JOURNALISTS MATTER
Council of Europe Campaign for the Safety of Journalists

NATIONAL ACTION PLAN ON THE SAFETY OF JOURNALISTS

2025 - 2028

LE GOUVERNEMENT
DU GRAND-DUCHÉ DE LUXEMBOURG

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FOREWORD

OUR COMMITMENT TO JOURNALISM: A PLEDGE TO THE VALUES OF FREEDOM AND DEMOCRACY

In a democratic society, freedom of expression is a fundamental right and a cornerstone of social progress and individual development. Journalists play a crucial role in upholding this right by informing the public. However, carrying out this mission exposes them to various threats, both physical and psychological. Today, ensuring their safety has become a major concern at both the European and international levels, necessitating coordinated and effective responses.

Recognizing this reality, the Council of Europe has established protection mechanisms aimed at guaranteeing the safety of journalists and ensuring media freedom. *Recommendation CM/REC(2016)4 on the protection of journalism and safety of journalists and other media actors* serves as a key pillar to these efforts. The *"Journalists Matter"* campaign is part of this initiative, raising awareness among governments, citizens, and journalists about the need for a safe environment that allows for freedom of expression without fear.

While Luxembourg ranks first in the 2024 Reporters Without Borders World Press Freedom Index concerning safety, it still faces challenges. Journalists may encounter economic pressure, intimidation, online harassment, and subtle threats that can undermine their freedom to inform. In light of these challenges, it is crucial to adopt a proactive approach and strengthen protection mechanisms.

That's why, in its 2023-2028 coalition agreement, the Luxembourg Government reaffirms its commitment to strengthening the protection of journalists against physical violence and intimidation attempts. This pledge aims *"to foster a safe environment that upholds freedom of expression and democracy"*. Furthermore, during its Presidency of the Committee of Ministers of the Council of Europe (November 2024 – May 2025), Luxembourg places a strong emphasis on protecting journalists as key defenders of the rule of law and democracy.

Luxembourg's National Action Plan on the Safety of Journalists thus aligns with European best practices while considering the specificities of the national context. This plan reflects Luxembourg's commitment to defending freedom of expression and media freedom.

It represents a continuation of the efforts already undertaken by Luxembourg, capitalising on the many legal and institutional mechanisms already in place, while strengthening them through a coordinated and structured approach.

Structured around the four key pillars of the 2016 Council of Europe Recommendation—prevention, protection, prosecution, and the promotion of information, education, and awareness-raising — this plan aims to establish an effective framework ensuring the safety of media professionals in the Grand Duchy. This is a fundamental prerequisite for the proper functioning of democracy and the preservation of our society's core values.

Elisabeth Margue

Minister of Justice
Minister Delegate to the Prime Minister for Media and Connectivity

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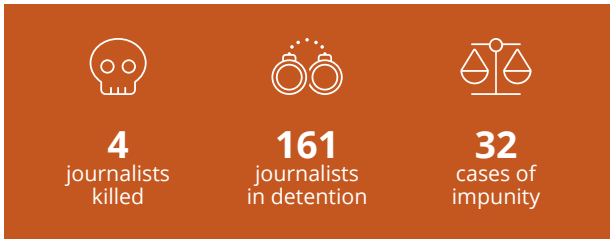
INTRODUCTION

JOURNALISM UNDER PRESSURE – BETWEEN GLOBAL CRISES AND LUXEMBOURG'S CHALLENGES

EUROPE AND THE CHALLENGE OF PRESS FREEDOM

Journalism is going through one of the most turbulent periods in its recent history. As political, economic and geopolitical crises mount, journalists increasingly find themselves on the front line, exposed to multiple threats. Conflicts in Ukraine and the Middle East, growing tensions around elections in several Western democracies, the rise of artificial intelligence and the proliferation of disinformation are making their mission of providing information more complex than ever and the profession of journalist a constant challenge.

By the end of 2024, the Platform for the Protection of Journalism and the Safety of Journalists[1] recorded a grim toll: 4 journalists killed, 161 detained, and 32 still unresolved cases of impunity for murdered journalists in Europe.



But beyond war zones and authoritarian regimes, Western democracies are not free from drifts. The rise of "information deserts" is depriving certain regions of Europe of access to free and pluralistic local news. Meanwhile, distrust of the media is reaching new heights, driven in particular by populist rhetoric accusing the press of bias or manipulation.

The current dynamics at both European and global levels call for heightened vigilance. Guaranteeing free and independent journalism in a world where freedom of expression faces growing threats cannot be taken for granted. It is a constant struggle that demands unwavering commitment from the state—as the ultimate guarantor of media pluralism and press freedom—alongside citizens, and journalists alike. For without a strong and independent press, the very foundation of democracy becomes unstable.

LUXEMBOURG: A LAST STRONGHOLD?

In this challenging context, Luxembourg currently provides a stable environment for journalists. According to the Reporters Without Borders World Press Freedom Index, the country secures the highest position for the "safety" indicator. The 2024 Media Pluralism Monitor identifies a low risk regarding journalist protection in Luxembourg. Similarly, the European Commission's 2024 Rule of Law Report states that the "professional environment for journalists continues to be safe, and their protection has been strengthened", further emphasising that the "framework for the protection of journalists remains robust". Notably, the Media Freedom Rapid Response Monitor has not recorded any significant concerns for Luxembourg.

However, the profession is not without its challenges. In 2024, an **interministerial working group on journalist safety** was established to monitor the conditions in which journalists operate. Notably, it has observed a growing decline in public trust in journalism, which can lead to harassment and attacks.

It has identified the following existing risks:

- **Strategic Lawsuits Against Public Participation (SLAPP):** Several journalists have been targeted by costly legal proceedings aimed at dissuading them from publishing certain investigations.
- **Loss of public trust:** Growing scepticism towards the Luxembourg media is fuelling a latent potential hostility, further exacerbated by social networks.
- **Pressure and intimidation:** Some journalists have reported experiencing threats and harassment, particularly based on gender.
- **Access to information:** Difficulties in obtaining data or securing interviews can hinder investigative work.

This is why it is now crucial to closely monitor the working and safety conditions of journalists in Luxembourg and prevent any deterioration.

1 The Platform for the safety of journalists is a public space to help compile, process and share information on serious concerns about media freedom and safety of journalists in Council of Europe member states.

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CURRENT AND FUTURE ACTIONS TO ENSURE THE SAFETY OF JOURNALISTS

The actions outlined in this plan are structured around the four key pillars of the *Council of Europe Recommendation CM/Rec(2016)4 of the Committee of Ministers to member States on the protection of journalism and the safety of journalists* and other media actors: **prevention, protection, prosecution, and the promotion of information, education, and awareness-raising**.

Prevention is based on anticipating threats and implementing measures to minimise risks before they arise.

Protection focuses on ensuring a secure environment for journalists, particularly by strengthening support mechanisms in response to physical and digital threats.

Prosecution ensures that any attack on the safety of journalists is dealt with swiftly and effectively, guaranteeing that acts of intimidation and violence do not go unpunished.

Finally, the promotion of information, education, and awareness raising plays a key role in strengthening the culture of press freedom, increasing recognition of the importance of journalism, and encouraging best practices in society.

These principles are reflected in various actions at the national level, such as:

- The organisation of the **international conference "Effective Prosecution of Crimes Against Journalists"**, to be held on 29 April 2025 in Luxembourg;
- the introduction of an **enhanced dialogue** with media representatives;
- the launch of a **security monitoring** with journalists;
- support for initiatives to **raise public awareness** of the role of journalism in democracy.

