

COUNCIL OF EUROPE

COMMITTEE OF MINISTERS

RECOMMENDATION No. R (96) 10

OF THE COMMITTEE OF MINISTERS TO MEMBER STATES

ON THE GUARANTEE OF THE INDEPENDENCE OF

PUBLIC SERVICE BROADCASTING

*(Adopted by the Committee of Ministers on 11 September 1996,
at the 573rd meeting of the Ministers' 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;

Recalling that the independence of the media, including broadcasting, is essential for the functioning of a democratic society;

Stressing the importance which it attaches to respect for media independence, especially by governments;

Recalling in this respect the principles endorsed by the governments of the member states of the Council of Europe set out in the declaration on freedom of expression and information of 29 April 1982, especially as regards the need for a wide range of independent and autonomous means of communication allowing for the reflection of a diversity of ideas and opinions;

Reaffirming the vital role of public service broadcasting as an essential factor of pluralistic communication which is accessible to everyone at both national and regional levels, through the provision of a basic comprehensive programme service comprising information, education, culture and entertainment;

Recalling the commitments accepted by the representatives of the states participating in the 4th European Ministerial Conference on Mass Media Policy (Prague, 7-8 December 1994) in the framework of Resolution No. 1 on the future of public service broadcasting, especially respect for the independence of public service broadcasting organisations;

Noting the need to develop further the principles on the independence of public service broadcasting set out in the aforementioned Prague resolution in the light of the challenges raised by political, economic and technological change in Europe;

Considering that, in the light of these challenges, the independence of public service broadcasting should be guaranteed expressly at the national level by means of a body of rules dealing with all aspects of its functioning;

Underlining the importance of ensuring strict respect for these rules by any person or authority external to public service broadcasting organisations,

Recommends the governments of the member states:

- a. to include in their domestic law or in instruments governing public service broadcasting organisations provisions guaranteeing their independence in accordance with the guidelines set out in the appendix to this recommendation;
- b. to bring these guidelines to the attention of authorities responsible for supervising the activities of public service broadcasting organisations as well as to the attention of the management and staff of such organisations.

Appendix to Recommendation No. R (96) 10

Guidelines on the guarantee of the independence of public service broadcasting

I. General provisions

The legal framework governing public service broadcasting organisations should clearly stipulate their editorial independence and institutional autonomy, especially in areas such as:

- the definition of programme schedules;
- the conception and production of programmes;
- the editing and presentation of news and current affairs programmes;
- the organisation of the activities of the service;
- recruitment, employment and staff management within the service;
- the purchase, hire, sale and use of goods and services;
- the management of financial resources;
- the preparation and execution of the budget;
- the negotiation, preparation and signature of legal acts relating to the operation of the service;
- the representation of the service in legal proceedings as well as with respect to third parties.

The provisions relating to the responsibility and supervision of public service broadcasting organisations and their statutory organs should be clearly defined in the governing legal framework.

The programming activities of public service broadcasting organisations shall not be subject to any form of censorship. No *a priori* control of the activities of public service broadcasting organisations shall be exercised by external persons or bodies except in exceptional cases provided for by law.

II. Boards of management of public service broadcasting organisations

1. Competences

The legal framework governing public service broadcasting organisations should stipulate that their boards of management are solely responsible for the day-to-day operation of their organisation.

2. Status

The rules governing the status of the boards of management of public service broadcasting organisations,

especially their membership, should be defined in a manner which avoids placing the boards at risk of any political or other interference.

These rules should, in particular, stipulate that the members of boards of management or persons assuming such functions in an individual capacity:

- exercise their functions strictly in the interests of the public service broadcasting organisation which they represent and manage;
- may not, directly or indirectly, exercise functions, receive payment or hold interests in enterprises or other organisations in media or media-related sectors where this would lead to a conflict of interest with the management functions which they exercise in their public service broadcasting organisation;
- may not receive any mandate or take instructions from any person or body whatsoever other than the bodies or individuals responsible for the supervision of the public service broadcasting organisation in question, subject to exceptional cases provided for by law.

3. *Responsibilities*

Subject to their accountability to the courts for the exercise of their competences in cases provided for by law, the boards of management of public service broadcasting organisations, or individuals assuming such functions in an individual capacity, should only be accountable for the exercise of their functions to the supervisory body of their public service broadcasting organisation.

