enforcement's own tracking and surveillance measures respect the applicable human rights safeguards, which should provide for the adequate protection of human rights and liberties, including rights arising pursuant to obligations undertaken under the 1950 Council of Europe Convention for the Protection of Human Rights and Fundamental Freedoms, the 1966 United Nations International Covenant on Civil and Political Rights, and other applicable international human rights instruments, and which should incorporate the principle of proportionality. It also concerns strict respect for the limits, requirements and safeguards set out in the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (ETS No. 108) and in its Additional Protocol as well as regard for other instruments such as Recommendation CM/Rec(2010)13 on the protection of personal data in the context of profiling.

8. Against this background, the Committee of Ministers:

- alerts member states to the risks of digital tracking and other surveillance technologies for human rights, democracy and the rule of law and recalls the need to guarantee their legitimate use which benefits individuals, the economy, society at large, and the needs of law enforcement;
- encourages member states to bear these risks in mind in their bilateral discussions with third countries, and, where necessary, consider the introduction of suitable export controls to prevent the misuse of technology to undermine those standards;
- welcomes steps taken by data protection authorities in some member states to raise awareness of the implications of tracking and surveillance technologies and to investigate these practices to ensure compliance with the provisions of Convention No. 108 and their national legislations;
- draws attention to the criminal law implications of unlawful surveillance and tracking activities in cyberspace and the relevance of the Budapest Convention in combating cybercrime;
- welcomes measures taken by both state and non-state actors to raise awareness among users, and, a fortiori, within the private sector and among technology developers about the potential impact of the use of such technologies on human rights and the steps which can be taken at the design stage to minimise the risks of interferences with these rights and freedoms (e.g. "privacy by design" and "privacy by default");
- recalls the Council of Europe Internet Governance Strategy 2012-2015 which includes a number of action lines relevant to the challenges identified in this Declaration and looks forward to the concrete results of the work of the competent Council of Europe bodies.

Declaration of the Committee of Ministers on the protection of journalism and safety of journalists and other media actors[1]

(Adopted by the Committee of Ministers on 30 April 2014 at the 1198th meeting of the Ministers' Deputies)

1. Journalists and other media actors in Europe are increasingly being harassed, intimidated, deprived of their liberty, physically attacked and even killed because of their investigative work, opinions or reporting. These abuses and crimes are often met with insufficient efforts by relevant State authorities to bring the perpetrators to justice, which leads to a culture of impunity.

2. This alarming situation is not exclusively limited to professional journalists and other traditional media actors. As many intergovernmental bodies have recognised, including the United Nations Human Rights Committee in its General comment No. 34,[2] the scope of media actors has enlarged as a result of new forms of media in the digital age.[3] Those at risk also include others who contribute to inform the public debate and persons performing journalistic activity or public watchdog functions.

3. The right to freedom of expression, to receive and impart information, ideas and opinions without interference is guaranteed by Article 10 of the European Convention on Human Rights (ETS No. 5, the "Convention"); it constitutes one of the fundamental principles upon which a democratic society is based. The public watchdog functions of the media are crucial for upholding these rights and for the protection of all other human rights. Misuse of power, corruption, discrimination, criminal activity or human rights violations have come to light as a direct result of the work of investigative journalists and other media actors. Making the facts known to the public is essential for redressing such situations and holding to account those responsible.

4. Journalists and others who perform public watchdog functions through the media are often in a vulnerable position vis-à-vis the public authorities or powerful interests groups because of their role in informing the public and provoking debate on issues of public interest. Obstacles created in order to hinder access to information of public interest may not only discourage journalists and other media actors from fulfilling their public watchdog role,[4] but may also have negative effects on their safety and security.

5. Attacks against journalists and other media actors constitute particularly serious violations of human rights because they target not only individuals, but deprive others of their right to receive information, thus restricting public debate, which is at the very heart of pluralist democracy.

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1. The Russian Federation made a reservation concerning this Committee of Ministers' Declaration, specifically denying its application to "other media actors", as it considers this term to be unspecific and without any basis in binding international legal documents.
2. General Comment No. 34, point 44: "Journalism is a function shared by a wide range of actors, including professional full-time reporters and analysts, as well as bloggers and others who engage in forms of self-publication in print, on the Internet or elsewhere, and general State systems of registration or licensing of journalists are incompatible with paragraph 3. Limited accreditation schemes are permissible only where necessary to provide journalists with privileged access to certain places and/or events. Such schemes should be applied in a manner that is non-discriminatory and compatible with Article 19 and other provisions of the International Covenant on Civil and Political Rights, based on objective criteria and taking into account that journalism is a function shared by a wide range of actors."
3. See Committee of Ministers' Recommendation CM/Rec(2011)7 to member states on a new notion of media.
4. See in this regard *Társaság a Szabadságjogokért v. Hungary*, Application No. 37374/05, judgment of 14 April 2009, paragraph 38.