This approach is founded on two key principles: safeguarding the free expression of opinions and ideas without fear, and ensuring that journalists can investigate facts without obstruction. The protection of journalism and the safety of journalists thus go hand in hand.

PREVENTION: ENSURING MEDIA FREEDOM AND MEDIA PLURALISM

Extracts from the Council of Europe Recommendation CM/Rec(2016)4 on the protection of journalism[2]:

> Member States should, in accordance with their constitutional and legislative traditions, ensure independence of the media and safeguard media pluralism, including the independence and sustainability of public-service media and community media, which are crucial elements of a favourable environment for freedom of expression.
>
> Member States should put in place a comprehensive legislative framework that enables journalists and other media actors to contribute to public debate effectively and without fear.

LEGAL AND INSTITUTIONAL FRAMEWORK GOVERNING JOURNALISM IN LUXEMBOURG

Luxembourg provides strong constitutional protection for the right to freedom of expression, as well as legal safeguards for media freedom. The legal framework is reviewed regularly.

Convention for the Protection of Human Rights and Fundamental Freedoms

National legislation on freedom of expression in the media is guided by the principles of Article 10 of the **European Convention on Human Rights**.

2 CM/Rec(2016)4. See p. 22 for full recommendation.

Under the terms of this article:
"1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.

2. The exercise of these 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 the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary."

Journalists in Luxembourg are protected by fundamental rights enshrined in various international agreements that have been incorporated into the country's legal framework. These include conventions established by the United Nations, the Charter of Fundamental Rights of the European Union, and the *European Media Freedom Act.*

The Constitution of the Grand Duchy of Luxembourg

The Constitution of the Grand Duchy of Luxembourg guarantees press freedom in Luxembourg and states in Article 23: *"The freedom to express opinions and the freedom of the press are guaranteed, with the exception of offenses committed in the exercise of these freedoms. Censorship cannot be established."*

Legal safeguards for journalistic work

The amended Law of 8 June 2004 on the **freedom of expression in the media** aims to ensure freedom of expression in the media and to protect journalistic work.

The freedom of expression referred to in Article 1 includes **the right to receive and seek information**, to **decide how to communicate it to the public** using a freely selected form and method and to **comment and criticise** it. It goes without saying that the journalist's duty of truth and accuracy relates only to the facts and does not extend to his or her opinions and comments.

Every restriction or interference in this area must be prescribed by law, pursue a legitimate aim, and be necessary in a democratic society; that is, it must respond to a **pressing social need** and be **proportionate to its legitimate purpose**.

The concept of a **professional journalist** is defined by the effective pursuit of journalistic activity in return for remuneration. The press card, issued by the Press Council—self-regulatory body for the media in Luxembourg—serves as proof of journalistic activity.

Journalists benefit from a **conscience clause**: although they are legally subordinate to their employers, the law grants them the right to unilaterally terminate their employment contract if the editorial line of the publication they work for undergoes a significant change, without having to give notice and without losing their entitlement to unemployment benefits.

Furthermore, as journalists make a personal and moral commitment through their articles, reports, analyses, or commentaries, the law grants them the right to refuse to sign an article that has been substantially altered in a way that contradicts their personal convictions. Such a refusal shall not have prejudicial consequences for the journalist and, in particular, shall not constitute grounds for dismissal.

The Criminal Code includes provisions allowing for the punishment of offences against a person's honour or reputation. In particular, Articles 443 et seq. of the Criminal Code provide for penalties of imprisonment and a fine for anyone who maliciously imputes a specific fact likely to damage another person's honour or expose him or her to public contempt. However, to safeguard freedom of expression and press freedom, exceptions have been introduced to limit or even **exclude the criminal liability of individuals expressing themselves in public**, provided that they meet the following conditions:

- They can demonstrate that they had sufficient grounds to believe the reported facts were true and that there was an overriding public interest in disclosing the disputed information.
- In the case of a live public communication, it has taken all necessary precautions to avoid harming the reputation or honour of others and it indicates the identity of the author of the statements.
- In the case of an accurate quotation from a third party, it clearly identifies the quotation as such, ensured that the author's identity accompanies the quoted words, and justified the public disclosure of the quotation by an overriding public interest in knowing the quoted words.

The **Press Council**, established by the law of 8 June 2004 and possessing civil status, is responsible not only for granting press cards but also for issuing recommendations and guidelines for professional journalists. Furthermore, it is tasked with examining all matters relating to freedom of expression in the media, whether referred to it by the Government or taken up on its own initiative. The **Press Council's Code of Ethics**[3] states that, notwithstanding the principle of cascading responsibility—which helps safeguard press independence—publishers and journalists recognise their shared responsibility to defend press freedom and to provide each other with mutual support.

Effective access to information

Recognising the crucial role of the media in a democratic society and their need for access to information, the **draft bill 8421 on the promotion of professional journalism and democratic debate** seeks to ensure that journalists have the necessary tools to effectively carry out their mission. It emphasises their right of access to information and introduces an obligation for public bodies to consider journalists' specific constraints when processing access requests, complementing the framework established by the amended **Law of 14 September 2018 on a transparent and open administration**. The bill also aims to align the national legal framework with the Council of Europe Convention on Access to Official Documents (known as the Tromsø Convention). In addition, the circular of **15 June 2022 on the rights and duties of public officials in their relations with the press** is the outcome of consultations between the Press Council, the Luxembourg Association of Professional Journalists, and the government. It requires public administrations to respond to journalists' information requests within 24 hours of submission and to provide a legal justification if the requested information cannot be disclosed.

Protection for whistleblowers

Luxembourg has a comprehensive legal framework for the protection of **whistleblowers**. In addition to sector-specific provisions—namely the Law of 13 February 2011 strengthening the means of combating corruption, the amended Law of 12 November 2004 on the fight against money laundering and the financing of terrorism and the amended Law of 5 April 1993 on the financial sector—Luxembourg has adopted a broader legal framework for whistleblower protection through the Law of 16 May 2023, which transposes Directive (EU) 2019/1937 of the European Parliament and of the Council of 23 October 2019 on the protection of persons who report violations of Union law (the "Whistleblower Protection Directive"). The key objective of this law is to guarantee effective and balanced protection for whistleblowers by clearly defining their rights and obligations. From now on, whistleblowers who report violations obtained in a professional context using the available reporting channels will be protected against all forms of reprisals, including threats and attempted reprisals.

A unique support scheme for the Luxembourg press

The **Law of 30 July 2021 on an aid scheme in favour of professional journalism** enables the granting of state subsidies to publishers of general news publications. The allocation of aid is based on clear, precise, fair, objective, and transparent criteria, fully respecting the editorial and operational autonomy of the media. Furthermore, it promotes job stability for journalists working in Luxembourg by requiring publishers receiving state aid to employ journalists under open-ended contracts.

Enhancing the public service media

The **Law of 12 August 2022 on the organisation of the public establishment "Public Service Media 100,7"** safeguards the editorial independence and institutional autonomy of **Luxembourg's public service broadcaster, preventing any risk of political or other interference**. It ensures stable, long-term, transparent, and adequate funding for Media 100,7. Furthermore, **the agreement concluded between the State of the Grand Duchy of Luxembourg and the public service broadcaster 100,7** in 2023 for the period 2024-2030 requires the broadcaster to guarantee the safety of its journalists and employees against all forms of attack, harassment and intimidation, including online. It must also remain attentive to the psychosocial well-being of all employees.

