



## Resolution 2382 (2021)<sup>1</sup>

# Media freedom, public trust and the people's right to know

Parliamentary Assembly

1. Without the informed exercise of the right to vote, and without citizens' entitlement to responsible democratic participation in policy-making and decision-making processes through broad public and parliamentary debate, as fundamental tools for effective democratic control over the actions of governments and legislators, democracy is only a facade.

2. There is no democracy without the real possibility to make conscious choices. This can only be ensured if the public is duly informed and can freely inform itself; if a real debate of ideas on a wide range of issues can take place on the basis of an exact and complete knowledge of factual elements; and if everyone has the necessary competences and culture to critically analyse the various points of view and can express themselves without fear. Furthermore, these conditions are essential if representatives elected by the people are to exercise their mandate effectively and responsibly.

3. Today, our democratic values and the functioning of our democratic institutions are challenged by post-truth narratives, disinformation, narrow agenda-setting powers and recurrent attempts to manipulate public opinion. Furthermore, recent developments have often eroded parliamentary prerogatives and parliament's fundamental mediating role in a democratic society. A growing sense of division between governing institutions and the general public has increased citizens' distrust, endangering democratic governance and the effective implementation of public policy.

4. Therefore, for the Parliamentary Assembly, there is a need to establish a wide "right to know", defined as a citizen's civil and political right to be actively informed of all aspects and all stages of policy-making and administrative/rule-making processes, in order to allow for full democratic participation, and hold the administrators of public goods to account, in accordance with the standards of human rights and the rule of law.

5. Limitations to the right to know, intended to protect national security, the right to privacy or other human rights, must be narrowly defined.

6. Implementation of the right to know has three active dimensions: direct obligations that public authorities, and public or private institutions which exercise public functions, have to respect, independently of specific requests; the right of citizens to be informed, have access to relevant information and contribute to the drafting and appraisal of laws, regulations and other policy instruments; and an educational and cultural environment that enhances and stimulates citizens' continued learning in an information society.

7. To give full effect to a citizen's right to know, a range of public policy instruments is required, including mechanisms for consultation, information and comment, impact assessments and *ex-post* regulatory and legislative evaluation.

8. The entry into force of the Council of Europe Convention on Access to Official Documents (CETS No. 205, the "Tromsø Convention") is a significant step in the right direction, which the Assembly welcomes. However, it notes with concern that the number of accessions to the Tromsø Convention is very low.

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1. *Assembly debate* on 22 June 2021 (17th sitting) (see [Doc. 15308](#), report of the Committee on Culture, Science, Education and Media, rapporteur: Mr Roberto Rampi). *Text adopted by the Assembly* on 22 June 2021 (17th sitting). See also [Recommendation 2204 \(2021\)](#).



9. The media play a key role in agenda setting and providing timely, pluralist and reliable information. They must be free from any pressure, including direct verbal and physical attacks, but also from legal harassment in the form of strategic lawsuits against public participation (SLAPP). Assaults against journalists and intimidation of the media are major threats to the people's right to know. It is therefore crucial that Council of Europe standards on media freedom, pluralism and editorial independence; the protection of journalists; funding benchmarks and guarantees; and the transparency of media ownership are fully implemented and adequately monitored.

10. Citizens must be aware of who is behind the news and understand the entire ownership structure of media outlets, including beneficial owners, as well as information-sharing agreements between media outlets and other entities. This information is not always easy to find or track, especially if media ownership structures are transnational. The Assembly considers that this information must be made public.

11. Likewise, access to the information contained in company registers is essential for citizen watchdogs, such as anti-corruption civil society groups, and for investigative journalists to help them track possible illegal actions. Denying access to data on company ownership and structures, or significantly restricting it, including through prohibitive costs, limits the public's right to know, and may open the door to corruption, fraud, money laundering, human rights violations and other illegal activity.

12. While the right to know aims to enhance meaningful citizen participation in the decision-making process, there is a need to ensure the transparency of any participation initiatives carried out and the input from interest groups, including professional lobbyists, business associations and civil society organisations.

13. The Assembly is concerned that, in most member States, there are no transparency rules which guarantee that civil society, journalists and the public can obtain information about how artificial intelligence is being used and how data feed into automated decision making. Moreover, the Assembly is convinced that ensuring that the wider public has free and easy access to scientific and other scholarly knowledge significantly benefits society.

14. Moreover, a citizen's right to know is intrinsically linked to free, easy and lifelong access to cultural instruments, which are indispensable tools for the development of a critical and independent understanding of information and of active, inclusive and conscious participation in a democratic society. The Arts are a positive factor for the enhancement of critical thinking capabilities. To this end, the widespread presence of cultural places such as libraries, theatres, museums and live-music venues should be promoted and the inclusion of all societal actors in cultural life should be enhanced.

