

EUROPEAN STANDARDS ON MEDIA COVERAGE OF ELECTION CAMPAIGNS

Introduction

This review of documents was prepared for the project “Monitoring of the media coverage of party-political and inter-ethnic issues during the election campaign”, for the local elections in 2013.

The issue of media reporting on election campaigns is covered by a very large number of declarations, resolutions, recommendations and other documents of the Council of Europe and other international organizations, but a selection is made here of only the most important recommendations of the Council of Europe. This is done in order to familiarize the media, journalists and the public in general with the recommendations in more details. The review contains the following recommendations:

- Declaration of the Committee of Ministers on freedom of political debate in the media (2004)
- Recommendation CM/Rec (2007)15 of the Committee of Ministers to member states on measures concerning media coverage of election campaigns
- Recommendation No. R (99) 15 of the Committee of Ministers to member states on measures concerning media coverage of election campaigns
- Recommendation No. R (97) 21 of the Committee of Ministers to Member States on the media and the promotion of a culture of tolerance
- Recommendation No. R (97) 20 of the Committee of Ministers on “Hate Speech”

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Kingdom of the Netherlands



Organization for Security and
Co-operation in Europe
Mission to Skopje

DECLARATION ON FREEDOM OF POLITICAL DEBATE IN THE MEDIA OF THE COMMITTEE OF MINISTERS OF THE COUNCIL OF EUROPE

(Adopted by the Committee of Ministers on 12 February 2004 at the 872nd meeting of the Ministers' Deputies)

The Committee of Ministers of the Council of Europe,

More than 50 years after having opened the Convention for the Protection of Human Rights and Fundamental Freedoms, hereinafter referred to as "the Convention", for signature by the member states, the Convention being the supreme instrument throughout Europe for the protection of the rights and freedoms enshrined therein;

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 commitment of all member states to the fundamental principles of pluralist democracy, respect for human rights and the rule of law, as reaffirmed by the Heads of State and Government at their Second Summit in Strasbourg on 11 October 1997;

Reaffirming that the fundamental right to freedom of expression and information as guaranteed by Article 10 of the Convention constitutes one of the essential foundations of a democratic society and one of the basic conditions for its progress and the development of every individual, as expressed in its Declaration on the Freedom of Expression and Information of 1982;

Referring to the Declaration on a media policy for tomorrow adopted at the 6th European Ministerial Conference on Mass Media Policy in Cracow on 15 and 16 June 2000;

Recalling its Resolution (74) 26 on the right of reply – position of the individual in

relation to the press and its Recommendation No. R (99) 15 on measures concerning media coverage of election campaigns;

Recalling also its Recommendation No. R (97) 20 on "hate speech" and emphasising that freedom of political debate does not include freedom to express racist opinions or opinions which are an incitement to hatred, xenophobia, antisemitism and all forms of intolerance;

Aware of Resolution 1165 (1998) of the Parliamentary Assembly on the right to privacy;

Reaffirming the pre-eminent importance of freedom of expression and information, in particular through free and independent media, for guaranteeing the right of the public to be informed on matters of public concern and to exercise public scrutiny over public and political affairs, as well as for ensuring accountability and transparency of political bodies and public authorities, which are necessary in a democratic society, without prejudice to the domestic rules of member states concerning the status and liability of public officials;

Recalling that the exercise of freedom of expression carries with it duties and responsibilities, which media professionals must bear in mind, and that it may legitimately be restricted in order to maintain a balance between the exercise of this right and respect for other fundamental rights, freedoms and interests protected by the Convention;

Conscious that natural persons who are candidates for, or have been elected to, or have retired from political bodies, hold a political function at local, regional, national or international level or exercise political influence, hereinafter referred to as "political figures", as well as natural persons who hold a public office or exercise public authority at those levels, hereinafter referred to as "public officials", enjoy fundamental rights which might be infringed

by the dissemination of information and opinions about them in the media;

Conscious that some domestic legal systems still grant legal privileges to political figures or public officials against the dissemination of information and opinions about them in the media, which is not compatible with the right to freedom of expression and information as guaranteed by Article 10 of the Convention;

Conscious that the right to exercise public scrutiny over public affairs may include the dissemination of information and opinions about individuals other than political figures and public officials,

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 political bodies, public authorities and the judiciary as well as to make it available to journalists, the media and their professional organisations;

Draws particular attention to the following principles concerning the dissemination of information and opinions in the media about political figures and public officials:

I. Freedom of expression and information through the media

Pluralist democracy and freedom of political debate require that the public is informed about matters of public concern, which includes the right of the media to disseminate negative information and critical opinions concerning political figures and public officials, as well as the right of the public to receive them.

