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## Indicators for media in a democracy

### Report

Committee on Culture, Science and Education  
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### *Summary*

Freedom of expression and information in the media is an essential requirement of democracy. National parliaments are invited to analyse their own media situation regularly in an objective and comparable manner in order to be able to identify shortcomings in their national media legislation and practice and take appropriate measures to remedy them. Such analyses should be based on the list of basic principles set out in the resolution. The Committee of Ministers is asked to endorse this list and to establish indicators of the functioning of the media environment in a democracy.



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## A. Draft resolution

1. The Parliamentary Assembly of the Council of Europe recalls the importance of media freedom. Freedom of expression and information in the media is an essential requirement of democracy. Public participation in the democratic decision-making process requires that the public is well informed and has the possibility of freely discussing different opinions.
2. All Council of Europe member states have committed themselves to respecting democratic standards. Democracy and the rule of law are necessary conditions for membership of the Council of Europe. Therefore, member states themselves must permanently monitor their state of democracy. However, democratic standards are also part of universally recognised human rights in Europe and hence not merely an internal affair of a state. Council of Europe member states must also analyse the state of democracy in all member states, in particular at the level of the Assembly.
3. The Council of Europe has set standards for Europe on media freedom through Article 10 of the European Convention on Human Rights and a number of related recommendations by the Committee of Ministers as well as resolutions and recommendations by the Parliamentary Assembly.
4. The Assembly also monitors media freedom before national elections and produces an analysis on the basis of standards set by the Council for Democratic Elections comprising representatives of the Venice Commission, the Congress of Local and Regional Authorities of the Council of Europe and the Parliamentary Assembly.
5. The Assembly welcomes the comparative assessments of national media situations prepared, for example, by Reporters Without Borders (Paris), the International Press Institute (Vienna), Article 19 (London), Freedom House (Washington, D.C.) and Media Tenor (Bonn). This work provides for important public scrutiny over media freedom, but it does not relieve national parliaments and governments of their political duty to look at their own media situation.
6. The Assembly also welcomes the media development indicators drawn up by Article 19 and the West African Newsmedia and Development Centre (WANAD) for UNESCO, which will help determine communication development strategies within the overall context of national development.
7. The Assembly considers it necessary for a number of principles concerning media freedom to be respected in a democratic society. A list of such principles would allow analyses of national media environments in respect of media freedom, in order to identify problematic issues and potential shortcomings. This will enable member states to discuss among themselves at European level possible action to address those problems.
8. The Assembly invites national parliaments to analyse their own media situation regularly in an objective and comparable manner in order to be able to identify shortcomings in their national media legislation and practice and take appropriate measures to remedy them. Such analyses should be based on the following list of basic principles:
  - 8.1. the right to freedom of expression and information through the media must be guaranteed under national legislation, and this right must be enforceable. A high number of court cases involving this right is an indication of problems in the implementation of national media legislation and should require revised media legislation or practice;
  - 8.2. state officials shall not be protected against criticism and insult at a higher level than ordinary people, for instance through penal laws that carry a higher penalty. Journalists should not be imprisoned or media outlets closed for critical comment;
  - 8.3. penal laws against incitement to hatred or for the protection of public order or national security must respect the right to freedom of expression. If penalties are imposed, they must respect the requirements of necessity and proportionality. If a politically motivated application of such laws can be implied from the frequency and the intensity of the penalties imposed, media legislation and practice must be changed;
  - 8.4. journalists must not be subjected to undue requirements by the state before they can work;
  - 8.5. political parties and candidates must have fair and equal access to the media. Their access to media shall be facilitated during election campaigns;
  - 8.6. foreign journalists should not be refused entry or work visas because of their potentially critical reports;

