THE COUNCIL OF EUROPE’S STANDARDS ON ACCESS TO THE MEDIA FOR MINORITIES:
A TALE OF NEAR MISSES AND STAGGERED SUCCESSES

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INTRODUCTION

The primary object of the type of access under discussion in this chapter is the media, although access to other types of expressive opportunities and fora will also be considered at relevant junctures. The reasons for giving pride of place to the media are manifold. The societal presence of the media is virtually ubiquitous and they have properly been described by Roger Silverstone as constituting “an essential dimension of contemporary experience”. Ed Baker has called the media “the central institution of a democratic public sphere”. It is easy to understand the premises on which these observations have been made. In practice, information and ideas are circulated and debate is conducted primarily in the media. By virtue of their reach, speed, influence and impact, more often than not, the media are the most effective means of receiving, imparting and seeking information and ideas.

These factors—or others—explain why the media can also be important vectors of culture, (cultural) identity and language. Insofar as minority cultures, identities and languages are often marginalised, disadvantaged or discriminated against, corrective measures are required in order to ensure their preservation, transmission and development. It has also been noted that minority cultures, identities and languages undergo “public validation” when they feature in (mainstream) media. In light of

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the foregoing, it is clear that the media have the potential to pursue such goals. Considerations of representation and participation are crucial in this connection.

Any discussion of issues concerning minorities’ access to the media or their representation in the media must carefully navigate several definitional reefs. Key terms and concepts are capable of having multiple—and sometimes divergent—interpretations. This chapter will begin with an attempt to smooth the jagged definitional edges of these terms and concepts and explain (the significance of) the various meanings that can be ascribed to them.

The Council of Europe’s normative efforts to create, consolidate and advance rights of access of minorities to the media will then be examined. As such, relevant provisions of its three most salient treaties in this connection, i.e., the European Convention on Human Rights (ECHR), the Framework Convention for the Protection of National Minorities (FCNM) and the European Charter for Regional or Minority Languages (ECRML), will be analysed. Notwithstanding the prima facie differences between the treaties in terms of their respective focuses and objectives, they also usefully complement each other in various ways. The present analysis will briefly show how each of the three treaties has contributed to the goal of ensuring representation in/access to the media for minorities. Put succinctly, the ECHR has provided a basis for the elaboration of important principles concerning minority participation in pluralist democratic society and in public debate, including via the media. Relevant case-law of the European Court of Human Rights also underscores the general importance for democracy of effective access to the media and other expressive fora. For its part, the FCNM provides a minority-specific perspective on rights and issues that are relevant to all sections of society, e.g., freedom of expression, media access, participatory and cultural rights. The ECRML, in turn, foregrounds the linguistic dimension to questions of media access and functions.

**Definitional Dilemmas**

A cluster of related terms and concepts will feature recurrently in the present discussion. In this section, “minority”, and the closely congruent terms, “representation” and “access”, have been selected as meriting particular scrutiny.