II. Freedom to criticise the state or public institutions

The state, the government or any other institution of the executive, legislative or judicial branch may be subject to criticism in the media. Because of their dominant position, these institutions as such should not be protected by criminal law against defamatory or insulting statements. Where, however, these institutions enjoy such a protection, this protection should be applied in a restrictive manner, avoiding in any circumstances its use to restrict freedom to criticise. Individuals representing these institutions remain furthermore protected as individuals.

III. Public debate and scrutiny over political figures

Political figures have decided to appeal to the confidence of the public and accepted to subject themselves to public political debate and are therefore subject to close public scrutiny and potentially robust and strong public criticism through the media over the way in which they have carried out or carry out their functions.

IV. Public scrutiny over public officials

Public officials must accept that they will be subject to public scrutiny and criticism, particularly through the media, over the way in which they have carried out or carry out their functions, insofar as this is necessary for ensuring transparency and the responsible exercise of their functions.

V. Freedom of satire

The humorous and satirical genre, as protected by Article 10 of the Convention, allows for a wider degree of exaggeration and even provocation, as long as the public is not misled about facts.

VI. Reputation of political figures and public officials

Political figures should not enjoy greater protection of their reputation and other rights than other individuals, and thus more severe sanctions should not be pronounced under domestic law against the media where the latter criticise political figures. This principle also applies to public officials; derogations should only be permissible where they are strictly necessary to enable public officials to exercise their functions in a proper manner.

VII. Privacy of political figures and public officials

The private life and family life of political figures and public officials should be protected against media reporting under Article 8 of the Convention. Nevertheless, information about their private life may be disseminated where it is of direct public concern to the way in which they have carried out or carry out their functions, while taking into account the need to avoid unnecessary harm to third parties. Where political figures and public officials draw public attention to parts of their private life, the media have the right to subject those parts to scrutiny.

VIII. Remedies against violations by the media

Political figures and public officials should only have access to those legal remedies against the media which private individuals have in case of violations of their rights by the media. 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. Defamation or insult by the media should not lead to imprisonment, unless the seriousness of the violation of the rights or reputation of others makes it a strictly necessary and proportionate penalty, especially where other fundamental rights have been seriously violated through defamatory or insulting statements in the media, such as hate speech.

**RECOMMENDATION CM/REC(2007)15
OF THE COMMITTEE OF MINISTERS
TO MEMBER STATES ON MEASURES
CONCERNING MEDIA COVERAGE OF
ELECTION CAMPAIGNS**

(Adopted by the Committee of Ministers on 7 November 2007 at the 1010th meeting of the Ministers' Deputies)

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

Noting the important role of the media in modern societies, especially at the time of elections;

Considering the constant development of information and communication technology and the evolving media landscape which necessitates the revision of Recommendation No. R (99) 15 of the Committee of Ministers on measures concerning media coverage of election campaigns;

Aware of the need to take account of the significant differences which still exist between the print and the broadcast media;

Considering the differences between linear and non-linear audiovisual media services, in particular as regards their reach, impact and the way in which they are consumed;

Stressing that the fundamental principle of editorial independence of the media assumes a special importance in election periods;

Underlining that the coverage of elections by the broadcast media should be fair, balanced and impartial;

Recalling the basic principles contained in Resolution No. 2 adopted at the 4th Ministerial Conference on Mass Media Policy (Prague, December 1994), and Recommendation No. R (96) 10 of the Committee of Ministers on the guarantee of the independence of public service broadcasting;

Noting the emergence of public service media in the information society as elaborated in Recommendation Rec(2007)3 of the Committee of Ministers on the remit of public service media in the information society;

Considering that public service media are a publicly accountable source of informa-

tion which have a particular responsibility in ensuring in their programmes, a fair, balanced and thorough coverage of elections, which may include the carrying of messages of political parties and candidates free of charge and on an equitable basis;

Noting that particular attention should be paid to certain specific features of the coverage of election campaigns, such as the dissemination of opinion polls, paid political advertising, the right of reply, days of reflection and provision for pre-election time;

Stressing the important role of self-regulatory measures by media professionals themselves – for example, in the form of codes of conduct – which set out guidelines of good practice for responsible, accurate and fair coverage of election campaigns;

Recognising the complementary nature of regulatory and self-regulatory measures in this area;