- 8.7. media must be free to disseminate their content in the language of their choice;
  - 8.8. the confidentiality of journalists' sources of information must be respected;
  - 8.9. exclusive reporting rights concerning major events of public interest must not interfere with the public's right to freedom of information;
  - 8.10. privacy and state secrecy laws must not restrict information unduly;
  - 8.11. journalists should have adequate working contracts with sufficient social protection, in order not to compromise their impartiality and independence;
  - 8.12. journalists must not be restricted in creating associations such as trade unions for collective bargaining;
  - 8.13. media outlets should reflect editorial independence from media owners;
  - 8.14. journalists must be protected against physical threats or attacks because of their work. Police protection must be provided where requested by journalists under threat. Prosecutors and courts must deal adequately and timely with cases where journalists have received threats or have been attacked;
  - 8.15. regulatory authorities for the broadcasting media must function in an unbiased and effective manner, for instance when granting licences. Print media and Internetbased media should not be required to hold a state licence which goes beyond a mere business or tax registration;
  - 8.16. media must have fair and equal access to distribution channels, be they technical infrastructure (e.g. radio frequencies, transmission cables, satellites) or commercial (e.g. newspaper distributors, postal or other delivery services);
  - 8.17. the state must not restrict access to foreign print media or electronic media including the Internet;
  - 8.18. media ownership and economic influence over media must be made transparent. Legislation must be enforced against media monopolies and dominant market positions among the media. In addition, concrete positive action should be taken to promote media pluralism;
  - 8.19. if media receive direct or indirect subsidies, states must treat those media fairly, and neutrally;
  - 8.20. public service broadcasters must be protected against political interference in their daily management and their editorial work. High management positions should be refused to persons with clear party political affiliations;
  - 8.21. public service broadcasters should establish inhouse codes of conduct for journalistic work and editorial independence from political sides;
  - 8.22. *"private" media should not be run or held by the state or state-controlled companies;*
  - 8.23. members of government should not pursue professional media activities while in office;
  - 8.24. government, parliament and the courts must be open to the media in a fair and equal way;
  - 8.25. there should be a system of media self-regulation including a right of reply and correction or a voluntary apology by journalists. Media should set up their own self-regulatory bodies, such as complaints commissions or ombudspersons, and decisions of such bodies should be implemented. These measures should be recognised legally by the courts;
  - 8.26. journalists should set up their own professional codes of conduct and they should be applied. They should disclose to their viewers or readers any political and financial interests as well as any collaboration with state bodies such as embedded military journalism;
  - 8.27. national parliaments should draw up periodic reports on media freedom in their countries on the basis of the above catalogue of principles and discuss them mutually at European level.
9. The Assembly invites the Council of Europe Commissioner for Human Rights to draw up information reports on member states where problems exist in the implementation of the above list of basic principles as regards freedom of expression.
10. The Assembly also invites media professionals and companies as well as media associations to apply and develop further the above list of basic principles applicable to the media.

