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Judicial Seminar

"Media pluralism and the right to information"

Speech by Veronika Bílková

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President Guyomar, ladies and gentlemen,

I would first like to express my warmest thanks for your kind invitation to this judicial seminar. I am extremely honoured to take part and I look forward to the discussions that will follow.

Media pluralism and the right to information (or the right of access to information) are seen as two essential, closely related components of freedom of expression. But their legal status remains uncertain in the Council of Europe's system of human rights protection because the European Convention on Human Rights does not mention them explicitly.

In the first part of my speech, I will address how the European Court of Human Rights has overcome this silence and incorporated the two values into its interpretation of Article 10 of the Convention. In the second part, I will draw on the opinions of the Venice Commission and the instruments of the Committee of Ministers in order to discuss what concrete steps could be taken to put these values into practice.

My main argument is as follows: media pluralism and the right to information are more than mere political ideas. They are legal imperatives that are essential for the proper functioning of any democratic society.

I. The European Court of Human Rights: gradually incorporating both values

Allow me now to address the first subject of my speech. The European Convention contains no mention either of the right of access to information or of media pluralism. In this regard it differs from other international instruments. For example, the UN International Covenant on Civil and Political Rights expressly refers to the right to seek information (Article 19), and the Charter of Fundamental Rights of the European Union states that the freedom and pluralism of the media must be respected (Article 11(2)). The Convention, meanwhile, is silent on this topic. Despite that, the Court has gradually incorporated the right of access to information and media pluralism into the scope of protection afforded by Article 10 of the Convention, and has recognised the existence of a close relationship between the two. This case-law development has taken place progressively and cautiously.

In the *Leander v. Sweden* judgment (1987), the Court held that freedom of expression did not entail an individual right of access to information. It later softened its stance, notably in *Magyar Helsinki Bizottság v. Hungary* (2016). In this judgment, the Court allowed that the right of access to information could, in fact, fall within the scope of freedom of expression, but only for information of public interest and in very specific circumstances. It referred, in particular, to situations in which such access was essential for the effective exercise of freedom of expression by the "watchdogs" of democratic society, such as journalists and NGOs. According to this line of case-law, there is therefore no general, stand-alone, individual right of access to information that encompasses a right to media pluralism as such.

That very right has, however, been recognised by the Court in another line of case-law, focussing on State media regulation. Through judgments such as *Manole v. Moldova* (2009) and *Centro Europa 7 v. Italy* (2012), the Court has developed the following reasoning: democracy cannot exist without an informed public, and an informed public requires free, diversified and pluralistic media. Media pluralism thus forms one of the foundations of a democratic society. It falls within the scope of both the right of the media to impart information and the right of the general public to receive information. As the Court observed in the *Manole* judgment, "[i]t is incumbent on the press to impart information and ideas [and] the public also has a right to receive them".

In line with this reasoning, the Court has interpreted Article 10 of the Convention as embracing both a right of access to information and a requirement for media pluralism. In doing so, it has highlighted the close relationship between these values, both of which are essential to the effective exercise of freedom of expression and the functioning of any democratic society.

The Court has further specified that respect for these values does not hinge solely on a negative obligation not to interfere; it also entails a set of positive obligations for the States. The substance of these obligations is the subject of the second part of my speech, which I shall now move on to.

II. The Venice Commission and the Committee of Ministers: providing concrete guidelines on putting these values into practice

The Court's case-law offers a starting point, but it is not enough to determine what precisely is required to ensure media pluralism. Guidance in that area must be sought from other Council of Europe bodies, most notably the Venice Commission and the Committee of Ministers. Over the years, the Venice Commission has analysed media laws in various States, including Italy (2005), Hungary (2015), Albania (2020) and, most recently, the Republic of Moldova (2025). In parallel, the Committee of Ministers has dealt with issues relating to media pluralism in several of its reports, such as Recommendation CM/Rec(2007)2 on media pluralism and diversity of media content. A number of findings have come out of this work, which I will summarise in six points.

First, media pluralism does indeed form one of the essential foundations of democracy. Without media pluralism, there can be no real public debate and, consequently, no effective democracy. On this point, the Court, the Venice Commission and the Committee of Ministers are in full agreement.

Second, media pluralism has always faced challenges, but the nature of those challenges has changed over time. In the past, the main risk lay in the State's ability to monopolise traditional media – print, radio and television – and restrict public access to alternative sources of information. Today, the primary challenge is the State's loss of control over its information space, which is under threat of being submerged little by little by a small number of powerful finance and tech moguls, if not foreign interests, who are capable of exploiting digital platforms and social media to influence public opinion and undermine democratic structures.

Third, in response to these challenges, States must adopt measures to safeguard both external and internal media pluralism. External (structural) pluralism refers to the diversity of operators in a given media market. Internal pluralism relates to the diversity of opinions within a single media outlet, particularly for public service media. These two aspects are complementary: one guarantees diversity of sources, the other diversity of content.

Fourth, transparency and regulation of media ownership are crucial for ensuring external pluralism. The persons who are behind each media outlet and exercise effective control must be clearly identifiable, so that the national authorities and the general public can know what financial and political interests may be shaping the production of information. At the same time, States can and must regulate media ownership to preserve the diversity of owners. They further can and must take measures to avoid excessive concentration in the media market, an oligarchisation of the information space or undue foreign influence that could harm national interests. Securing transparency and diversity in media ownership is particularly tough in the digital environment, but recent incentives such as the 2024 European Media Freedom Act seek to address these new challenges.

Fifth, to guarantee internal pluralism, States must intervene in the organisation of the media industry to supplement market forces – without, however, encroaching on media autonomy or interfering with editorial content. State intervention should therefore be aimed at establishing robust safeguards for editorial independence and implementing rules that foster pluralism, particularly within public service media. States should also take measures to strengthen resilience to disinformation campaigns within the media space.

And lastly, sixth, it is vital that States have an independent media-regulatory authority that can make decisions without any undue political or financial influence.

These six points show how media pluralism requires States to play an active yet restrained role. Their aim should be to establish a framework that can balance the various imperatives underpinning the media space, such as information diversity and editorial independence.

Conclusion

Ladies and gentlemen,

Media pluralism and the right to information (or the right of access to information) are intrinsically linked to democracy. Even though these values are not explicitly enshrined in the European Convention, the Court has gradually incorporated them into the framework of Article 10, making them an integral part of freedom of expression and a prerequisite for the existence of any democracy. The Court has thus laid down general principles, covering the need for an informed public, a pluralistic media environment and a State playing an active yet restrained role in regulating the information space.

The findings of the Venice Commission and the Committee of Ministers offer more concrete guidance as to how to put these general principles into practice, for example by ensuring transparency in media ownership, by preventing excessive concentration and by safeguarding internal pluralism. These mechanisms enable States to protect the information ecosystem without interfering with editorial content. In other words, the State can be the guardian of media pluralism, but should never be the editor in chief.

Thank you for your attention.