Convinced of the usefulness of appropriate frameworks for media coverage of elections to contribute to free and democratic elections, bearing in mind the different legal and practical approaches of member states in this area and the fact that it can be subject to different branches of law;

Acknowledging that any regulatory framework on the media coverage of elections should respect the fundamental principle of freedom of expression protected under Article 10 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, as interpreted by the European Court of Human Rights;

Recalling Recommendation Rec(2004)16 of the Committee of Ministers on the right of reply in the new media environment which allows the possibility for easy-to-use instant or rapid correction of contested information,

Recommends that the governments of the member states, if they have not already done so, examine ways of ensuring respect for the principles stated hereinafter regarding the coverage of election campaigns by the media, and, where necessary, adopt appropriate measures to implement these principles in their domestic law or practice and in accordance with constitutional law.

Definition

For the purposes of this recommendation:

The term “media” refers to those responsible for the periodic creation of information and content and its dissemination over which there is editorial responsibility, irrespective of the means and technology used for delivery, which are intended for reception by, and which could have a clear impact on, a significant proportion of the general public. This could, *inter alia*, include print media (newspapers, periodicals) and media disseminated over electronic communication networks, such as broadcast media (radio, television and other linear audiovisual media services), online news-services (such as online editions of newspapers and newsletters) and non-linear audiovisual media services (such as on-demand television).

Scope of the recommendation

The principles of this recommendation apply to all types of political elections taking place in member states, including presidential, legislative, regional and, where practicable, local elections and referenda.

These principles should also apply, where relevant, to media reporting on elections taking place abroad, especially when these media address persons in the country where the election is taking place.

In member states where the notion of the “pre-election period” is defined under domestic legislation, the principles contained in this recommendation should also apply.

Principles

I. General provisions

1. Non-interference by public authorities

Public authorities should refrain from interfering in the activities of journalists and

other media personnel with a view to influencing the elections.

2. Protection against attacks, intimidation or other types of unlawful pressure on the media

Public authorities should take appropriate steps for the effective protection of journalists and other media personnel and their premises, as this assumes a greater significance during elections. At the same time, this protection should not obstruct the media in carrying out their work.

3. Editorial independence

Regulatory frameworks on media coverage of elections should respect the editorial independence of the media.

Member states should ensure that there is an 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.

4. Ownership by public authorities

Member states should adopt measures whereby the media which are owned by public authorities, when covering election campaigns, should do so in a fair, balanced and impartial manner, without discriminating against or supporting a specific political party or candidate.

If such media outlets accept paid political advertising in their publications, they should ensure that all political contenders and parties that request the purchase of advertising space are treated in an equal and non-discriminatory manner.

5. Professional and ethical standards of the media

All media are encouraged to develop self-regulatory frameworks and incorporate self-regulatory professional and ethical stan-

dards regarding their coverage of election campaigns, including, *inter alia*, respect for the principles of human dignity and non-discrimination. These standards should reflect their particular roles and responsibilities in democratic processes.

6. Transparency of, and access to, the media

If the media accept paid political advertising, regulatory or self-regulatory frameworks should ensure that such advertising is readily recognisable as such.

Where media is owned by political parties or politicians, member states should ensure that this is made transparent to the public.

7. The right of reply or equivalent remedies

Given the short duration of an election campaign, any candidate or political party which is entitled to a right of reply or equivalent remedies under national law or systems should be able to exercise this right or equivalent remedies during the campaign period without undue delay.

8. Opinion polls

Regulatory or self-regulatory frameworks should ensure that the media will, when disseminating the results of opinion polls, provide the public with sufficient information to make a judgement on the value of the polls. Such information could, in particular :

- name the political party or other organisation or person which commissioned and paid for the poll;
- identify the organisation conducting the poll and the methodology employed;
- indicate the sample and margin of error of the poll;
- indicate the date and/or period when the poll was conducted.

All other matters concerning the way in which the media present the results of opinion polls should be decided by the media themselves.

Any restriction by member states forbidding the publication/dissemination of opinion polls (on voting intentions) on voting day or a number of days before the election should comply with Article 10 of the European Convention for the Protection of Human Rights and Funda-

mental Freedoms, as interpreted by the European Court of Human Rights.

Similarly, in respect of exit polls, member states may consider prohibiting reporting by the media on the results of such polls until all polling stations in the country have closed.

9. "Day of reflection"

Member states may consider the merits of including a provision in their regulatory frameworks to prohibit the dissemination of partisan electoral messages on the day preceding voting or to provide for their correction.