**B. Draft recommendation**

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

## C. Explanatory memorandum, by Mr Wolfgang Wodarg

### 1. Introduction

1. Freedom of expression and information in the media is an essential requirement of any functioning democracy. Public participation in the democratic decision-making process requires that the public is well informed and has the possibility of freely discussing different opinions. Where this is lacking, the democratic deficit is severe.
2. The Council of Europe has set the standards for Europe in this respect through Article 10 of the European Convention on Human Rights (ECHR) and a number of related recommendations by the Committee of Ministers as well as resolutions and recommendations by the Parliamentary Assembly. They can be found at [www.coe.int/media](http://www.coe.int/media).
3. Important issues concerning the functioning of the media environment in particular countries or under particular situations have been addressed by the Assembly, such as in [Resolution 1372 \(2004\)](#) on the persecution of the press in the Republic of Belarus, [Resolution 1387 \(2004\)](#) on the monopolisation of the electronic media and possible abuse of power in Italy, [Resolution 1438 \(2005\)](#) on freedom of the press and the working conditions of journalists in conflict zones, [Recommendation 1706 \(2005\)](#) on media and terrorism, [Resolution 1510 \(2006\)](#) on freedom of expression and respect for religious beliefs, [Resolution 1535 \(2007\)](#) on threats to the lives and freedom of expression of journalists, or Recommendation 1789 (2007) on professional education and training of journalists.
4. In the course of its election observation, the Assembly regularly assesses the media situation in the context of national elections. Standards have been drawn up in this respect by the Council for Democratic Elections of the Council of Europe comprising representatives of the Venice Commission, the Congress of Local and Regional Authorities of the Council of Europe and the Assembly. The most recent presidential elections in Armenia and Russia, for instance, caused concern about fair access of opposition parties and candidates to the media.
5. Several non-governmental organisations regularly assess media freedom in many countries on different but comparable grounds. In Europe, Reporters Without Borders (Paris), Article 19 (London) and the International Press Institute (Vienna) produce such analytical reports. Media freedom is also included in the "Index of Democracy" produced by the magazine *The Economist*.
6. Freedom House (Washington, D.C., United States) publishes the most comprehensive analysis. It uses a network of international experts compiling information about many countries worldwide on the basis of a set of 23 questions concerning the legal environment, the political environment and the economic environment. For each question, a lower number of points is allotted for a more free situation, while a higher number of points is allotted for a less free environment. Each country's final score is based on the total points: a score of 0 to 30 places the country in the "Free Press" group, 31 to 60 in the "Partly Free Press" group, and 61 to 100 in the "Not Free Press" group.
7. The indicative questions used by Freedom House are comprehensive, but do not look at public service broadcasting or media self-regulation, for instance, which are typical European features of the media environment. They also contain subjective assessments. In general, however, they provide a lot of information for a detailed analysis. The role of an NGO such as Freedom House is to raise public awareness and pose relevant questions to governments where there are possible problems. Freedom House's press freedom assessments meet this objective.
8. Independent media research institutes such as Media Tenor (Bonn and other cities around the world) provide to governments, parliaments, international organisations and NGOs specific information about national media situations.
9. The NGO Article 19 and the West African Newsmedia and Development Centre developed for UNESCO a complex set of "media development indicators", which will help determine communication development strategies within the overall context of national development at UN level. This set of global media development indicators was adopted by UNESCO on 27 March 2008. Beyond media regulation and media diversity, these indicators also look at democratic discourse in the media, professional capacity building of media staff and infrastructural capacities. The latter two are particularly relevant in the context of development and development assistance.

10. Parliaments and governments in all member states of the Council of Europe have to comply with their commitments under Article 10 of the ECHR and related standards. Therefore, they have to assess their own media situation for identifying problems which require legislative or political remedies at national level.

11. In order to arrive at objective and comparable assessments, member parliaments and governments need a set of questions or indicators for a functioning media environment in a democratic society based on a list of basic standards. It is the purpose of this report to propose such basic standards for the corresponding indicative questions. This list of basic standards should act as a benchmark for national parliaments in Europe.

## 2. Media freedom indicators

12. The requirements for media freedom can be categorised as follows:

- a. protection of freedom of expression and information through the media;
- b. protection of freedom of journalistic work;
- c. protection of freedom of establishing and running media outlets;
- d. independence of public service broadcasting;
- e. transparency of relations between the state and media;
- f. openness of government, parliament and the courts;
- g. transparency of the media and the economic influence on media;
- h. media ethics;
- i. national monitoring of media freedom.

13. The legal protection of freedom of expression and information through the media is a requirement for any democracy. All member states have constitutional provisions guaranteeing this freedom and must provide for a functioning judicial review of any restrictions on it. Even where adequate constitutional provisions exist, media freedom might be violated in practice by other means.

14. Democracy is compromised where those in power are overly protected against the expression of opinions as well as the provision of information about them. Such undue protection may typically be found in overly severe or protective penal laws for the benefit of state officials, leading for example to the imprisonment of journalists for criticising the head of state or government, members of the executive or members of parliament. The Declaration on Freedom of Political Debate in the Media, adopted in 2004 by the Council of Europe's Committee of Ministers, as well as Assembly [Resolution 1577 \(2007\)](#) and [Recommendation 1814 \(2007\)](#) towards decriminalisation of defamation may serve as guidelines in this context.

15. Penal laws against incitement to hatred or for the protection of the public order or national security exist in all countries. However, a politically motivated recourse to such laws must be excluded in a democratic society. The Organization for Security and Co-operation in Europe (OSCE) Representative on Freedom of the Media has been leading a campaign for the decriminalisation of defamation, because such an offence is often used to silence political criticism. Several media-related NGOs regularly draw attention to journalists who were imprisoned for being critical of government.

16. Freedom of expression in the media also requires that media are not restricted in the use of languages. Otherwise, certain parts of a population would be excluded from receiving and imparting information and ideas, which is the essence of Article 10 ECHR. Restrictions on the use of languages in the media should, therefore, be considered an unacceptable restriction of freedom of expression.