3 https://www.press.lu/wp-content/uploads/2025/01/Code-de-deontologie.pdf

Ongoing monitoring of the legal framework

Luxembourg's legal framework for the media is regularly assessed by the European Commission in its Rule of Law Report, by the Centre for *Media Pluralism and Media Freedom* (CMPF) at the *European University Institute* through the Media *Pluralism Monitor*, and by *Reporters Without Borders* as part of the World Press Freedom Index.

CONTINUOUS DIALOGUE WITH THE MEDIA

Regular exchanges take place at all levels with national and international media organisations.

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Roger Infalt, Secrétaire général du Conseil de presse, Luc Frieden, Premier ministre, Elisabeth Margue, Ministre de la Justice et ministre déléguée auprès du Premier ministre, chargée des Médias et de la Connectivité à la Réception de Nouvel An du Premier ministre pour la presse le 12.01.2025 à Luxembourg.

Advanced professional dialogue

The **"Groupe Mondorf"**, coordinated by the Government's Information and Press Service, is an informal gathering of communication officers from ministries and administrations. Its members meet regularly, at least once a year, for a "Communication Day". During this event, representatives of the national press are invited to join the group to exchange views on current issues, cooperation or any other relevant topic. The aim of this initiative is to facilitate contact between press representatives and government officials, foster mutual trust, and establish a direct communication channel that enables journalists to collaborate more effectively with public authorities.

The format of this "Communications Day" is regularly reviewed, taking into account the evolving needs of the parties involved.

Discussions on the safety of journalists

As part of the Council of Europe's campaign for the safety of journalists[4], **an interministerial working group has been established in this field**. Its mission is to review relevant legislation, assess both the extent and frequency of acts of violence and intimidation against journalists in Luxembourg, and collectively determine the measures to be implemented to address the challenges they face.

The working group includes representatives of the Press Council, the Luxembourg Association of Professional Journalists, the Department of Media, Connectivity and Digital Policy of the Ministry of State, the Ministry of Foreign and European Affairs, Defence, Development Cooperation and Foreign Trade, the Ministry of Justice, the Information and Press Service of the Government and the Grand Ducal Police.

The working group meets at least once a year and more frequently if circumstances require.

Monitoring the security situation of journalists

To monitor the working environment of journalists in Luxembourg, a system for **tracking cases** of intimidation and attacks against them is being implemented. The Press Council collects this information and presents it regularly to the Safety of Journalists working group, which can then conduct risk analyses and needs assessments while maintaining regular contact with media representatives.

4 Journalists Matter, the Council of Europe Campaign for the Safety of Journalists is an initiative aiming to promote press freedom and protect journalists from violence, threats, and harassment while performing their duties.

MEDIA EDUCATION FOR CIVIL SERVANTS AND PUBLIC EMPLOYEES

Given the social importance of media education, the regular contacts between civil servants and journalists and the importance of mutual understanding, it is planned to develop **training courses for civil servants** on the role of journalism in society.

LUXEMBOURG'S CONTRIBUTION TO THE COUNCIL OF EUROPE'S "JOURNALISTS MATTER" CAMPAIGN

Luxembourg has been actively involved in the Council of Europe's campaign for the safety of journalists since its launch. Two national focal points, from the Ministry of Foreign and European Affairs and the Department of Media, Connectivity and Digital Policy, oversee the campaign's activities and coordinate initiatives in Luxembourg.

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The national focal point representatives from the 46 member countries of the Council of Europe meet once a year to discuss the best ways to protect journalists.

Luxembourg will also host the **second annual thematic conference** of the "Journalists Matter" campaign, focusing on the effective prosecution of crimes against journalists, and will organise the third meeting of the national focal points.

Any useful information that is provided to the authorities through the campaign, such as Recommendation REC/) 2016(4) or the *International Committee of the Red Cross* (ICRC) hotline number for journalists on dangerous assignments (+41 22 730 3443), will be brought to the attention of the press representatives.

FINANCIAL SUPPORT TO MEDIA ORGANISATIONS

The State provides annual financial support to the Press Council and the Luxembourg Association of Professional Journalists to cover part of the costs of their activities, advisory services and training offered to their members.

DEVELOPMENT OF ACADEMIC RESEARCH ON FREEDOM OF EXPRESSION IN LUXEMBOURG

The State has signed an agreement with the **University of Luxembourg**, enabling it to recruit the staff necessary for the academic monitoring of the Luxembourg media landscape as part of the Medialux project and to disseminate the research findings in the public interest. As part of this commitment, the University undertakes to carry out the Media Pluralism Monitor as well as the Local Media for Democracy Project Collaboration, in partnership with the European University Institute in Florence. Additionally, it conducts an annual survey collecting both quantitative and qualitative data on Luxembourg's media landscape, identifying and analysing media actors, practices, and their evolution. Furthermore, the University conducts research in the fields of media, communication, and digital technology, in accordance with the principles of academic freedom and scientific independence. It also organises an annual public lecture series on the role of media in society.

There are plans to develop the cooperation with the University of Luxembourg with a view to setting up specific, targeted courses for journalists.

Elisabeth Margue, Minister of Justice and Minister Delegate to the Prime Minister for Media and Connectivity, at the conference "Réformer les médias: de nouveaux enjeux et défis pour le Luxembourg?" on 15.05.2024 in Luxembourg.

Dr Raphaël Kies, researcher at the University of Luxembourg, Stéphanie Lukasik, researcher at the University of Luxembourg, Prof Dr Mark Cole, professor at the University of Luxembourg at the conference "Réformer les médias: de nouveaux enjeux et défis pour le Luxembourg?" on 15.05.2024.

PROTECTION: PREVENTING AND PUNISHING OFFENCES AGAINST JOURNALISTS AND PROTECTING JOURNALISTS WHO ARE THE TARGET OF THREATS OF VIOLENCE

Extracts from the Council of Europe Recommendation on the protection of journalism[5]:

Legislation criminalising violence against journalists should be backed up by law enforcement machinery and redress mechanisms for victims (and their families) that are effective in practice.

Those measures should be effective and (...) should be designed with consideration for gender-specific dangers faced by female journalists and other female media actors.

It is particularly important for law enforcement authorities to respect the role of journalists and other media actors covering demonstrations and other events. Press or union cards, relevant accreditation and journalistic insignia should be recognized by State authorities as journalistic credentials. In addition, dialogue between State authorities and journalists' organisations is encouraged in order to avoid friction or clashes between police and members of the media.

SPECIFIC PROVISIONS IN THE CRIMINAL CODE FOR THE PROTECTION OF JOURNALISTS

Luxembourg criminal law penalises acts of violence and threats. In particular, it includes provisions on homicide, assault and battery, threats, and obsessive harassment, which naturally apply when the victim is a journalist.

In addition, there are certain offences for which the **penalties are increased when committed against a journalist**, namely:

Article 328 of the Criminal Code punishes the act of disseminating or spreading *"substances which, although not inherently dangerous, give the impression of being dangerous, or potentially dangerous substances, and which the offender knows or ought to know may give rise to serious fears of an attack on persons or property"*. In principle, this offence is punishable by a prison sentence of between three months and two years, along with a fine ranging from 251 to 3,000 euros. However, **when the victim is a professional journalist**, this constitutes an aggravating circumstance, increasing the penalties to six months to three years' imprisonment and a fine of 500 to 5,000 euros.