Any decision taken by the aforementioned supervisory bodies against members of the boards of management of public service broadcasting organisations or persons assuming such functions in an individual capacity for breach of their duties and obligations should be duly reasoned and subject to appeal to the competent courts.

III. Supervisory bodies of public service broadcasting organisations

1. *Competences*

The legal framework governing public service broadcasting organisations should define clearly and precisely the competences of their supervisory bodies.

The supervisory bodies of public service broadcasting organisations should not exercise any *a priori* control over programming.

2. *Status*

The rules governing the status of the supervisory bodies of public service broadcasting organisations, especially their membership, should be defined in a way which avoids placing the bodies at risk of political or other interference.

These rules should, in particular, guarantee that the members of the supervisory bodies:

- are appointed in an open and pluralistic manner;
- represent collectively the interests of society in general;
- may not receive any mandate or take any instructions from any person or body other than the one which appointed them, subject to any contrary provisions prescribed by law in exceptional cases;
- may not be dismissed, suspended or replaced during their term of office by any person or body other than the one which appointed them, except where the supervisory body has duly certified that they are

incapable of or have been prevented from exercising their functions;

- may not, directly or indirectly, exercise functions, receive payment or hold interests in enterprises or other organisations in media or media-related sectors where this would lead to a conflict of interest with their functions within the supervisory body.

Rules on the payment of members of the supervisory bodies of public service broadcasting organisations should be defined in a clear and open manner by the texts governing these bodies.

IV. Staff of public service broadcasting organisations

The recruitment, promotion and transfer as well as the rights and obligations of the staff of public service broadcasting organisations should not depend on origin, sex, opinions or political, philosophical or religious beliefs or trade union membership.

The staff of public service broadcasting organisations should be guaranteed without discrimination the right to take part in trade union activities and to strike, subject to any restrictions laid down by law to guarantee the continuity of the public service or other legitimate reasons.

The legal framework governing public service broadcasting organisations should clearly stipulate that the staff of these organisations may not take any instructions whatsoever from individuals or bodies outside the organisation employing them without the agreement of the board of management of the organisation, subject to the competences of the supervisory bodies.

V. Funding of public service broadcasting organisations

The rules governing the funding of public service broadcasting organisations should be based on the principle that member states undertake to maintain and, where necessary, establish an appropriate, secure and transparent funding framework which guarantees public service broadcasting organisations the means necessary to accomplish their missions.

The following principles should apply in cases where the funding of a public service broadcasting organisation is based either entirely or in part on a regular or exceptional contribution from the state budget or on a licence fee:

- the decision-making power of authorities external to the public service broadcasting organisation in question regarding its funding should not be used to exert, directly or indirectly, any influence over the editorial independence and institutional autonomy of the organisation;

- the level of the contribution or licence fee should be fixed after consultation with the public service broadcasting organisation concerned, taking account of trends in the costs of its activities, and in a way which allows the organisation to carry out fully its various missions;

- payment of the contribution or licence fee should be made in a way which guarantees the continuity of the activities of the public service broadcasting organisation and which allows it to engage in long-term planning;

- the use of the contribution or licence fee by the public service broadcasting organisation should respect the principle of independence and autonomy mentioned in guideline No. 1;

- where the contribution or licence fee revenue has to be shared among several public service broadcasting organisations, this should be done in a way which satisfies in an equitable manner the needs of each organisation.

The rules on the financial supervision of public service broadcasting organisations should not prejudice their independence in programming matters as stated in guideline No. 1.

VI. The programming policy of public service broadcasting organisations

The legal framework governing public service broadcasting organisations should clearly stipulate that they shall ensure that news programmes fairly present facts and events and encourage the free formation of opinions.

The cases in which public service broadcasting organisations may be compelled to broadcast official messages, declarations or communications, or to report on the acts or decisions of public authorities, or to grant airtime to such authorities, should be confined to exceptional circumstances expressly laid down in laws or regulations.

Any official announcements should be clearly described as such and should be broadcast under the sole responsibility of the commissioning authority.

VII. Access by public service broadcasting organisations to new communications technologies

Public service broadcasting organisations should be able to exploit new communications technologies and, where authorised, to develop new services based on such technologies in order to fulfil in an independent manner their missions as defined by law.