17. Freedom of expression of political opinions and ideas becomes particularly important before elections. Therefore, political parties and candidates must have the possibility of a fair and equal media presence. Concrete standards have been set by the Committee of Ministers Recommendations Rec(2007)15 and No. R (99) 15 on measures concerning media coverage of election campaigns.

18. The courts play a vital role in guaranteeing freedom of expression. Even in countries with excellent laws, the courts might not implement and apply them to their full extent. It is necessary to have fair trials instead of an administration of justice which is politically motivated against media and journalists.

19. Freedom of expression in the media also requires the protection of freedom of journalistic work. Journalistic work has been unduly restricted in several ways besides limiting freedom of expression as such.

20. A typical example is the mandatory state accreditation of journalists. By selecting the persons allowed to work as journalists and restricting their number, states have abused this requirement in order to exclude critical journalists. While democratic societies gave the freedom to choose one's professional or academic education, totalitarian countries pursued strict state control of professional education of journalists. The latter restriction has then been used subsequently to restrict access to the profession of journalist.

21. Restrictive practices of states vis-à-vis free media have also led to refusing entry or work visas for foreign journalists where such visa requirements exist. Although there is no universal right to freedom of movement across borders, Article 10 ECHR guarantees the freedom to hold opinions and receive and impart information and ideas "regardless of frontiers". One could therefore conclude that visas should not be refused solely for the reason that a state wants to restrict freedom of expression in the media.

22. Journalistic work will also be hampered if journalists cannot receive information from their sources in confidence. Therefore, the secrecy of journalistic sources of information has been recognised by the European Court of Human Rights under Article 10 ECHR and the Committee of Ministers Recommendation No. R (2000) 7 on the right of journalists not to disclose their sources of information.

23. Commercial restraints, in particular exclusive reporting rights, may also limit freedom of information through the media. States should ensure that exclusive reporting rights are not restricting the right to receive information of public concern. This issue is dealt with by the Committee of Ministers Recommendation No. R (91) 5 on the right to short reporting on major events where exclusive rights for their television broadcast have been acquired in a transfrontier context. For many, such major events are typically international sports events, and the exclusive reporting rights are often sold for enormous sums. Restrictions on media reporting may, however, stem also from political or other considerations such as restrictions on access of journalists to the Olympic Games in Beijing in 2008 or on screening controversial referees' decisions in the EURO 2008 football championship.

24. We have seen in countries in difficult economic situations that an economic weakness of journalists has been abused to restrict media freedom. If journalists fear being fired and have no proper work contract with adequate social protection, their work is less likely to be independent. Therefore, states should ensure that adequate working conditions exist for journalists under their national labour law.

25. Independence of journalistic work from political or economic pressures should also benefit editorial independence of media from their owners. In many countries, journalists have set up in-house rules on editorial independence.

26. The working conditions of journalists may be improved through their freedom of association under Article 11 ECHR. Journalists may thus have more power to protect their interests, for instance through collective bargaining. Respect of Article 11 ECHR with regard to journalists' associations has also, therefore, an impact on the exercise of media freedom under Article 10 ECHR.

27. Just as any other professionals, journalists can also make mistakes. Such mistakes can often be remedied within the profession without recourse to the courts. We know such procedures under the term "media selfregulation". Typical examples are a right of reply or correction of someone who has been attacked unfairly in the media as well as the dissemination of an apology by the journalist. Those measures may be awarded by media complaints bodies, such as a complaints commission or ombudsman, or be offered by media directly on a voluntary basis. The Committee of Ministers Resolution (74) 26 on the right of reply and Recommendation Rec(2004)16 on the right of reply in the new media environment set guidelines in this respect. This kind of media selfregulation has to be recognised legally by the courts. If courts do not accept the validity of a published or disseminated reply, correction or apology, but award damages and fines against journalists, media will not apply these voluntary measures.

28. Assembly [Resolution 1535](#) and Recommendation 1783 (2007) on threats to the lives and freedom of expression of journalists indicated several physical attacks against journalists and stressed that states have the obligation to protect journalists adequately against such attacks. This may require police protection of journalists and the judicial prosecution and adjudication of such attacks. Where journalists have to work in fear, freedom of expression is violated.