Article 459 of the Criminal Code punishes the act of revealing, disseminating, or transmitting *"information relating to the private, family, or professional life of a person, enabling that person to be identified or located, for the purpose of exposing him or her or members of his or her family to a direct risk of harm to their person or property, of which the perpetrator could not have been unaware"*. In principle, this offence is punishable by a prison sentence of between eight days and six months, or a fine ranging from 251 to 5,000 euros. However, **when the victim is a professional journalist**, this constitutes an aggravating circumstance, increasing the penalties from three months to two years' imprisonment and a fine ranging from 500 to 10,000 euros.

The Criminal Code also includes **provisions aimed at protecting everyone, including journalists, against all forms of discrimination**. Thus, it defines and condemns, in its articles 454, any form of discrimination against natural or legal persons, whether *"on the grounds of their origin, skin colour, sex, sexual orientation, gender transition, gender identity, family status, age, state of health, disability, morals, political or philosophical opinions, trade union activities, or actual or perceived membership or non-membership of a particular ethnic group, nation, race, or religion"*.

It should also be noted that Article 80 of the Criminal Code establishes an aggravating circumstance. In particular, committing an offence on the basis of a factor listed in Article 454 of the Criminal Code—including gender, sexual orientation, gender reassignment, disability, or actual or perceived membership or non-membership of an ethnic group—constitutes an aggravating circumstance. A person may be sentenced to double the maximum custodial sentence and fine, within the legal limits.

5 CM/Rec(2016)4

Luxembourg's **criminal procedure** provides adequate safeguards in cases of deprivation of liberty, applicable to all individuals, including journalists. These safeguards include, for example, the right to an interpreter or translation of documents in the case file, the right to legal counsel, the right to see a doctor, as well as various legal remedies available at different stages of the criminal proceedings, such as appeals for release or to challenge procedural acts.

It should also be noted that journalists with insufficient resources may be entitled to legal aid to defend their interests before the Luxembourg courts. This legal aid means that the State pays all or part of the fees of the lawyer appointed by the President of the Bar and reimburses the costs incurred.

SAFEGUARDS AGAINST MANIFESTLY UNFOUNDED CLAIMS AND ABUSIVE LEGAL PROCEEDINGS

Directive (EU) 2024/1069 of the European Parliament and of the Council of 11 April 2024 on protecting persons who engage in public participation from manifestly unfounded claims or abusive court proceedings ("Strategic lawsuits against public participation"), hereafter: the Anti-SLAPP Directive, provides safeguards against manifestly unfounded claims or abusive court proceedings that undermine public debate. It applies in cross-border civil matters brought against natural or legal persons as a result of their participation in public debate. Journalists are among the target group of this Directive. The Anti-SLAPP Directive does not apply to criminal proceedings, arbitration, or threats of legal action.

Among the procedural safeguards to be transposed into national law are, in particular:

- The early dismissal of manifestly unfounded legal claims.
- The provision of a bond to cover legal costs and representation fees of the defendant.
- Corrective measures in response to abusive legal proceedings that undermine public debate, including ordering the claimant responsible for the SLAPP to bear the costs of the proceedings and to pay damages to the victim of the SLAPP.

It is planned to transpose the Anti-SLAPP Directive into national law and to extend some of the protections provided by the Anti-SLAPP Directive to purely national legal proceedings.

CLOSER COOPERATION BETWEEN POLICE AND MEDIA TO BETTER PROTECT JOURNALISTS

The cooperation between journalists and the Grand-Ducal Police is based on a balance between the protection of information professionals and respect for public safety imperatives.

The Grand-Ducal Police plays a key role in the implementation of concrete protection mechanisms, such as the designation of specialised contact points, facilitating fast and efficient communication with journalists.

© Misch Pautsch

Joint training sessions are organised to make police officers aware of the rights and obligations of journalists and to inform journalists of the needs of the police, especially during demonstrations and events.

Furthermore, to enhance the visibility of the press at events, the Press Council has introduced an identification armband. The Grand Ducal Regulation of 6 April 2013 on the creation and use of a specific distinctive sign 'Press' governs the use of the PRESS marking on journalists' vehicles to facilitate their identification and access to events.

The National Plan of Action on the Safety of Journalists (2025-2028) focuses on establishing an open dialogue with the press and mutual understanding, while respecting the editorial independence of journalists and their right to free information.

JUDICIAL AWARENESS-RAISING ON THE SAFETY OF JOURNALISTS

The Press Council will be invited to propose training for magistrates on the protection of journalists to the National Council of Justice.

COMPREHENSIVE NATIONAL STRATEGY AGAINST GENDER-BASED VIOLENCE

The 2023-2028 coalition agreement provides for the Government to draw up a comprehensive strategy to combat all forms of gender-based violence. A broad public consultation was launched in January 2025. The future National Action Plan - Gender-based Violence (NAP GBV) will complement the National Action Plan for Equality between Women and Men, adapted in 2025, which aims, among other things, to combat sexism and gender stereotypes in the media.

Luxembourg also undertakes in the second National Action Plan 'Women, Peace and Security (2025-2030)' to prevent and eliminate all forms of discrimination and violence, including gender-based violence, including online, and to draw up a zero tolerance charter against sexual and gender-based violence.

CULTURE OF MUTUAL RESPECT

In a resolutely preventive approach, the Government stresses the particular responsibility of State representatives and public figures in creating a safe and respectful environment for journalists and other media players. It calls on the latter to refrain from any speech or behaviour likely to call into question the integrity of journalists, particularly when they resort to stigmatising or accusatory language. This normative framework helps to establish a culture of respect for and protection of press freedom, which is essential to the proper functioning of democracy.

PROSECUTION: BRING TO JUSTICE ANYONE INVOLVED IN VIOLENCE, ASSAULT OR MURDER AGAINST JOURNALISTS

Extracts from the Council of Europe Recommendation on the protection of journalism[6]:

It is imperative that all those involved in violence, attacks, or killings of journalists and other media professionals are brought to justice.

Member States are obliged to ensure the integrity of court proceedings; they must guarantee the independence and impartiality of the judiciary.

Member States must ensure that effective and appropriate remedies, including legal recourse and financial compensation, are available to victims and, where applicable, their families.

Moreover, Member States should proactively and resolutely prioritise the protection of journalists and other media professionals and the fight against impunity in all relevant regional and international intergovernmental forums, as well as more broadly in their foreign policy and diplomatic relations.

EFFECTIVE PROSECUTION OF PERPETRATORS OF VIOLENCE

The prosecution of serious crimes, such as murder or assault, is carried out with the same rigour and commitment by the prosecuting authorities, in accordance with the rules laid down in the Code of Criminal Procedure, regardless of the status of the victim.

In criminal matters, investigations are carried out by the judicial police under the direction and supervision of an **independent and impartial magistrate**, either from the Public Prosecutor's Office or the Investigating Judge's Office. The Council Chamber and the trial courts then verify compliance with procedural rules.

Court hearings are open to the **public**, thereby ensuring transparency in judicial oversight. Furthermore, the Public Prosecutor's Offices of Luxembourg and Diekirch systematically inform the General Public Prosecutor's Office of **offences committed against journalists**, in order to ensure a coordinated follow-up.

Criminal investigations are conducted by the Grand-Ducal Police under the authority of a magistrate whose **independence** is guaranteed by Article 104 of the Constitution.

The National Council of Justice (CNJ), a constitutional body composed of magistrates, lawyers, and members of civil society, is the guarantor of the proper functioning and independence of the judiciary. It applies rigorous procedures for the admission and appointment of magistrates to ensure their **independence and impartiality**. This includes selecting judicial candidates based on their qualifications and integrity before submitting them to the Grand-Duke for official appointment.

