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Respect for media freedom

Reply to Recommendation¹: Recommendation 1897 (2010)
Committee of Ministers

1. The Committee of Ministers welcomes Parliamentary Assembly [Recommendation 1897 \(2010\)](#) on “Respect for media freedom” and shares the Assembly’s serious concern about the increase of attacks on media and journalists in Europe. It has brought the recommendation to the attention of member states’ governments. It has also transmitted it to the Steering Committee on the Media and New Communication Services (CDMC) for comments and to the European Commission for Democracy through Law (Venice Commission) and the Group of States against Corruption (GRECO) for information.

2. In its recommendation, the Parliamentary Assembly mentions a series of examples that illustrate the existence of sometimes serious shortcomings in the law and practice of member states in respect of the effective protection of freedom of expression and information, including freedom of the media. The Committee of Ministers wishes to assure the Assembly that it closely follows the situation in member states and that it is taking measures aiming to remedy these shortcomings. Ensuring respect for freedom of expression as protected by the European Convention on Human Rights is a key commitment by member states and therefore a priority area for Council of Europe action.

3. The Committee of Ministers recalls its Declaration of 13 January 2010 on measures to promote the respect of Article 10 of the European Convention on Human Rights, in which it stressed that freedom of expression and information, including freedom of the media, are indispensable for genuine democracy and democratic processes. It furthermore underlined that when those freedoms are not upheld, accountability is likely to be undermined and the rule of law can also be compromised.

4. The Committee of Ministers furthermore recalls its Declaration of 6 February 2008 on the protection of human rights defenders, which also covers journalists. By this declaration, member states were called on, *inter alia*, to take effective measures to create an environment conducive to the work of the human rights defenders as well as to prevent attacks on or harassment of them. The Committee of Ministers is willing to provide any assistance member states may request to this end.

5. The Council of Europe has adopted a significant body of standards in the area of protection and promotion of freedom of expression and information and of freedom of the media, which give guidance to member states. It has also taken measures to strengthen the implementation of those standards in the law and practice of member states. The implementation of the declaration of 13 January 2010 should improve the gathering of information and its sharing among different Council of Europe bodies and institutions. It should also ensure enhanced co-ordination between them without prejudice to their respective mandates and independence, thus enabling them to promote more effectively respect of Article 10. More specifically, it will respond to certain of the recommendations made by the Parliamentary Assembly (paragraphs 11.3 and 12).

6. The Committee of Ministers reiterates the call made in the declaration for 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.

1. adopted at the 1107th meeting of the Ministers’ Deputies (2 March 2011)



7. The Committee of Ministers underlines that the European Court of Human Rights has been seized with numerous complaints relating to the different aspects of media freedom enumerated in the Assembly's recommendation and that an important case law has developed in response hereto. The Committee of Ministers is attentively supervising the execution by respondent states of all judgments finding violations of the European Convention on Human Rights, as evidenced notably by its annual reports on its supervision activity, to ensure that necessary measures are adopted to remedy the violations.

8. It is expected that the current efforts to improve the domestic implementation of the European Convention on Human Rights following the Interlaken Conference and the 120th Session of the Committee of Ministers, will also assist in enhancing in all member states the knowledge about the Convention system and the Court's case law, including in the field of media freedom here at issue.

9. The Committee of Ministers also recalls that it has offered the Council of Europe's assistance with preparing necessary legislative reforms and that a number of assistance activities have been carried out. The Committee of Ministers, like the Parliamentary Assembly and the Council of Europe Commissioner for Human Rights, has called on Azerbaijan to decriminalise defamation and, pending such a reform, to establish a moratorium on the application of criminal sanctions in case of defamation. At the same time, assistance is being provided to increase the level of professionalism of journalists in Azerbaijan. The Committee hopes that these efforts will soon lead to an improvement of the situation. The Committee of Ministers continues to encourage the Azerbaijani authorities to make progress on improving the freedom of the media, and supports the Ago Group's call in this respect. The Committee of Ministers calls on member states to review, as necessary, their defamation and insult legislation in the light of the European Convention on Human Rights.

10. The Committee of Ministers underlines that, in line with its Recommendation CM/Rec(2007)15 on measures concerning media coverage of election campaigns, it has repeatedly called on member states, including those enumerated in the Assembly's recommendation, to ensure equal access to the media in pre-electoral periods and balanced media coverage of electoral campaigns. The Council of Europe continues to pay close attention to the question of plural and fair access to the media during election periods through specific training and capacity-building activities. In some countries, media monitoring activities have been conducted in co-operation with independent professional media outlets. Reference is also made to the recent joint programme with the European Union on freedom of expression and information and freedom of the media in South Caucasus and Moldova.