29. Not only journalists might be targeted by politically motivated restrictions, but also media outlets. The protection of the freedom of establishing and running media outlets is therefore another essential obligation of democratic society.

30. Media freedom in democratic societies requires the absence of licensing requirements for media which go beyond a mere business and tax registration. Article 10 ECHR allows only for the licensing of broadcasting, television or cinema enterprises, which has been historically justified by the limited wave spectrum. Democratic states do not, however, require licences from print media or Internet-based media. The licensing and other regulations of broadcasting have to be administered in a fair and neutral way through independent regulatory authorities. The latter is the subject of the Committee of Ministers Recommendation Rec(2000)23 on the independence and functions of regulatory authorities for the broadcasting sector.
31. All media must have fair and equal access to media distribution channels, be they technical infrastructure (for example, radio frequencies, transmission cables, satellites) or commercial (for example, newspaper distributors, postal or other delivery services). Non-democratic states tend to restrict the technical infrastructure for the dissemination of electronic media and the distribution channels for print media, as for instance identified by the Assembly in [Resolution 1372](#) and [Recommendation 1658 \(2004\)](#) on the persecution of the press in the Republic of Belarus.
32. Article 10 ECHR guarantees freedom of expression regardless of frontiers. The Council of Europe has therefore drawn up the European Convention on Transfrontier Television. Access to the Internet is also protected under Article 10 ECHR, as expressed by the Committee of Ministers in its Declaration of 2003 on freedom of communication on the Internet. States must not restrict these rights.
33. Media monopolies or dominant market positions of individual media outlets are a serious threat to media pluralism and prevent diversity of information and opinions. This is particularly severe when states hold or control such dominant positions in their national media markets. But also private persons or companies might exercise political pressure on their media. There have been prominent examples where private persons holding a dominant market position have pursued political ambitions and used their power to exercise political influence. Assembly [Resolution 1387 \(2004\)](#) on monopolisation of the electronic media and possible abuse of power in Italy can be cited as a case study in this respect. Therefore, many countries have passed legislation restricting media monopolies and concentrations. The Council of Europe developed guidelines in this field through the Committee of Ministers Recommendation Rec(2007)2 on media pluralism and diversity of media content, the Declaration of 31 January 2007 on protecting the role of the media in democracy in the context of media concentration, and Recommendation No. R (99) 1 on measures to promote media pluralism.
34. In many states, media are subsidised – either directly through payments or indirectly such as through tax reductions or subsidies of paper and distribution channels. Media freedom in a democracy requires fair and neutral state subsidies to the media. It could unduly limit media freedom if a state subsidised individual media in a preferential way. The latter could obviously be abused for political influence.
35. Public service broadcasting is largely subsidised by the state. States also often have influence on the appointment of the management of their public service broadcaster. Therefore, it is important to have adequate provisions in place which guarantee the independence of public service broadcasting. The Council of Europe set guidelines in this area through the Committee of Ministers Recommendation Rec(2007)3 on the remit of public service media in the information society, the Declaration of 27 September 2006 on the guarantee of the independence of public service broadcasting in the member states, and Recommendation No. R (96) 10 on the guarantee of the independence of public service broadcasting as well as Assembly [Recommendation 1641 \(2004\)](#) on public service broadcasting.
36. In democratic states, any state broadcasting company must not be government broadcasting. It is important that the notion of public service broadcasting is adhered to, that is to say, such broadcasting is maintained as a service for the general public with specific service functions and a specific remit.
37. Public service broadcasters must be independent from the government and political parties in their management and the operation of their work. In concrete terms, this means that high management positions in public service broadcasters must not be filled with political appointees.
38. Public service broadcasters should also ensure politically neutral reporting through high ethical and professional standards of their staff. This requires in-house rules and codes of conduct on journalistic work and editorial independence.
39. Democratic states should strive for the transparency of relations between the state and media. Governments and political parties may pursue information and media strategies for disseminating information about their policies. Media are not, however, the mouthpiece of governments.

40. In general, states, public administrations or state companies should not run private media or have ownership interests in them, because this will inevitably distort the media market. State-controlled media are likely to function as a willing political ally of the government.