II. Measures concerning broadcast media

1. General framework

During election campaigns, regulatory frameworks should encourage and facilitate the pluralistic expression of opinions via the broadcast media.

With due respect for the editorial independence of broadcasters, regulatory frameworks should also provide for the obligation to cover election campaigns in a fair, balanced and impartial manner in the overall programme services of broadcasters. Such an obligation should apply to both public service media and private broadcasters in their relevant transmission areas.

Member states may derogate from these measures with respect to those broadcast media services exclusively devoted to, and clearly identified as, the self-promotion of a political party or candidate.

2. News and current affairs programmes

Where self-regulation does not provide for this, member states should adopt measures whereby public service media and private broadcasters, during the election period, should in particular be fair, balanced and impartial in their news and current affairs programmes, including discussion programmes such as interviews or debates.

No privileged treatment should be given by broadcasters to public authorities during such programmes. This matter should primarily be addressed via appropriate self-regulatory measures. In this connection, member states might examine whether, where practicable, the relevant

authorities monitoring the coverage of elections should be given the power to intervene in order to remedy possible shortcomings.

3. Non-linear audiovisual services of public service media

Member states should apply the principles contained in points 1 and 2 above or similar provisions to non-linear audiovisual media services of public service media.

4. Free airtime and equivalent presence for political parties/candidates on public service media

Member states may examine the advisability of including in their regulatory frameworks provisions whereby public service media may make available free airtime on their broadcast and other linear audiovisual media services and/or an equivalent presence on their non-linear audiovisual media services to political parties/candidates during the election period.

Wherever such airtime and/or equivalent presence is granted, this should be done in a fair and non-discriminatory manner, on the basis of transparent and objective criteria.

5. Paid political advertising

In member states where political parties and candidates are permitted to buy advertising space for election purposes, regulatory frameworks should ensure that all contending parties have the possibility of buying advertising space on and according to equal conditions and rates of payment.

Member states may consider introducing a provision in their regulatory frameworks to limit the amount of political advertising space and time which a given party or candidate can purchase.

Regular presenters of news and current affairs programmes should not take part in paid political advertising.

**RECOMMENDATION NO. R (99) 15
OF THE COMMITTEE OF MINISTERS
TO MEMBER STATES ON MEASURES
CONCERNING MEDIA COVERAGE OF
ELECTION CAMPAIGNS**

(Adopted by the Committee of Ministers on 9 September 1999, at the 678th meeting of the Ministers' Deputies)

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

Noting the important role of the media in modern societies, especially at the time of elections;

Stressing that the fundamental principle of editorial independence of the media assumes a special importance in election periods;

Aware of the need to take account of the significant differences which exist between the print and the broadcast media;

Underlining that the coverage of elections by the broadcast media should be fair, balanced and impartial;

Considering that public service broadcasters have a particular responsibility in ensuring in their programmes a fair and thorough coverage of elections which may include the granting of free airtime to political parties and candidates;

Noting that particular attention should be paid to certain specific features of the coverage of election campaigns, such as the dissemination of opinion polls, paid political advertising, the right of reply, days of reflection and provision for pre-electoral time;

Stressing the important role of self-regulatory measures by media professionals themselves - for example, in the form of codes of conduct - which set out guidelines of good practice for responsible, accurate and fair coverage of electoral campaigns;

Recognising the complementary nature of regulatory and self-regulatory measures in this area;

Convinced of the usefulness of appropriate frameworks for media coverage of elections to contribute to free and democratic elections, bearing in mind the different legal and practi-

cal approaches of member States in this area and the fact that it can be subject to different branches of law;

Acknowledging that any regulatory framework on the coverage of elections should respect the fundamental principle of freedom of expression protected under Article 10 of the European Convention on Human Rights, as interpreted by the European Court of Human Rights;

Recalling the basic principles contained in Resolution No. 2 adopted at the 4th Ministerial Conference on Mass Media Policy (Prague, December 1994) and Recommendation No. R (96) 10 of the Committee of Ministers on the guarantee of the independence of public service broadcasting,

Recommends that the governments of the member States examine ways of ensuring respect for the principles of fairness, balance and impartiality in the coverage of election campaigns by the media, and consider the adoption of measures to implement these principles in their domestic law or practice where appropriate and in accordance with constitutional law.