All magistrates take an oath and must comply with **ethical rules**, under the supervision of the CNJ. Any disciplinary offence that undermines independence, impartiality, or integrity may result in legal sanctions.

In any criminal prosecution, due account is taken of the different degrees of participation in the commission of the offence, according to the rules laid down in the Criminal Code.

In cases where more than one person is likely to be involved in the offence, the prosecution will target not only the main perpetrators but also the **accomplices**. Thus, those who have committed the offence, directly participated in it or provided the necessary assistance, as well as those who have incited or provoked the act by threats, promises, etc[7]. Accomplices, on the other hand, are those who knowingly gave instructions, provided means or facilitated the commission of the offence[8].

Article 141 of the Criminal Code also punishes obstruction of justice, i.e. *"altering the scene of a crime or an offence, either by tampering with, falsifying or erasing traces*

6 CM/Rec(2016)4

7 Criminal Code, Article 66

8 Criminal Code, Article 67

or clues, or by adding, moving or removing objects of any kind" or *"destroying, removing, concealing or altering a public or private document or an object likely to facilitate the detection of a crime or an offence, the search for evidence or the conviction of the guilty"*. These offences are punishable by imprisonment ranging from one month to two years and a fine between 251 and 45,000 euros.

The applicable penalty is even more severe when the obstruction of justice is committed by a person who, by its functions, is called upon to contribute to the establishment of the truth. In this case, the prison sentence is increased to five years and the fine to 75,000 euros. The same penalty applies to a person who, by its functions, is called upon to assist in the discovery of the truth and knowingly withholds information that could contribute to the establishment of the truth.

In the context of **cross-border investigations**, police and judicial cooperation is governed by the amended Law of 8 August 2000 on international mutual legal assistance in criminal matters.

Institutions such as EUROJUST facilitate exchanges between national judicial authorities and enable the coordination of investigations and prosecutions in the field of transnational crime. The same applies to INTERPOL and EUROPOL, which ensure an effective fight against international crime by facilitating mutual assistance between the various national law enforcement agencies.

Finally, a draft bill is currently being prepared to introduce measures to protect witnesses and other persons under threat. Given the threat that certain serious offences, such as those related to organised crime, pose to internal security, it is essential to have effective tools to fight them. The protection of certain categories of people (e.g. threatened witnesses and victims) is part of the array of measures that need to be implemented. This text will also apply to journalists and ensure their safety when they hold relevant information to elucidating serious offences or prevent such offences from being committed, provided that they cooperate with the police and judicial authorities.

EFFECTIVE SUPPORT FOR ALL VICTIMS OF VIOLENCE

Luxembourg ensures that victims have effective and appropriate means of obtaining **compensation for the damage suffered**.

Article 3-7 of the Code of Criminal Procedure lists the rights of the victim, including the right to financial compensation, medical care, any specialised assistance, in particular psychological assistance, and a housing solution.

Regarding compensation for victims, according to the rules of criminal procedure, a victim may bring a civil action and claim fair compensation from the perpetrator of the offence.

In many situations, the right to compensation remains theoretical, particularly in the following cases:

- The perpetrator has not been identified.
- The perpetrator has been identified but cannot be found.
- The perpetrator is insolvent.

However, the amended Law of 12 March 1984 on the compensation of certain types of victims of bodily harm resulting from an offence and on the punishment of fraudulent insolvency **remedies** this situation by creating a right to compensation to be paid from the State budget. This is an important measure in favour of victims.

In addition, in the event that the rights of a victim are not respected by the competent authority acting in the context of criminal proceedings, remedies are possible according to the forms and modalities provided for in articles 3-4 (6), 3-5 (8) and 23-5 of the Code of Criminal Procedure.

INTERNATIONAL COMMITMENT TO THE PROTECTION OF JOURNALISM

United Nations (UN)

Luxembourg is a member of the *Group of Friends for the Safety of Journalists* within UNESCO. In 2024, the Permanent Representation of Luxembourg to UNESCO also organised an event on development journalism in collaboration with the organisation[9].

This action plan will be communicated to UNESCO for registration in its directory of national action plans for journalists in application of the United Nations Plan of Action on the Safety of Journalists and the Issue of Impunity.

Council of Europe

One of Luxembourg's priorities during its **chairmanship of the Committee of Ministers of the Council of Europe** (13 November 2024 to 14 May 2025) is the protection of key actors who represent and defend the rule of law and democratic principles, such as lawyers, ombudsmen, as well as journalists and other media professionals.

As a long-standing member of the *Group of Friends on the Safety of Journalists and the Media Freedom at the Council of Europe*, Luxembourg attaches particular importance to the organisation's work in defending freedom of expression and the safety of journalists.

Luxembourg also actively supports, through voluntary contributions, the **Council of Europe Platform to Promote the Protection of Journalism and Safety of Journalists** in its missions to identify and monitor serious threats to the safety of journalists and media freedom in Europe.

Organisation for Security and Co-operation in Europe (OSCE)

The Grand Duchy follows developments and progress made by OSCE member states by participating in the annual exchanges facilitated by the **OSCE Representative on Freedom of the Media**, which is also responsible for coordinating the "Safety of Journalists" project.

Organisation for Economic Co-operation and Development (OECD)

Luxembourg is a member of the *OECD Information Integrity Hub*, a platform for sharing knowledge, data and analysis on government approaches to combating disinformation and misinformation, which led to the adoption of the Council Recommendation on Information Integrity on 17 December 2006.

Forum on Information and Democracy

The country is a member of the **International Partnership on Information and Democracy**, an intergovernmental agreement adopted by 54 countries around the world to promote and implement democratic principles in the global information and communication space.

Together with Ukraine, Luxembourg is co-chairing the Partnership for Information and Democracy's 2025 working group on identifying solutions to ensure the integrity of information on private messaging platforms, which are an indispensable tool for journalists and human rights defenders.

Development cooperation policy

Since 2020, the Directorate for Development Cooperation and Humanitarian Affairs has made annual contributions to the *International Programme for the Development of Communication*, in which it has held a seat as a member of the Intergovernmental Committee from 2023 to 2027. Through its Directorate of Political Affairs, the MFA also makes an annual contribution to the *Multi-Donor Programme for Freedom of Expression and the Safety of Journalists*.

Media Freedom Coalition and Freedom Online Coalition

As a member of the Human Rights Council in Geneva (2022-2024), Luxembourg attaches particular importance to its participation in mini-lateral forums such as the *Media Freedom Coalition* and the *Freedom Online Coalition*. In addition, Luxembourg has continued to defend fundamental freedoms, in particular in Russia, by taking on the role of penholder for the resolution on the human rights situation in the Russian Federation. In 2025, Luxembourg joined the Steering Committee of the *Freedom Online Coalition*.

9 The event was based on the report entitled 'Journalism in the service of development. The role of journalism in promoting democracy, political responsibility and sustainable development'.