41. In addition, government members should not pursue professional media activities, exercise managerial influence over media or hold ownership interests in media. This was the basis for the concerns raised in Assembly [Resolution 1387 \(2004\)](#) on monopolisation of the electronic media and possible abuse of power in Italy.

42. Where the state has to determine issues related to broadcasting, such as granting of broadcasting frequencies or deciding on broadcasting rules, independent regulatory authorities should be established in accordance with the Committee of Ministers Recommendation Rec(2000)23 on the independence and functions of regulatory authorities for the broadcasting sector.

43. Freedom of opinion and information about politically relevant issues depends on openness of government, parliament and the courts. Where governments, parliaments, administrations and courts work in secrecy, public control and democratic scrutiny will not be possible. The same is true when politically friendly media are treated preferentially by these state organs. Therefore, state organs must employ open, non-discriminatory and fair media relations. Media should have access to official documents and information held by public authorities in accordance with the Committee of Ministers Recommendation Rec(2002)2 on access to official documents and Recommendation No. R (81) 19 on the access to information held by public authorities.

44. Transparency and openness often find their limits under privacy and state secrecy laws, in particular with reference to national security. Such laws may impose undue burdens on media, but in principle they will serve higher competing interests of individuals or the state. Standards may be drawn from the Committee of Ministers Guidelines of 26 September 2007 on protecting freedom of expression and information in times of crisis, the Declaration of 26 September 2007 on the protection and promotion of investigative journalism, the Declaration of 2 March 2005 on freedom of expression and information in the media in the context of the fight against terrorism, the Declaration of 12 February 2004 on freedom of political debate in the media, and Recommendation Rec(2002)2 on access to official documents. The Assembly set standards through its [Recommendation 1706 \(2005\)](#) on media and terrorism, [Resolution 1438](#) and [Recommendation 1702 \(2005\)](#) on freedom of the press and the working conditions of journalists in conflict zones, and [Resolution 1165 \(1998\)](#) on the right to privacy.

45. The transparency of courts is particularly relevant when courts exercise judicial control of government action or investigate and adjudicate politically important cases. Nevertheless, Article 10 ECHR allows for restrictions necessary for maintaining the authority and impartiality of the judiciary. States should provide media access to legal proceedings, with possible restrictions necessary for the fair administration of justice, in accordance with the Committee of Ministers Recommendation Rec(2003)13 on the provision of information through the media in relation to criminal proceedings.

46. Many states provide public access to parliamentary sessions including access by the media. Some states have even established parliamentary television channels, which has been an Assembly objective since [Resolution 584 \(1975\)](#) on the broadcasting of national parliamentary debate. In a democracy, the public must be able to follow parliamentary work in order to form opinions about politicians and their policies.

47. The same openness is necessary for governments, which have typically a public relations service specialising in dealing with the media. In this respect, it is important that such services provide for all media fair and equal access to government information.

48. An analysis of the functioning of the media environment in a democratic society also requires an analysis of the performance of the media. Media ethics are the basis for such analysis.

49. The Assembly dealt with the ethics of journalism in its [Resolution 1003 \(1993\)](#). The International Federation of Journalists and probably all national associations of journalists have established codes of conduct for journalists.

50. Such codes contain general principles like the separation of news from comment and advertising. The reader or viewer should not be misled about the nature of media content. News must be based on facts, while comment and advertising are not objective. A mixture of both objective and subjective content will confuse the reader or viewer and pretend greater credibility of opinions.

51. Media credibility therefore depends on strict adherence to high ethical and professional standards for journalists. This may require adequate education and training of journalists as well as continuous in-house training and control (see Assembly [Recommendation 1789 \(2007\)](#) on professional education and training of journalists). In this respect, media and journalists should organise their own professional standards.

52. Media professionals should also declare any political or financial interests. It would be misleading for the reader and viewer not to know that a political commentator was actually running for a political post or had party political functions. This does not mean that a journalist must not be a party member or have political affiliations. Fair and transparent journalism requires, however, that the readers and viewers know such political links. The same applies to financial or commercial interests, but this may be less important in a political context. Direct collaboration with state bodies should also be made clear to readers and viewers, as for instance in the case of embedded military journalists or war correspondents.