15. The primary role and responsibility for safeguarding the right to know lie with the member States and public authorities. However, other actors, such as public and private media or educational and cultural institutions, come into play and must assume their share of responsibility in educating active and knowledgeable citizens. The actions of the various stakeholders must be coherent and synergistic, hence partnerships between these actors are crucial.

16. Consequently, the Assembly calls on member States to:

16.1. recognise the right to know as a citizen's civil and political right to be actively informed of all aspects and all stages of the policy-making and administrative/rule-making processes, in order to allow for full democratic participation, and hold the administrators of public goods to account according to the standards of human rights and the rule of law;

16.2. ratify the Tromsø Convention, if they have not yet done so, and also commit themselves to the optional provisions on legislative and judicial transparency, and to bring their laws on access to information into line with the high standards laid down in the Tromsø Convention;

16.3. support the rapid establishment of the Tromsø Convention Monitoring Committee and commit sufficient funds for it to be able to operate effectively;

16.4. promote and participate in pan-European knowledge exchanges on best practices regarding the implementation of the right of access to information, which could also be of great value for the Tromsø Convention Monitoring Committee;

16.5. develop and implement, in parallel with the consolidation of existing standards set by the Tromsø Convention, complementary measures for the effective safeguard of the right to know in accordance with the principles set out in this Resolution and, in particular, ensure the effective collection, compilation and timely publication of information of public interest, using a "transparency-by-design" approach;

16.6. take inspiration from the European Union Directive 2014/95/EU of the European Parliament and of the Council of 22 October 2014 amending Directive 2013/34/EU as regards disclosure of non-financial and diversity information by certain large undertakings and groups, so as to make provisions for extending access to information laws to all private bodies performing public functions or operating with public funds, and for ensuring publication by large companies of specific information in the crucial areas of public interest such as respect for human rights, the fight against corruption and bribery, environmental protection, social responsibility, treatment of employees and diversity within company boards in terms of age, gender, educational and professional background;

16.7. adopt legislation which ensures transparency of lobbying, in line with Recommendation CM/Rec(2017)2 of the Committee of Ministers to member States on the legal regulation of lobbying activities in the context of public decision making;

16.8. co-operate with the Group of States against Corruption (GRECO) and other relevant international actors, as well as with civil society, to develop a legal framework allowing and facilitating access to information contained in company registers, also building on best practices developed by countries that have open company registers;

16.9. bring their legislation and practice into line with Parliamentary Assembly [Resolution 2065 \(2015\)](#) "Increasing transparency of media ownership" and Recommendation CM/Rec(2018)1 of the Committee of Ministers to member States on media pluralism and transparency of media ownership, in order to fully implement Council of Europe standards concerning transparency of media ownership and financing, and to request full transparency in the conditions and execution of information-sharing agreements that media conclude with third parties;

16.10. establish an independent national monitoring system of the legality, accuracy and completeness of information provided by all national media, and to make public the disaggregated data from this monitoring exercise on at least a monthly basis;

16.11. review funding mechanisms and avoid budget cuts in the media sector, with a view to preserving and strengthening an open and pluralistic media landscape, and to fully implement the many relevant Council of Europe recommendations on the matter;

16.12. bring their legislation and practice into line with Recommendation CM/Rec(2020)1 of the Committee of Ministers to member States on the human rights impacts of algorithmic systems, and organise debates on the transparency of algorithms used by social media companies, bringing together relevant stakeholders, to discuss how to ensure parliamentary and citizen oversight of these algorithms;

16.13. encourage the producers and publishers of knowledge to make their works available free of charge in open formats, and to support good practices on open access, so that research results are available to all societal actors, with a view to delivering better scientific and innovative data to the public and private sectors;

16.14. create and strengthen instruments for the widespread dissemination of cultural knowledge; promote, in this respect, the role of libraries, museums, theatres, live-music venues and other cultural institutions, and establish a minimum monitored measure of their availability per capita.

17. Members of parliament have a greater right of access to information. Elected officials may be granted access to otherwise confidential information and play a crucial role in mediating public debate between different levels of society and safeguarding minority rights. Therefore, the Assembly calls on national parliaments to analyse and evaluate the mechanisms for participation in the decision-making process at all levels, including in the setting of the agenda and the time allocated to parliamentary debates and questions, with a view to ensuring that issues of public interest are fully debated and that information of public interest is made public.

18. The Assembly calls on members of parliament to engage in a co-ordinated debate on setting common rules regarding the application and revision of confidentiality standards in member States and regional institutions, in particular regarding voting procedures, aimed at countering the culture of secrecy and preventing public distrust and with a view to strengthening citizens' right to know.