**APPENDIX TO RECOMMENDATION
NO. R (99) 15**

Scope of the Recommendation

The principles of fairness, balance and impartiality in the coverage of election campaigns by the media should apply to all types of political elections taking place in member States, that is, presidential, legislative, regional and, where practicable, local elections and political referenda.

These principles should also apply, where relevant, to media reporting on elections taking place abroad, especially when these media address citizens of the country where the election is taking place.

I. Measures concerning the print media

1. Freedom of the press

Regulatory frameworks on media coverage of elections should not interfere with the editorial independence of newspapers or magazines nor with their right to express any political preference.

2. Print media outlets owned by public authorities

Member States should adopt measures whereby print media outlets which are owned by public authorities, when covering electoral campaigns, should do so in a fair, balanced and impartial manner, without discriminating against or supporting a specific political party or candidate.

If such media outlets accept paid political advertising in their publications, they should ensure that all political contenders and parties that request the purchase of advertising space are treated in an equal and non-discriminatory manner.

II. Measures concerning the broadcast media

1. General framework

During electoral campaigns, regulatory frameworks should encourage and facilitate the pluralistic expression of opinions via the broadcast media.

With due respect for the editorial independence of broadcasters, regulatory frameworks should also provide for the obligation to cover electoral campaigns in a fair, balanced and impartial manner in the overall programme services of broadcasters. Such an obligation should apply to both public service broadcasters as well as private broadcasters in their relevant transmission areas.

In member States where the notion of “pre-electoral time” is defined under domestic legislation, the rules on fair, balanced, and impartial coverage of electoral campaigns by the broadcast media should also apply to this period.

2. News and current affairs programmes

Where self-regulation does not provide for this, member States should adopt measures whereby public and private broad-

casters, during the election period, should in particular be fair, balanced and impartial in their news and current affairs programmes, including discussion programmes such as interviews or debates.

No privileged treatment should be given by broadcasters to public authorities during such programmes. This matter should primarily be addressed via appropriate self-regulatory measures. As appropriate, member States might examine whether, where practicable, the relevant authorities monitoring the coverage of elections should be given the power to intervene in order to remedy possible shortcomings.

3. Other programmes

Special care should be taken with programmes other than news or current affairs which are not directly linked to the campaign but which may also have an influence on the attitude of voters.

4. Free airtime for political parties/candidates on public broadcast media

Member States may examine the advisability of including in their regulatory frameworks provisions whereby free airtime is made available to political parties/candidates on public broadcasting services in electoral time.

Wherever such airtime is granted, this should be done in a fair and non-discriminatory manner, on the basis of transparent and objective criteria.

5. Paid political advertising

In member States where political parties and candidates are permitted to buy advertising space for electoral purposes, regulatory frameworks should ensure that:

- the possibility of buying advertising space should be available to all contending parties, and on equal conditions and rates of payment;

- the public is aware that the message is a paid political advertisement.

Member States may consider introducing a provision in their regulatory frameworks to limit the amount of political advertising space which a given party or candidate can purchase.

III. Measures concerning both the print and broadcast media

1. "Day of reflection"

Member States may consider the merits of including a provision in their regulatory frameworks to prohibit the dissemination of partisan electoral messages on the day preceding voting.

2. Opinion polls

Regulatory or self-regulatory frameworks should ensure that the media, when disseminating the results of opinion polls, provide the public with sufficient information to make a judgement on the value of the polls. Such information could, in particular:

- name the political party or other organisation or person which commissioned and paid for the poll;
- identify the organisation conducting the poll and the methodology employed;
- indicate the sample and margin of error of the poll;
- indicate the date and/or period when the poll was conducted.

All other matters concerning the way in which the media present the results of opinion polls should be decided by the media themselves.

Any restriction by member States forbidding the publication/broadcasting of opinion polls (on voting intentions) on voting day or a number of days before the election should comply with Article 10 of the European Convention on Human Rights, as interpreted by the European Court of Human Rights.

Similarly, in respect of exit polls, member States may consider prohibiting reporting by the media on the results of such polls until all polling stations in the country have closed.

3. The right of reply

Given the short duration of an election campaign, any candidate or political party which is entitled to a right of reply under national law or systems should be able to exercise this right during the campaign period.

IV. Measures to protect the media at election time

1. Non-interference by public authorities

Public authorities should refrain from interfering in the activities of journalists and other media personnel with a view to influencing the elections.

2. Protection against attacks, intimidation or other unlawful pressures on the media

Public authorities should take appropriate steps for the effective protection of journalists and other media personnel and their premises, as this assumes a greater significance during elections. At the same time, this protection should not obstruct them in carrying out their work.