53. Readers and viewers should also be able to know the owners of media outlets as well as major economic actors exercising influence on the media, such as advertising firms. Transparency of the media and the economic influence on the media help to identify possible political or commercial tendencies of those media outlets. The Council of Europe therefore requires transparency of media ownership under the Committee of Ministers Recommendation No. R (94) 13 on measures to promote media transparency. It also recommends efforts to increase media literacy under Assembly [Recommendation 1466 \(2000\)](#) on media education, in order to have a more critical and understanding audience or readership which is less likely to be manipulated.

### 3. Conclusion

54. In view of the above, member parliaments and governments should periodically assess the media situation in their country. This is particularly important when elections and new legislation on media are planned or criticism is raised against existing media legislation and practice. However, such an assessment should be pursued on a regular basis. For this purpose, member states should establish co-ordinated and open procedures similar to other international assessments, for instance in the field of education under the Programme for International Student Assessment (PISA) of the OECD.

55. This assessment should identify the national situation on the basis of the following indicative questions:
- a. Is the right to freedom of expression and information through the media guaranteed under national legislation and can this right be enforced by courts? Are there many such court cases?
  - b. Are state officials protected against criticism and insult at a higher level than ordinary people, for instance through penal laws that carry a higher penalty? Have such penalties been imposed? Are journalists imprisoned or media outlets being closed in this context?
  - c. Have penal laws against incitement to hatred or for the protection of public order or national security been used against journalists? Have penalties been imposed and did they respect the requirements of necessity and proportionality? Can a politically motivated application of such laws be implied from the frequency and the intensity of the penalties imposed?
  - d. Are media free to disseminate their content in the language of their choice or are there any restrictions?
  - e. Have political parties and candidates fair and equal access to the media? Have they facilitated access to the media during election campaigns?
  - f. Are media often brought before the courts? Have there been factual indications of politically motivated court procedures against journalists and media?
  - g. Are there any undue state restrictions for being admitted to journalism schools? Do journalists have to be accredited by the state before they can work?
  - h. Have foreign journalists been refused entry or work visas, where such visa requirements exist?
  - i. Is the confidentiality of journalists' sources of information respected?
  - j. Do exclusive reporting rights concerning major events of public interest interfere with freedom of information by excluding other media?
  - k. Is the economic situation of journalists generally satisfactory? Are journalists generally working under adequate working contracts with sufficient social protection?
  - l. Have media outlets set up rules for editorial independence from media owners? Are those rules respected?

- m. Are journalists restricted in creating associations such as trade unions for collective bargaining?
- n. Have journalists been threatened or attacked physically because of their work? Has police protection been provided where requested by journalists under threat? Have prosecutors and courts dealt adequately and timely with cases where journalists received threats or have been attacked?
- o. Are regulatory authorities for the broadcasting media functioning in an unbiased and effective manner, for instance when granting licences? Do print media or Internet-based media have to receive a state licence, which goes beyond a mere business or tax registration?
- p. Do media have fair and equal access to distribution channels, be they technical infrastructure (for example, radio frequencies, transmission cables, satellites) or commercial (for example, newspaper distributors, postal or other delivery services)?
- q. Is the state restricting access to foreign print media or electronic media including the Internet?
- r. Is media ownership and economic influence on media made transparent? Is legislation enforced against media monopolies? Are dominant market positions among the media restricted? What steps are taken to promote media pluralism?
- s. Do media receive direct or indirect subsidies and, if so, are they applied fairly and neutrally? Are private media run or held by the state or state-controlled companies?
- t. Are public service broadcasters protected against political interference in their management and their editorial work? Are high management positions refused to persons with clear party political affiliations? Have public service broadcasters established in-house codes of conduct for journalistic work and editorial independence from political sides?
- u. Are members of government also pursuing professional media activities?
- v. Are government, parliament and the courts open to the media in a fair and equal way?
- w. Do privacy and state secrecy laws restrict information unduly?
- x. Is there a functioning system of media self-regulation including a right of reply and correction or a voluntary apology by journalists? Have media set up their own selfregulatory bodies, such as complaints commissions or ombudspersons? Are decisions of such bodies implemented? Are these measures recognised legally by the courts?
- y. Have journalists set up their own professional codes of conduct and are they applied? Do they have to declare any political or financial interests or any collaboration with state bodies, such as embedded military journalists?
- z. Are there national mechanisms or bodies which analyse periodically their own national media environment on the basis of the above indicative questions, for instance at the level of parliament or government?