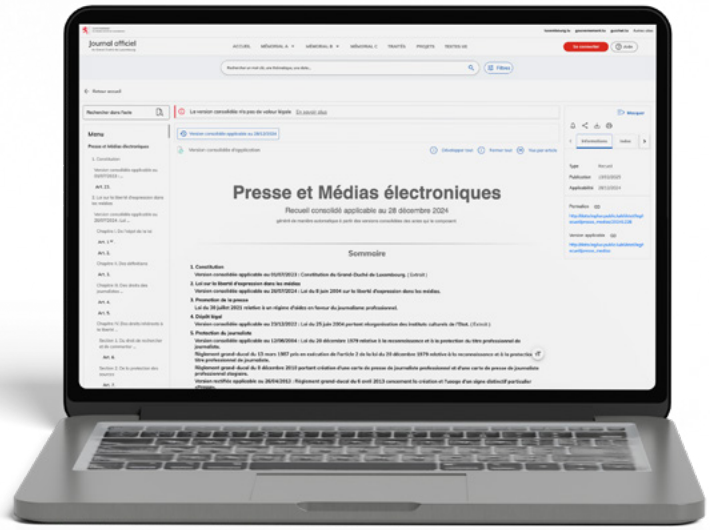
PROMOTION OF INFORMATION, EDUCATION AND AWARENESS-RAISING: PROMOTING BEST PRACTICES FOR THE PROTECTION OF JOURNALISTS

Extracts from the Council of Europe Recommendation on the protection of journalism[10]:

> Member States should promote awareness of CM/Rec(2016)4. Information and awareness-raising strategies should include specific campaigns.

HIGHLIGHTING THE LEGAL FRAMEWORK GOVERNING JOURNALISM

To increase the visibility of the legislation protecting journalism, a consolidated collection of all the laws relating to the press and electronic media is published on the website of the Official Journal of Luxembourg (https://legilux.public.lu/eli/etat/leg/recueil/presse_medias)



LAUNCH OF A CAMPAIGN TO RAISE AWARENESS OF JOURNALISM'S ROLE

There is an urgent need to rebuild trust between the press and citizens by presenting the profession and the ethics of professional journalists to the public. The State will contribute financially, within the limits of available budgetary resources, to a public campaign launched by the Press Council to make citizens aware of the added value of quality and ethical journalism.

Steps will also be taken to present The Swiss touring exhibition *"À la recherche de la vérité. Le journalisme et nous - Auf der Suche nach der Wahrheit. Wir und der Journalismus"* (In Search of Truth. Journalism and Us). It highlights the essential role of journalism in shaping our opinions and ensuring the proper functioning of democracy. It provides interactive tools to help navigate the contemporary information ecosystem and is aimed at a wide audience of young people and adults.

TRAINING COURSES DEDICATED TO THE SAFETY OF JOURNALISTS

The State also undertakes to co-finance, within the limits of the available budget, an annual training course for the duration of the campaign (2025-2028) organised by the Press Council to ensure the safety of journalists on assignment and online.

10 CM/Rec(2016)4

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APPENDIX

RECOMMENDATION CM/REC(2016)4 OF THE COMMITTEE OF MINISTERS TO MEMBER STATES ON THE PROTECTION OF JOURNALISM AND SAFETY OF JOURNALISTS AND OTHER MEDIA ACTORS

(Adopted by the Committee of Ministers on 13 April 2016 at the 1253rd meeting of the Ministers' Deputies)

1. It is alarming and unacceptable that journalists and other media actors in Europe are increasingly being threatened, harassed, subjected to surveillance, intimidated, arbitrarily deprived of their liberty, physically attacked, tortured and even killed because of their investigative work, opinions or reporting, particularly when their work focuses on the misuse of power, corruption, human rights violations, criminal activities, terrorism and fundamentalism. These abuses and crimes have been extensively documented in authoritative reports published by the media, non-governmental organisations and human rights defenders.

2. Journalists and other media actors are often specifically targeted on account of their gender, gender identity, sexual orientation, ethnic identity, membership of a minority group, religion, or other particular characteristics which may expose them to discrimination and dangers in the course of their work. Female journalists and other female media actors face specific gender-related dangers, including sexist, misogynist and degrading abuse; threats; intimidation; harassment and sexual aggression and violence. These violations are increasingly taking place online. There is a need for urgent, resolute and systemic responses.

3. The abuses and crimes described above, which in practice are committed by both State and non-State actors, have a grave chilling effect on freedom of expression, as safeguarded by Article 10 of the European Convention on Human Rights (ETS No. 5, "the Convention"), including on the ability to access information, on the public watchdog role of journalists and other media actors and on open and vigorous public debate, all of which are essential in a democratic society. They are often met with insufficient efforts by relevant State authorities to bring the perpetrators to justice, which leads to a culture of impunity and can fuel further threats and violence, and undermine public trust in the rule of law.

4. This alarming situation is not exclusively limited to professional journalists and other traditional media actors. As the European Court of Human Rights and many intergovernmental bodies have recognised, including the United Nations in its Plan of Action on the Safety of Journalists and the Issue of Impunity and the Human Rights Committee in its General Comment No. 34, the definition of media actors has expanded as a result of new forms of media in the digital age. It therefore includes others who contribute to public debate and who perform journalistic activities or fulfil public watchdog functions.

5. Given the scale and severity of threats and attacks against journalists and other media actors in Europe and their damaging effects on the functioning of democratic society, far-reaching measures are necessary at the international and national levels in order to strengthen the protection of journalism and the safety of journalists and other media actors, and to eradicate impunity. The international community has repeatedly stated the need for a more effective implementation of existing international and regional standards and enhanced compliance with existing monitoring mechanisms and initiatives. Protecting journalists and other media actors and combating impunity for perpetrators of crimes against them are pressing political priorities across Council of Europe member States, as stated in the Declaration of the Committee of Ministers on the protection of journalism and safety of journalists and other media actors.

6. In order to create and secure a favourable environment for freedom of expression as guaranteed by Article 10 of the Convention, States must fulfil a range of positive obligations, as identified in the relevant judgments of theEuropean Court of Human Rights and set out in the principles appended to this recommendation. Such obligations are to be fulfilled by the executive, legislative and judicial branches of governments, as well as all other State authorities, including agencies concerned with maintaining public order and national security, and at all levels – federal, national, regional and local.

7. Under the terms of Article 15.b of the Statute of the Council of Europe (ETS No. 1), the Committee of Ministers recommends that governments of member States:

i. implement, as a matter of urgency and through all branches of State authorities, the guidelines set out in the appendix to this recommendation, taking full account of the principles included there;

ii. review relevant domestic laws and practice and revise them, as necessary, to ensure their conformity with States' obligations under the European Convention on Human Rights;

iii. promote the goals of this recommendation at the national level and engage and co-operate with all interested parties to achieve those goals.

Appendix to Recommendation CM/Rec(2016)4

I. Guidelines

These guidelines are designed to meet the many-faceted challenge of ensuring the effective protection of journalism and safety of journalists and other media actors, which necessitates coherent, complementary strategies by member States. They are based on the principles that are set out in this appendix and which constitute an integral part of the recommendation. The guidelines are organised into four pillars: prevention, protection, prosecution (including a specific focus on impunity) and promotion of information, education and awareness-raising. Within each pillar, detailed guidance is offered to member States on how to fulfil their relevant obligations, combining legal, administrative and practical measures.

Prevention

1. Member States should, in accordance with their constitutional and legislative traditions, ensure independence of the media and safeguard media pluralism, including the in-

dependence and sustainability of public-service media and community media, which are crucial elements of a favourable environment for freedom of expression.