RECOMMENDATION NO. R (97) 21 OF THE COMMITTEE OF MINISTERS TO MEMBER STATES ON THE MEDIA AND THE PROMOTION OF A CULTURE OF TOLERANCE

*(Adopted by the Committee of Ministers on
30 October 1997, at the 607th meeting of the
Minister's 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 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;

Stressing its commitment to guarantee the equal dignity of all individuals and the enjoyment of rights and freedoms without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status;

Recalling that the Heads of State and Government of the member States of the Council of Europe expressed their conviction, at the Vienna Summit Conference (October 1993), that the principle of tolerance is the guarantee of the maintenance in Europe of an open society respecting cultural diversity;

Resolved to intensify action against intolerance, taking as a basis the Plan of Action adopted at the Vienna Summit Conference;

Welcoming the initiatives of international organisations, governments and various sectors of society to promote a culture of tolerance, and especially those taken by media professionals, and noting that the latter are in a particularly good position to promote

these initiatives and ensure their general acceptance in all media sectors;

Noting that the media can make a positive contribution to the fight against intolerance, especially where they foster a culture of understanding between different ethnic, cultural and religious groups in society;

Stressing in line with Article 10 of the European Convention on Human Rights the independence and the autonomy of media professionals and media organisations, and the need to avoid measures which interfere with these principles;

Considering that media professionals might usefully be invited to reflect further on the problem of intolerance in the increasingly multicultural and multi-ethnic composition of the member States and on the measures which they might take to promote tolerance and understanding;

Believing that such measures might be implemented at a number of levels, including schools of journalism, media organisations as well as in the context of the exercise of the media professions;

Believing also that the success of such measures depends to a large extent on the degree of involvement of the different categories of professional in the media sectors, in particular media proprietors, managers, editors, writers, programme makers, journalists and advertisers;

Having regard to Parliamentary Assembly Recommendation 1277 (1995) on migrants, ethnic minorities and media;

Recommends that the governments of the member States:

1. make the following target groups aware of the means of action set out in the appendix to this recommendation:

- press, radio and television enterprises, as well as the new communications and advertising sectors;

- the representative bodies of media professionals in these sectors;
- regulatory and self-regulatory bodies in these sectors;
- schools of journalism and media training institutes.

2. examine in a positive spirit any requests for support for initiatives undertaken in pursuance of the objectives of this recommendation.

APPENDIX TO RECOMMENDATION NO. R (97) 21

Scope

The means of action set out hereafter aim to highlight non-exhaustive examples of professional practices conducive to the promotion of a culture of tolerance which merit more general application in the various media sectors mentioned above.

Professional practices conducive to the promotion of a culture of tolerance

1. Training

Initial training

Schools of journalism and media training institutes, in so far as they have not yet done so, might usefully introduce specialist courses in their core curricula with a view to developing a sense of professionalism which is attentive to:

- the involvement of the media in multi-ethnic and multicultural societies;
- the contribution which the media can make to a better understanding between different ethnic, cultural and religious communities.

Further training

Media enterprises might usefully provide in-house training or opportunities for outside training for their media professionals at all levels, on professional standards on tolerance and intolerance.

2. Media enterprises

The problem of intolerance calls for reflection by both the public and within the media

enterprises. Experience in professional media circles has shown that media enterprises might usefully reflect on the following:

- reporting factually and accurately on acts of racism and intolerance;
- reporting in a sensitive manner on situations of tension between communities;
- avoiding derogatory stereotypical depiction of members of cultural, ethnic or religious communities in publications and programme services;
- treating individual behaviour without linking it to a person's membership of such communities where this is irrelevant;
- depicting cultural, ethnic and religious communities in a balanced and objective manner and in a way which also reflects these communities' own perspectives and outlook;
- alerting public opinion to the evils of intolerance;
- deepening public understanding and appreciation of difference;
- challenging the assumptions underlying intolerant remarks made by speakers in the course of interviews, reports, discussion programmes, etc;
- considering the influence of the source of information on reporting;
- the diversity of the workforce in the media enterprises and the extent to which it corresponds to the multi-ethnic, multi-cultural character of its readers, listeners or viewers.

3. Representative bodies of media professionals

Representative bodies of the various categories of media professionals might usefully undertake action programmes or practical initiatives for the promotion of a culture of tolerance.

