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Media freedom, public trust and the citizens' right to know

Reply to Recommendation[1]: Recommendation 2204 (2021)
Committee of Ministers

1. The Committee of Ministers has carefully examined Parliamentary Assembly Recommendation 2204 (2021) "Media freedom, public trust and the citizens' right to know" and forwarded the text to the Steering Committee on Human Rights (CDDH), the European Committee on Democracy and Governance (CDDG) and the Steering Committee on Media and Information Society (CDMSI) for information and possible comments. The Committee would like to recall that significant work has been done, or is underway, on the theme of media freedom, the right of access to information, open public data for citizens and public trust.

2. The Committee acknowledges the Assembly's view that the right of access to information should progress towards a "right to know", with narrowly defined limitations intended to protect national security, as well as the right to privacy and other human rights. Transparency measures to advance access to information must comply with Article 10 of the European Convention on Human Rights, as interpreted by the European Court of Human Rights, and with the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (Convention 108) and its Amending Protocol (Convention 108+).

3. In addition, the Council of Europe Convention on Access to Official Documents (CETS No. 205, Tromsø Convention) sets out minimum standards ensuring a general right of access to official documents while encouraging domestic measures that allow a more extensive right of access. The convention covers important issues such as the public's right to know, transparency of public authorities and good governance. Effective implementation will be monitored by the Consultation of the Parties and the Group of Specialists on Access to Official Documents, whose ten members were elected in March 2022. Promoting further ratification of the Tromsø Convention should be a central objective to any reflections aimed at advancing the right of access to information.

4. As concerns the Committee of Ministers' recommendations mentioned in paragraph 2.1, the Committee considers that additional time is needed for implementation prior to an evaluation of compliance by member States. It also points out that the CDMSI, while not having a monitoring function under its terms of reference, regularly holds information exchanges on relevant developments and initiatives in member States in relation to its standard-setting instruments and collects materials via questionnaires. Ongoing co-operation activities in the field of freedom of expression contribute to fostering implementation of relevant standards in the member States.

5. The Council of Europe Conference of Ministers responsible for Media and Information Society (10-11 June 2021) resulted in the adoption of the Final Declaration and four thematic resolutions mapping the way forward for the Organisation's work on implementation of existing standards and further standard-setting in the field of freedom of expression and digital governance, including Artificial Intelligence (AI).

1. Adopted at the 1447th meeting of the Ministers' Deputies (3 November 2022).

6. Regarding paragraph 2.2 of the Assembly's recommendation relating to independent monitoring, the Committee informs the Assembly that the above-mentioned Group of Specialists on Access to Official Documents ("Council of Europe Access Info Group"), set up under the Tromsø Convention, is expected to examine national procedures for review of denial of access to official documents, as part of its examination of national reports on implementation of the convention.

7. The Committee of Ministers has developed relevant standards and guidelines on various matters addressed by the Assembly, including a study to identify good practice in the ecology of policy instruments that provide accountability throughout the policy-making and administrative process (paragraph 2.3), soft law instruments containing guidelines on proactive publication of information of public interest with a transparency by design approach (paragraph 2.4.1) and monitoring the implementation of such standards (paragraph 2.4.2). For example, the Guidelines for civil participation in political decision making, Recommendation CM/Rec(2018)4 on participation of citizens in local public life, as well as the 12 Principles of Good Governance of 2008, refer to openness, transparency and accountability of public institutions, among others. For the next quadrennium, the Committee of Ministers has tasked the CDDG with preparing a draft recommendation on principles of good democratic governance, concerning all levels of governance and administration. The CDDG is currently finalising a draft recommendation of the Committee of Ministers to member States on the democratic accountability of elected officials and bodies at local and regional level, dealing with transparency and access to information by the public, proactive information and other areas.

8. The Committee recalls that the issue raised in paragraph 2.4.5 has been addressed, in part, via the CDMSI's Guidance note on best practices towards effective legal and procedural frameworks for self-regulatory and co-regulatory mechanisms of content moderation, adopted in May 2021, as well as in three recently adopted recommendations to member States on the impacts of digital technologies on freedom of expression (Recommendation CM/Rec(2022)13), on the principles for media and communication governance (Recommendation CM/Rec(2022)11) and on electoral communication and media coverage of election campaigns (Recommendation CM/Rec(2022)12).

9. Finally, the Committee of Ministers recognises the importance of co-operation with other regional and international bodies on monitoring the right of access to information (paragraph 3 of the Assembly's recommendation), and will pursue this issue. In this context, it recalls the GlobalPolicy.AI co-operation initiative, which the Council of Europe joined in September 2021, bringing together eight international organisations to launch a portal promoting global co-operation on AI, serving as a one-stop shop for data, research findings and good practices in AI policy, thus serving also to improve access to information.