

For debate in the Standing Committee — see Rule 15 of the Rules of Procedure

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The 2003 guidelines on the use of minority languages in the broadcast media and Council of Europe standards: need to enhance co-operation and synergy with the OSCE

Opinion
Committee on Culture, Science and Education
Rapporteur: Mr Sahlberg, Sweden, Socialist Group

Conclusions by the Committee on Culture, Science and Education

Introduction

1. Audiovisual media are still in a process of transformation in a technical and technological way. Through digital satellite, cable and terrestrial transmission, a plethora of channels can be received with a growing geographical reach and in an increasingly competitive market. In addition, more audiovisual media become accessible via the Internet and in digitally recorded formats such as DVD.
2. Nevertheless, audiovisual media produced in regional or minority languages are still marginal or non-existent. Where they exist, their reach is limited by two factors: the typically limited area of transmission or distribution as well as the fact that they are produced in less widely spoken languages.
3. Since audiovisual media have a decisive impact on learning cultural and social patterns, it should be a priority for member states to have a greater availability, and access to, audiovisual productions with a diverse linguistic and cultural background. Intercultural understanding and minority protection will benefit greatly from such productions.
4. The Council of Europe has set legal standards in this field:
5. Since 1989, Article 10 (3) of the European Convention on Transfrontier Television stipulates that:

The Parties undertake to look together for the most appropriate instruments and procedures to support, without discrimination between broadcasters, the activity and development of European production, particularly in countries with a low audiovisual production capacity or restricted language area.

6. In 1992, the European Charter for Regional or Minority Languages was opened for signature. It addresses media rights in its Article 11:

1. The Parties undertake, for the users of the regional or minority languages within the territories in which those languages are spoken, according to the situation of each language, to the extent that the public authorities, directly or indirectly, are competent, have power or play a role in this field, and respecting the principle of the independence and autonomy of the media:

a. to the extent that radio and television carry out a public service mission:

i. to ensure the creation of at least one radio station and one television channel in the regional or minority languages; or

ii. to encourage and/or facilitate the creation of at least one radio station and one television channel in the regional or minority languages; or

iii. to make adequate provision so that broadcasters offer programmes in the regional or minority languages;

b.

i. to encourage and/or facilitate the creation of at least one radio station in the regional or minority languages; or

ii. to encourage and/or facilitate the broadcasting of radio programmes in the regional or minority languages on a regular basis;

c.

i. to encourage and/or facilitate the creation of at least one television channel in the regional or minority languages; or

ii. to encourage and/or facilitate the broadcasting of television programmes in the regional or minority languages on a regular basis;

d. to encourage and/or facilitate the production and distribution of audio and audiovisual works in the regional or minority languages;

e.

i. to encourage and/or facilitate the creation and/or maintenance of at least one newspaper in the regional or minority languages; or

ii. to encourage and/or facilitate the publication of newspaper articles in the regional or minority languages on a regular basis;

f.

i. to cover the additional costs of those media which use regional or minority languages, wherever the law provides for financial assistance in general for the media; or

ii. to apply existing measures for financial assistance also to audiovisual productions in the regional or minority languages;

g. to support the training of journalists and other staff for media using regional or minority languages.

2. The Parties undertake to guarantee freedom of direct reception of radio and television broadcasts from neighbouring countries in a language used in identical or similar form to a regional or minority language, and not to oppose the retransmission of radio and television broadcasts from neighbouring countries in such a language. They further undertake to ensure that no restrictions will be placed on the freedom of expression and free circulation of information in the written press in a language used in identical or similar form to a regional or minority language. The exercise of the above-mentioned freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.

3. The Parties undertake to ensure that the interests of the users of regional or minority languages are represented or taken into account within such bodies as may be established in accordance with the law with responsibility for guaranteeing the freedom and pluralism of the media.

7. The Framework Convention for the Protection of National Minorities, which was opened for signature in 1995, regulates in its Article 9:

1. The Parties undertake to recognise that the right to freedom of expression of every person belonging to a national minority includes freedom to hold opinions and to receive and impart information and ideas in the minority language, without interference by public authorities and regardless of frontiers. The Parties shall ensure, within the framework of their legal systems, that persons belonging to a national minority are not discriminated against in their access to the media.

2. Paragraph 1 shall not prevent Parties from requiring the licensing, without discrimination and based on objective criteria, of sound radio and television broadcasting, or cinema enterprises.

3. The Parties shall not hinder the creation and the use of printed media by persons belonging to national minorities. In the legal framework of sound radio and television broadcasting, they shall ensure, as far as possible, and taking into account the provisions of paragraph 1, that persons belonging to national minorities are granted the possibility of creating and using their own media.

4. In the framework of their legal systems, the Parties shall adopt adequate measures in order to facilitate access to the media for persons belonging to national minorities and in order to promote tolerance and permit cultural pluralism.