4. Codes of conduct

Such initiatives and actions could go hand in hand with professional codes of conduct drawn up within the different media sectors,

which address the problems of discrimination and intolerance by encouraging media professionals to make a positive contribution towards the development of tolerance and mutual understanding between the different religious, ethnic and cultural groups in society.

5. Broadcasting

While public service broadcasters have a special commitment to promote a culture of tolerance and understanding, the broadcasting media as a whole are a potent force for creating an atmosphere in which intolerance can be challenged. They might find inspiration from broadcasters who, for example:

- make adequate provision for programme services, also at popular viewing times, which help promote the integration of all individuals, groups and communities as well as proportionate amounts of airtime for the various ethnic, religious and other communities;
- develop a multicultural approach to programme content so as to avoid programmes which present society in mono-cultural and mono-linguistic terms;
- promote a multicultural approach in programmes which are specifically geared to children and young people so as to enable them to grow up with the understanding that cultural, religious and ethnic difference is a natural and positive element of society;
- develop arrangements for sharing at the regional, national or European level, programme material which has proven its value in mobilising public opinion against the evils of intolerance or in contributing towards promoting community relations in multi-ethnic and multicultural societies.

6. Advertising

Although the multi-ethnic and multicultural character of consumer society is already reflected in certain commercial advertisements and although certain advertisers make an effort to prepare advertising in a way which reflects a positive image of cultural, religious and ethnic diversity, practices such as those set out hereafter could be developed by the professional circles concerned.

In certain countries, codes of conduct have been drawn up within the advertising sector which prohibit discrimination on grounds such as race, colour, national origin, etc.

There are media enterprises which refuse to carry advertising messages which portray cultural, religious or ethnic difference in a negative manner, for example by reinforcing stereotypes.

Certain public and private organisations develop advertising campaigns designed to promote tolerance. The media could be invited to co-operate actively in the dissemination of such advertisements.

**RECOMMENDATION NO. R (97) 20
OF THE COMMITTEE OF MINISTERS ON
"HATE SPEECH"**

***(Adopted by the Committee of Ministers on
30 October 1997, at the 607th meeting of the
Minister's 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 a greater unity between its members, particularly for the purpose of safeguarding and realising the ideals and principles which are their common heritage;

Recalling the Declaration of the Heads of State and Government of the member states of the Council of Europe, adopted in Vienna on 9 October 1993;

Recalling that the Vienna Declaration highlighted grave concern about the present resurgence of racism, xenophobia and antisemitism and the development of a climate of intolerance, and contained an undertaking to combat all ideologies, policies and practices constituting an incitement to racial hatred, violence and discrimination, as well as any action or language likely to strengthen fears and tensions between groups from different racial, ethnic, national, religious or social backgrounds;

Reaffirming its profound attachment to freedom of expression and information as expressed in the Declaration on the Freedom of Expression and Information of 29 April 1982;

Condemning, in line with the Vienna Declaration and the Declaration on Media in a Democratic Society, adopted at the 4th European Ministerial Conference on Mass Media Policy (Prague, 7-8 December 1994), all forms of expression which incite to racial hatred, xenophobia, antisemitism and all forms of intolerance, since they undermine democratic security, cultural cohesion and pluralism;

Noting that such forms of expression may have a greater and more damaging impact when disseminated through the media;

Believing that the need to combat such forms of expression is even more urgent in situations of tension and in times of war and other forms of armed conflict;

Believing that it is necessary to lay down guidelines for the governments of the member states on how to address these forms of expression, while recognising that most media cannot be blamed for such forms of expression;

Bearing in mind Article 7, paragraph 1, of the European Convention on Transfrontier Television and the case-law of the organs of the European Convention on Human Rights under Articles 10 and 17 of the latter Convention;

Having regard to the United Nations Convention on the Elimination of All Forms of Racial Discrimination and Resolution (68) 30 of the Committee of Ministers on Measures to be taken against incitement to racial, national and religious hatred;

Noting that not all member states have signed and ratified this Convention and implemented it by means of national legislation;

Aware of the need to reconcile the fight against racism and intolerance with the need to protect freedom of expression so as to avoid the risk of undermining democracy on the grounds of defending it;

Aware also of the need to respect fully the editorial independence and autonomy of the media,

Recommends that the governments of member states:

1. take appropriate steps to combat hate speech on the basis of the principles laid down in this recommendation;
2. 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;
3. where they have not done so, sign, ratify and effectively implement in national law the United Nations Convention on the Elimination of All Forms of Racial Discrimination, in accordance with Resolution (68) 30 of the Committee of Ministers on Measures to be taken against incitement to racial, national and religious hatred;
4. review their domestic legislation and practice in order to ensure that they comply with the principles set out in the appendix to this recommendation.