6. The European Court of Human Rights has held that the role played by journalists in a democratic society confers upon them certain increased protections under Article 10 of the Convention. The exercise of media freedom, including in relation to matters of serious public concern, also involves duties and responsibilities. The safeguard afforded by Article 10 to journalists in relation to reporting on issues of general interest is subject to the proviso that they are acting in good faith in order to provide accurate and reliable information in accordance with the ethics of journalism.[5]

7. The European Court of Human Rights has established that states are required to create a favourable environment for participation in public debate by all persons, enabling them to express their opinions and ideas without fear.[6] To do this, states must not only refrain from interference with individuals' freedom of expression, but are also under a positive obligation to protect their right to freedom of expression against the threat of attack, including from private individuals, by putting in place an effective system of protection.

8. Eradicating impunity is a crucial obligation upon states, as a matter of justice for the victims, as a deterrent with respect to future human rights violations and in order to uphold the rule of law and public trust in the justice system.[7] All attacks on journalists and other media actors should be vigorously investigated in a timely fashion and the perpetrators prosecuted. The effective investigation of such attacks requires that any possible link to journalistic activities be duly taken into account in a transparent manner.

9. A favourable environment for public debate requires states to refrain from judicial intimidation by restricting the right of individuals to disclose information of public interest through arbitrary or disproportionate application of the law, in particular the criminal law provisions relating to defamation, national security or terrorism. The arbitrary use of laws creates a chilling effect on the exercise of the right to impart information and ideas, and leads to self-censorship. Furthermore, prompt and free access to information as the general rule and strong protection of journalists' sources are essential for the proper exercise of journalism, in particular in respect of investigative journalism.[8]

10. Surveillance of journalists and other media actors, and the tracking of their online activities, can endanger the legitimate exercise of freedom of expression if carried out without the necessary safeguards and can even threaten the safety of the persons concerned. It can also undermine the protection of journalists' sources.

11. In view of the foregoing, the Committee of Ministers:

- alerts member states to the increasing number of reports of attacks on journalists and other media actors in several parts of Europe, including specific dangers that female journalists face. These constitute attacks on the right to freedom of expression, to hold opinions and to receive and impart information and ideas and to other fundamental rights provided for in the European Convention on Human Rights;
- decides to facilitate the development of an Internet-based platform drawing on information supplied by interested media freedom organisations to record and publicise possible infringements of the rights guaranteed by Article 10 of the European Convention on Human Rights;
- urges member states to fulfil their positive obligations to protect journalists and other media actors from any form of attack and to end impunity in compliance with the European Convention on Human Rights and in the light of the case law of the European Court of Human Rights; and invites member States to review at least once every two years the conformity of domestic laws and practices with these obligations on the part of member states;
- encourages member states to contribute to the concerted international efforts to enhance the protection of journalists and other media actors by ensuring that legal frameworks and law-enforcement practices are fully in accord with international human rights standards. The implementation of the UN Plan of Action on the Safety of Journalists and the Issue of Impunity is an urgent and vital necessity;

5. See, for example, *Standard Verlagsgesellschaft mbH (No. 2) v. Austria*, Application No. 37464/02, judgment of 22 February 2007, paragraph 38.
6. *Dink v. Turkey*, Application Nos. 2668/07, 6102/08, 30079/08, 7072/09, 7124/09, judgment of 14 September 2010, paragraph 137.
7. See the Guidelines of the Committee of Minister of the Council of Europe on eradicating impunity for serious human rights violations, adopted on 30 March 2011.
8. See, for example, the Council of Europe Convention on Access to Official Documents (CETS No. 205) and Committee of Ministers Recommendation Rec(2000)7 on the right of journalists not to disclose their sources of information.

– will intensify its standard-setting and co-operation activities for the protection of journalism and the safety of journalists and other media actors as a priority and contribute expertise to other international organisations with regard to the particular competence of the Council of Europe;

– will consider further measures to ensure the protection of journalists from threats and acts of violence, as well as measures to eradicate impunity, and the alignment of laws and practices concerning defamation, anti-terrorism and protection of journalists' sources with the European Convention on Human Rights;

– will address the specific challenges and threats that women journalists are confronted with in the course of their work.

Since its creation, the Council of Europe has developed a number of standards detailing the scope and limits of freedom of expression in its numerous manifestations in the media, in particular in the light of Article 10 of the European Convention on Human Rights.

This compilation presents all of the Committee of Ministers' resolutions, recommendations and declarations in the field of media and information society up to 2014.

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.

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