8. These legal standards have been preceded and complemented by a number of recommendations by the Committee of Ministers (CM) and the Parliamentary Assembly (PACE). These include CM Recommendation (1985) 6 on aid for artistic creation, CM Recommendation (1986) 3 on the promotion of audiovisual production in Europe, CM Recommendation (1987) 7 on film distribution in Europe, PACE Recommendation 1067 (1987) on the cultural dimension of broadcasting in Europe, CM Recommendation (1993) 5 containing principles aimed at promoting the distribution and broadcasting of audiovisual works originated in countries or regions with a low audiovisual output or a limited geographic or linguistic coverage on the European television markets, PACE Recommendation 1277 (1995) on migrants, ethnic minorities and media, PACE Recommendation 1333 (1997) on the Aromanians, PACE Resolution 1171 (1998) on endangered Uralic minority culture, and PACE Recommendation 1521 (2001) on the Csango minority culture in Romania.

9. The guidelines on the use of minority languages in the broadcast media, produced by a group of experts at the request of the OSCE High Commissioner on National Minorities in 2003, develop further several ideas of how minority languages can be promoted in the broadcast media. Although they have no legal status and cannot amend the legal obligations contained the treaties of

the Council of Europe, for instance, they may be used as a point of reference. Unfortunately, the guidelines do not refer to the many Council of Europe texts.

Comments on the amendments

10. The title of the report by the Committee on Legal Affairs and Human Rights is quite long and might benefit from focusing on the most important aspect: the use of regional and minority languages in the audiovisual media.

11. It is appropriate for a Recommendation of the Parliamentary Assembly of the Council of Europe to refer to the relevant Council of Europe texts. Since the Framework Convention for the Protection of National Minorities and the European Charter for Regional or Minority Languages are referred to in the operational § 12 of the Recommendation, it seems useful to mention them as a reference in the introductory § 2.

12. Intercultural dialogue, tolerance and mutual understanding are high on the political agenda in Europe at present. Media play a special role in this regard. Therefore, it is helpful to recall this in a Recommendation on media concerning ethnic minorities. Although regional and minority languages are to be supported in the media, this should not lead to a mono-cultural and mono-linguistic perception of society. A new paragraph after § 5 should be most appropriate.

13. Since this Recommendation is about broadcast media, it is advisable to recommend in § 12.1 also the signature and ratification of the European Convention on Transfrontier Television.

14. §§ 12.2 and 12.3 use more or less the same language, but concern two related aspects: a balanced access to public broadcast media and the right to establish and use private broadcast media. These matters are not only addressed in the 2003 guidelines, but also – in a legally binding manner – in Article 11 of the European Charter for Regional or Minority Languages and Article 9 of the Framework Convention for the Protection of National Minorities. It is thus useful to combine both paragraphs and add the reference to the relevant Council of Europe conventions.

15. Although it may be helpful to take the 2003 guidelines into account when monitoring the implementation of the European Charter for Regional or Minority Languages and the Framework Convention for the Protection of National Minorities, it might be even better to take the whole Recommendation into account.

16. The European Convention on Transfrontier Television is going to be revised once the revision of the EU Directive on television without frontiers is finished. In this process, it should be possible to strengthen audiovisual works produced in regional or minority languages as well as multi-lingual audiovisual works by revising the relevant Article 10 of the Convention.

17. Therefore, the Committee on Culture, Science and Education suggests the following amendments:

Amendments to the draft Recommendation in Doc. 11030

Amendment 1

Replace the title by the following title:

“The use of regional and minority languages in the audiovisual media”

Amendment 2

Add the following phrase to § 2 after the word “stipulated”:

“in the Framework Convention for the Protection of National Minorities, the European Charter for Regional or Minority Languages and other Council of Europe instruments as well as”

Amendment 3

Add the following phrase to § 2 at the end:

“developed without a legal status by experts at the request of the OSCE High Commissioner on National Minorities”.

Amendment 4

Add the following new paragraph after § 5:

“The Assembly recalls that media can make a positive contribution to democracy and the fight against intolerance, especially where they foster public debate and a culture of understanding between different ethnic and linguistic groups in society and avoid presenting society in mono-cultural and mono-linguistic terms.”

Amendment 5

Replace the phrase “and to increase its efforts in this respect” at the end of § 12.1 by the following phrase:

“as well as the European Convention on Transfrontier Television”.

Amendment 6

Combine § 12.2 and § 12.3 as follows:

“invite member states to ensure that people belonging to national minorities or using regional or minority languages have a balanced access to public broadcast media and an effective right to establish and use private broadcast media, in accordance with Article 11 of the European Charter for Regional or Minority Languages, Article 9 of the Framework Convention for the Protection of National Minorities, Assembly Recommendations and Resolutions on specific linguistic minorities, and the 2003 guidelines on the use of minority languages in the broadcast media.”

Amendment 7

Replace § 12.4 by the following paragraph:

“take this Recommendation into account in the framework of the monitoring of the implementation of the Framework Convention for the Protection of National Minorities and the European Charter for Regional or Minority Languages.”

Amendment 8

Add a new sub-paragraph after § 12.4:

“instruct the competent committee, when revising the European Convention on Transfrontier Television, to amend Article 10 of this Convention in order to strengthen multi-lingual audiovisual works as well as audiovisual works produced in regional or minority languages.”

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