11. As regards murders of critical journalists in Russia, the Committee of Ministers recalls the appeals made by several successive chairmanships of the Committee of Ministers and several appeals of the Secretary General of the Council of Europe and the Commissioner for Human Rights that these murders be investigated rapidly and the perpetrators brought to justice. The Russian authorities on different levels assured the Council of Europe that all possible measures were being taken to this end. The Committee of Ministers hopes that these efforts will lead to tangible results.

12. As regards the Assembly's recommendation to review national legislation and practice to ensure that anti-terrorism measures fully respect media freedom (paragraph 11.1), the Committee of Ministers recalls the related commitment included in the Resolution on "Developments in anti-terrorism legislation in Council of Europe member states and their impact on freedom of expression and information", adopted at the 1st Council of Europe Conference of Ministers responsible for Media and New Communication Services (Reykjavik, May 2009). The Committee of Ministers has invited the Secretary General to offer assistance to member states in this context. It encourages all member states to translate this commitment into concrete action, where appropriate with expert assistance from the Council of Europe. The Committee invites the CDMC to consider possible guidance to be offered to member states for the implementation in practice of this important commitment.

Appendix to the reply

Comments of the Steering Committee on the Media and New Communication Services (CDMC)

1. The Steering Committee on the Media and New Communication Services (CDMC) welcomes the Parliamentary Assembly's [Recommendation 1897 \(2010\)](#) on "Respect for media freedom" and shares the Assembly's serious concern about the increase of attacks on media and journalists in Europe.
2. Media freedom is indeed a necessary condition for genuine democracy, as has been repeatedly stated in Committee of Ministers' instruments. Member states' obligations to protect the safety of journalists, the free and unhindered exercise of journalism and the independence and plurality of the media have been amply expounded in the relevant case law of the European Court of Human Rights. A wide catalogue of well-known Committee of Ministers' instruments also offers a common understanding of those obligations and provides guidance to assist member states in meeting them.
3. However, the numerous examples mentioned by the Parliamentary Assembly illustrate the existence of serious shortcomings in the law and practice of member states in respect of the effective protection of freedom of expression and information, including freedom of the media.
4. The CDMC agrees that more needs to be done and refers, in this context, to the Declaration 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. Its implementation should improve the gathering of information and its sharing among different Council of Europe bodies and institutions. It should also ensure enhanced co-ordination between them without prejudice to their respective mandates and independence, thus enabling them to promote more effectively respect of Article 10. More specifically, it would contribute to respond to certain of the recommendations made by the Parliamentary Assembly (see in particular paragraphs 11.3 and 12 of [Recommendation 1897 \(2010\)](#)).
5. In the CDMC's view, action upon the above-mentioned declaration should be pursued vigorously. It would, however, point out that the type of reporting suggested by the Assembly would require commensurate resources and that its feasibility, including budgetary considerations, would have to be carefully assessed.
6. The CDMC would also refer to the desirability of offering expert assistance to member states in appropriate cases. Funding possibilities for these activities, including extra-budgetary resources, should be explored. The CDMC agrees that assistance programmes for the training of judges, law enforcement authorities and police should extend to media freedom and the protection of journalists (see paragraphs 11.2 of [Recommendation 1897 \(2010\)](#)) or address other Assembly concerns covered by well-established Council of Europe standards (see paragraphs 10 and 11, sub-paragraphs 4 to 7, of the Assembly recommendation). Such training or awareness-raising is particularly important in connection with the implementation of policy and legislation related to terrorism and the protection of state security as well as the fight against cybercrime.
7. As regards the recommendation to review national legislation and practice to ensure that anti-terrorism measures fully respect media freedom (see paragraph 11.1 of the Assembly's recommendation), the CDMC would recall the related commitment included in the Resolution on "Developments in anti-terrorism legislation in Council of Europe member states and their impact on freedom of expression and information", adopted at the 1st Council of Europe Conference of Ministers responsible for Media and New Communication Services (Reykjavik, May 2009).² The CDMC understands that the Committee of Ministers invited the Secretary General to offer assistance to member states in this context. It would encourage all member states to translate this commitment into concrete action, where appropriate with expert assistance from the Council of Europe.

2. The delegation of the Russian Federation present at the conference made a reservation in respect of this commitment. It indicated that the subject matter dealt with does not fall entirely under the competence of the authorities of the Russian Federation responsible for media and mass communication.