2. Member States should put in place a comprehensive legislative framework that enables journalists and other media actors to contribute to public debate effectively and without fear. Such a framework should reflect the principles set out in this appendix and thereby guarantee public access to information, privacy and data protection, confidentiality and security of communications and protection of journalistic sources and whistle-blowers. The legislative framework, including criminal law provisions dealing with the protection of the physical and moral integrity of the person, should be implemented in an effective manner, including through administrative mechanisms and by recognising the particular roles of journalists and other media actors in a democratic society. The legislative framework and its implementation should guarantee effective protection of female journalists and other female media actors from gender-related dangers in the course of their work. Due attention should be paid to the importance of adequate labour and employment laws to protect journalists and other media actors from arbitrary dismissal or reprisals, and from precarious working conditions that may expose them to undue pressures to depart from accepted journalistic ethics and standards.

3. This legislative framework should be subject to independent, substantive review to ensure that safeguards for the exercise of the right to freedom of expression are robust and effective in practice and that the legislation is backed up by effective enforcement machinery. After an initial expeditious review, further reviews should be carried out at regular periodic intervals. The reviews of laws and practices should assess the compliance of the legislative framework and its application with authoritative European and international human rights standards, including all relevant positive obligations of States, and contain recommendations on the basis of its key findings. The reviews should cover existing and draft legislation, including that which concerns terrorism, extremism and national security, and any other legislation that affects the right to freedom of expression of journalists and other media actors, and any other rights that are crucial for ensuring that their right to freedom of expression can be exercised in an effective manner.

4. The reviews may be carried out by one or more appropriate new or existing independent bodies that have authoritative mandates and are supported by sufficient resources. National authorities are urged to establish favourable conditions in which such reviews may take place, allowing for detailed public scrutiny and the drawing up of recommendations by organisations and experts acting independently of governmental, political, religious, commercial and other partisan influences. The reviewing body or bodies could be a national human rights commission, ombudsperson and/or another independent body established for the specific purposes described above. It is recommended that the reviewing body or bodies have an explicit mandate to collect, receive and use information from any source and be granted optimal access to documents and officials across all branches of State authorities. The review process should be transparent and include public hearings, facilitating the full and active participation of civil society, including representatives of journalist organisations, the media and other stakeholders.

5. Provision should be made for the review reports to be formally submitted to relevant State authorities, in particular ministries, requiring a timely response by those authorities, including, as appropriate, corrective or other follow-up action to the findings and recommendations of the reviews. The findings and recommendations of the reviews should also be systematically channelled into ongoing reporting, monitoring or information-sharing exercises at the Council of Europe, such as for the Committee of Ministers, the Parliamentary Assembly and the Commissioner for Human Rights. They may also be made available to similar exercises of other intergovernmental organisations, such as the UN Human Rights Committee, the UN Human Rights Council's Universal Periodic Review, UNESCO, the UN High Commissioner for Human Rights and the Organization for Security and Co-operation in Europe (OSCE) Representative on Freedom of the Media.

6. As part of the reviews of laws and practices, member States which have defamation laws should ensure that those laws include freedom of expression safeguards that conform to European and international human rights standards, including truth/public-interest/fair comment defences and safeguards against misuse and abuse, in accordance with the European Convention on Human Rights and the principle of proportionality, as developed in the relevant judgments of the European Court of Human Rights. Furthermore, given the chilling effect that legislation criminalising particular types of expression has on freedom of expression and public debate, States should exercise restraint in applying such legislation, where it exists. States should be guided in this regard by the European Court of Human Rights finding that the imposition of a prison sentence for a press offence is only permissible in exceptional circumstances, notably where other fundamental rights have been seriously impaired, for example, in the case of hate speech or incitement to violence. Such legislation should be subjected to similar critical scrutiny in the context of the reviews of laws and practices.

7. Member States should clarify the legal bases of State surveillance and interception of communications data and the procedural safeguards against misuse and abuse, such as the possibility of review by a competent judicial authority, due process and user notification. Member States should ensure the effective operation of oversight mechanisms for State surveillance of communications, to ensure transparency and accountability for the scope and nature of such practices. A range of stakeholders should be represented on such oversight bodies, including journalists and their organisations and legal and technical experts.

Protection

8. Legislation criminalising violence against journalists should be backed up by law enforcement machinery and redress mechanisms for victims (and their families) that are effective in practice. Clear and adequate provision should be made for effective injunctive and precautionary forms of interim protection for those who face threats of violence.

9. State authorities have a duty to prevent or suppress offences against individuals when they know, or should have known, of the existence of a real and immediate risk to the life or physical integrity of these individuals from the criminal acts of a third party and to take measures within the scope of their powers which, judged reasonably, might be expected to avoid that risk. To achieve this, member States should take appropriate preventive operational measures, such as providing police protection, especially when it is requested by journalists or other media actors, or voluntary evacuation to a safe place. Those measures should be effective and timely and should be designed with consideration for gender-specific dangers faced by female journalists and other female media actors.

10. Member States should encourage the establishment of, and support the operation of, early-warning and rapid-response mechanisms, such as hotlines, online platforms or 24-hour emergency contact points, by media organisations or civil society, to ensure that journalists and other media actors have immediate access to protective measures when they are threatened. If established and run by the State, such mecha-

nisms should be subject to meaningful civil society oversight and guarantee protection for whistle-blowers and sources who wish to remain anonymous. Member States are urged to wholeheartedly support and co-operate with the Council of Europe's platform to promote the protection of journalism and the safety of journalists and thereby help to strengthen the capacity of Council of Europe bodies to warn of and respond effectively to threats and violence against journalists and other media actors.

11. In all cases of deprivation of liberty of journalists or other media actors by the police or other law-enforcement officials, adequate procedural guarantees must be adhered to, in order to prevent unlawful detention or ill-treatment. Such procedural guarantees must include: the right to inform, or to have informed, a third party of their choice of their deprivation of liberty, their location and any transfers; the right of access to a lawyer; the right of access to a medical doctor; and the right to challenge the lawfulness of the detention before a court of law. Persons arrested or detained in relation to the commission of an offence must be brought promptly before a judge, and they have the right to a trial within a reasonable time or to be released pending trial, in accordance with Article 5 of the Convention (right to liberty and security).

12. Member States are urged to develop protocols and training programmes for all State authorities who are responsible for fulfilling State obligations concerning the protection of journalists and other media actors. Those protocols should be adapted to the nature and mandate of the State agency personnel in question, for example, judges, prosecutors, police officers, military personnel, prison wardens, immigration officials and other State authorities, as appropriate. The protocols and training programmes should be used to ensure that the personnel of all State agencies are fully aware of the relevant State obligations under international human rights law and humanitarian law and the actual implications of those obligations for each agency. The protocols and training programmes should be informed by an appreciation of the important role played by journalists and other media actors in a democratic society and of gender-specific issues.

13. Member States must exercise vigilance to ensure that legislation and sanctions are not applied in a discriminatory or arbitrary fashion against journalists and other media actors. They should also take the necessary legislative and/or other measures to prevent the frivolous, vexatious or malicious use of the law and legal process to intimidate and silence journalists and other media actors. Member States should exercise similar vigilance to ensure that administrative measures such as registration, accreditation and taxation schemes are not used to harass journalists and other media actors, or to frustrate their ability to contribute effectively to public debate.

14. Member States should take into account the specific nature and democratic value of the role played by journalists and other media actors in particular contexts, such as in times of crisis, during election periods, at public demonstrations and in conflict zones. In these contexts in particular, it is important for law enforcement authorities to respect the role of journalists and other media actors covering demonstrations and other events. Press or union cards, relevant accreditation and journalistic insignia should be accepted by State authorities as journalistic credentials, and where it is not possible for journalists or other media actors to produce professional documentation, every possible effort should be made by State authorities to ascertain their status. Dialogue between State authorities and journalists' organisations is moreover encouraged in order to avoid friction or clashes between police and members of the media.