Reporting committee: Committee on Culture, Science and Education.

References to committee: Doc. 10935 and Reference No. 3249 of 30 June 2006 and [Doc. 11071](#) and Reference No. 3292 of 22 January 2007.

Draft resolution and draft recommendation unanimously adopted by the committee on 25 June 2008.

Members of the committee: Mrs Anne **Brasseur** (Chairperson), Baroness **Hooper**, Mr Detlef Dzembritzki, Mr Mehmet **Tekelioğlu** (Vice-Chairpersons), Mr Remigijus Ačas, Mr Vıcenç Alay Ferrer, Mr Kornél **Almásy**, Mrs Aneliya Atanasova, Mr Lokman **Ayva**, Mr Rony **Bargetze**, Mr Walter Bartoš, Mr Radu Mircea Berceanu, Mr Levan Berdzenishvili, Mrs Oksana Bilozir (alternate: Mrs Olha **Herasym'yuk**), Mrs Guðfinna Bjarnadóttir, Mr Jaime Blanco García, Mrs Ana **Blatnik**, Mrs Maria Luisa Boccia, Mrs Margherita Boniver, Mr Ivan **Brajović**, Mr Vlad Cubreacov, Mrs Lena DabkowskaCichocka, Mr Ivica Dačić, Mr Joseph Debono Grech, Mr Ferdinand **Devínsky**, Mr Daniel Ducarme, Mrs Åse Gunhild Woie **Duesund**, Mrs Anke Eymer, Mr Relu Fenechiu, Mrs Blanca Fernández-Capel, Mrs Maria Emelina FernándezSoriano, Mr Axel Fischer, Mr Gvozden Flego, Mr José **Freire Antunes** (alternate: Mr José Luís **Arnaut**), Mrs Ruth Genner,

Mr Ioannis Giannellis-Theodosiadis, Mr Stefan Glävan, Mr Raffi **Hovannisian**, Mr Rafael **Huseynov**, Mr Fazail İbrahimli, Mr Mogens Jensen, Mr Morgan **Johansson**, Mrs Liana Kanelli (alternate: Mrs Rodoula Zissi), Mr Jan Kazmierczak, Miss Cecilia **Keaveney**, Mr Ali Rashid Khalil, Mrs Svetlana Khorkina (alternate: Mr Oleg **Lebedev**), Mr Serhii Kivalov, Mr Anatolij **Korobeynikov**, Mrs Elvira Kovács, Mr József **Kozma**, Mr Jean-Pierre **Kucheida**, Mr Ertuğrul **Kumcuoğlu**, Mr Markku **Laukkanen**, Mr Jacques Legendre (alternate:

Mr Philippe **Nachbar**), Mr René van der Linden, Mrs Milica Marković, Mrs Muriel Marland-Militello, Mr Andrew **McIntosh**, Mrs Maria Manuela de **Melo**, Mrs Assunta Meloni, Mr Paskal Milo, Mrs Christine **Muttonen**, Mrs Miroslava Němcová, Mr Edward O'Hara, Mr Kent **Olsson**, Mr Andrey Pantev, Mrs Antigoni Papadopoulos, Mr Azis **Pollozhani**, Mrs Majda Potrata, Mrs Anta **Rugāte**, Lord **Russell-Johnston**, Mr Indrek **Saar**, Mr André **Schneider**, Mrs Albertina Soliani, Mr Yury **Solonin** (alternate: Mr Oleg **Panteleev**), Mr Christophe Steiner, Mrs Doris **Stump**, Mr Valeriy **Sudarenkov**, Mr Petro Symonenko, Mr Hugo Vandenberghe, Mr Klaas de Vries, Mr Piotr **Wach**, Mr Wolfgang **Wodarg**, N ...

NB: The names of the members present at the meeting are printed in bold.

See 36th Sitting, 3 October 2008 (adoption of the draft resolution, as amended, and draft recommendation); and [Resolution 1636](#) and [Recommendation 1848](#).