APPENDIX TO RECOMMENDATION NO. R (97) 20

Scope

The principles set out hereafter apply to hate speech, in particular hate speech disseminated through the media.

For the purposes of the application of these principles, the term “hate speech” shall be understood as covering all forms of expression which spread, incite, promote or justify racial hatred, xenophobia, antisemitism or other forms of hatred based on intolerance, including: intolerance expressed by aggressive nationalism and ethnocentrism, discrimination and hostility against minorities, migrants and people of immigrant origin.

Principle 1

The governments of the member states, public authorities and public institutions at the national, regional and local levels, as well as officials, have a special responsibility to refrain from statements, in particular to the media, which may reasonably be understood as hate speech, or as speech likely to produce the effect of legitimising, spreading or promoting racial hatred, xenophobia, antisemitism or other forms of discrimination or hatred based on intolerance. Such statements should be prohibited and publicly disavowed whenever they occur.

Principle 2

The governments of the member states should establish or maintain a sound legal framework consisting of civil, criminal and administrative law provisions on hate speech which enable administrative and judicial authorities to reconcile in each case respect for freedom of

expression with respect for human dignity and the protection of the reputation or the rights of others.

To this end, governments of member states should examine ways and means to:

1. stimulate and co-ordinate research on the effectiveness of existing legislation and legal practice;
2. review the existing legal framework in order to ensure that it applies in an adequate manner to the various new media and communications services and networks;
3. develop a co-ordinated prosecution policy based on national guidelines respecting the principles set out in this recommendation;
4. add community service orders to the range of possible penal sanctions;
5. enhance the possibilities to combat hate speech through civil law, for example by allowing interested non-governmental organisations to bring civil law actions, providing for compensation for victims of hate speech and providing for the possibility of court orders allowing victims a right of reply or ordering retraction;
6. provide the public and media professionals with information on legal provisions which apply to hate speech.

Principle 3

The governments of the member states should ensure that in the legal framework referred to in Principle 2 interferences with freedom of expression are narrowly circumscribed and applied in a lawful and non-arbitrary manner on the basis of objective criteria. Moreover, in accordance with the fundamental requirement of the rule of law, any limitation of or interference with freedom of expression must be subject to independent judicial control. This requirement is particu-

larly important in cases where freedom of expression must be reconciled with respect for human dignity and the protection of the reputation or the rights of others.

Principle 4

National law and practice should allow the courts to bear in mind that specific instances of hate speech may be so insulting to individuals or groups as not to enjoy the level of protection afforded by Article 10 of the European Convention on Human Rights to other forms of expression. This is the case where hate speech is aimed at the destruction of the rights and freedoms laid down in the Convention or at their limitation to a greater extent than provided therein.

Principle 5

National law and practice should allow the competent prosecution authorities to give special attention, as far as their discretion permits, to cases involving hate speech. In this regard, these authorities should, in particular, give careful consideration to the suspect's right to freedom of expression given that the imposition of criminal sanctions generally constitutes a serious interference with that freedom. The competent courts should, when imposing criminal sanctions on persons convicted of hate speech offences, ensure strict respect for the principle of proportionality.

Principle 6

National law and practice in the area of hate speech should take due account of the role of the media in communicating information and ideas which expose, analyse and explain specific instances of hate speech and the underlying phenomenon in general as well as the right of the public to receive such information and ideas.

To this end, national law and practice should distinguish clearly between the responsibility of the author of expressions of hate speech on the one hand and any responsibility of the media and media professionals contributing to their dissemination as part of their mission to communicate information and ideas on matters of public interest on the other hand.

Principle 7

In furtherance of principle 6, national law and practice should take account of the fact that:

1. reporting on racism, xenophobia, anti-semitism or other forms of intolerance is fully protected by Article 10, paragraph 1, of the European Convention on Human Rights and may only be interfered with under the conditions set out in paragraph 2 of that provision;
2. the standards applied by national authorities for assessing the necessity of restricting freedom of expression must be in conformity with the principles embodied in Article 10 as established in the case law of the Convention's organs, having regard, *inter alia*, to the manner, contents, context and purpose of the reporting;
3. respect for journalistic freedoms also implies that it is not for the courts or the public authorities to impose their views on the media as to the types of reporting techniques to be adopted by journalists.