15. State officials and public figures should not undermine or attack the integrity of journalists and other media actors, for example on the basis of their gender or ethnic identity, or by accusing them of disseminating propaganda, and thereby jeopardise their safety. Nor should they require, coerce or pressurise, by way of violence, threats, financial penalties or inducements or other measures, journalists and other media actors to derogate from accepted journalistic standards and professional ethics by engaging in the dissemination of propaganda or disinformation. State officials and public figures should publicly and unequivocally condemn all instances of threats and violence against journalists and other media actors, irrespective of the source of those threats and acts of violence.

16. Member States should encourage media organisations, while not encroaching on their editorial or operational autonomy, to fulfil their institutional responsibilities towards all journalists and other media actors working for them – in salaried, freelance and all other capacities. This may include the adoption of in-house guidelines and procedures for the deployment of journalists and other media actors on difficult or dangerous assignments, for instance in conflict zones. Such deployment should be voluntary and informed. Institutional responsibilities also include providing journalists and other media actors with adequate information, including on the risks involved, and requisite training in all matters of safety, digital security and privacy, as well as arranging for life assurance and health and travel insurance as part of a comprehensive and equitable package of work conditions. These institutional responsibilities additionally include, as relevant, the provision of legal support and representation and trauma counselling on return from assignments.

Prosecution

17. It is imperative that everyone involved in killings of, attacks on and ill-treatment of journalists and other media actors be brought to justice. Investigations into such crimes and the prosecution of those responsible for them must therefore meet a number of general requirements. When those responsible for such crimes are not brought to justice, a culture of impunity can arise, which calls for particular courses of action.

General requirements

18. Investigations into killings, attacks and ill-treatment must be effective and therefore respect the essential requirements of adequacy, thoroughness, impartiality and independence, promptness and public scrutiny.

19. Investigations must be effective in the sense that they are capable of leading to the establishment of the facts as well as the identification and eventually, if appropriate, punishment of those responsible. The authorities must take every reasonable step to collect all the evidence concerning the incident. The conclusions of the investigation must be based on thorough, objective and impartial analysis of all the relevant elements, including the establishment of whether there is a connection between the threats and violence against journalists and other media actors and the exercise of journalistic activities or contributing in similar ways to public debate. State authorities are also obliged to investigate the existence of a possible link between racist attitudes and an act of violence. The relevance of gender-related issues should also be investigated.

20. For an investigation to be effective, the persons responsible for, and who are carrying out, the investigation must be independent and impartial, in law and in practice. Any person or institution implicated in any way with a case must be excluded from any role in investigating it. Moreover, investigations should be carried out by specialised, designated units of relevant State authorities in which officials have been given adequate training in international human rights norms

and safeguards. Investigations must be effective in order to maintain public confidence in the authorities' maintenance of the rule of law, to prevent any appearance of collusion in or tolerance of unlawful acts and, in those cases involving State agents or bodies, to ensure their accountability for deaths occurring under their responsibility. Investigations should also be subject to public oversight, and in all cases the victim's next of kin must be involved in the procedure to the extent necessary to safeguard his or her legitimate interests.

21. Member States have an obligation to take all necessary steps to bring the perpetrators of crimes against journalists and other media actors to justice, whether they are State actors or not. Investigations and prosecutions should consider all of the different – actual and potential – roles in these crimes, such as authors, instigators, perpetrators and accomplices, and the criminal liability that arises from each of those roles.

22. Member States are obliged to ensure the integrity of court proceedings; they must guarantee the independence and impartiality of the judiciary. They must also ensure the safety of judges, prosecutors, lawyers and witnesses involved in prosecutions for crimes against journalists and other media actors.

23. Member States must ensure that effective and appropriate remedies are available to victims and, as relevant, to their families, including legal remedies, financial compensation, medical and psychological treatment, relocation and shelter. Remedies should take due account of cultural, ethnic, religious gender-related and other aspects. An ongoing or pending criminal prosecution should not preclude victims from seeking civil remedies.

Impunity

24. When prosecutions for crimes against journalists and other media actors are not initiated or are obstructed in different ways, unacceptable delays to the administration of justice are created and give rise to impunity for those responsible for the crimes. Therefore, when a State agent has been charged with crimes involving ill-treatment, it is of the utmost importance that criminal proceedings and sentencing are not time-barred. In order to maintain public trust in the justice system, measures such as the granting of an amnesty or pardon should not be envisaged or accepted without convincing reasons. The law should provide for additional or aggravated penalties to be applicable to public officials who, by neglect, complicity or design, act in a way that prevents or obstructs the investigation, prosecution or punishment of those responsible for crimes against journalists or other media actors on account of their work or contribution to public debate.

25. When investigations and prosecutions do not result in bringing to justice the perpetrators of killings of journalists or other media actors, or other serious crimes against them, member States may consider establishing special judicial or non-judicial inquiries into specific cases or independent specialised bodies to conduct such inquiries on an ongoing basis. The latter may have special authority and involve participation or leadership by respected media and/or civil society figures, with the aim of advancing the process of fact-finding, without prejudice to the responsibility of the State prosecuting and investigating authorities to bring the perpetrators to justice.

26. Member States should enhance the co-operation and exchange of information, expertise and best practices with other States whenever crimes against journalists and other media actors involve cross-border or online dimensions, subject to safeguards for the rights to privacy, data protection and the presumption of innocence.

27. Member States should proactively and vigorously pursue the priorities of protecting journalists and other media actors and combating impunity in all relevant regional and international intergovernmental forums and, more generally, in their foreign policy and relations. This could involve co-operating fully with information-gathering, awareness-raising and other initiatives co-ordinated by international and regional intergovernmental organisations concerning the safety of journalists and other media actors, in particular periodic State reporting processes, for example to the UN Human Rights Committee, as part of the UN Human Rights Council's Universal Periodic Review and to the Director-General of UNESCO on the actions taken to prevent the impunity of perpetrators and on the status of judicial inquiries on each of the killings of journalists condemned by UNESCO. This would also include member States' roles and responsibility in the supervision of the execution of the judgments of the European Court of Human Rights by the Council of Europe Committee of Ministers and providing prompt and full responses to ad hoc requests by the Council of Europe Commissioner for Human Rights and the OSCE Representative on Freedom of the Media.

Promotion of information, education and awareness raising

28. Member States should promote the translation (into the national and minority languages of the country) and the widest possible dissemination of this recommendation, as well as awareness raising about its content in a variety of publicity materials. Information and awareness-raising strategies should include specific campaigns designed to capitalise on the publicity opportunities provided by internationally designated days such as World Press Freedom Day (3 May), International Day to End Impunity for Crimes against Journalists (2 November) and International Right to Know Day (28 September). Member States should co-operate fully with information-gathering, awareness-raising and other initiatives co-ordinated by international and regional intergovernmental organisations concerning the safety of journalists and other media actors. In doing so, they should proactively highlight, as appropriate, gender-specific issues and those concerning impermissible grounds for discrimination.

29. Member States should encourage relevant bodies to give prominence to this recommendation – and educational materials dealing with all the issues it addresses, including gender-specific issues – in training programmes in journalism schools and as part of continuing education for journalists, and media and information literacy initiatives.

30. Member States should develop a partnership with civil society and the media for the promotion of best practices for the protection of journalists and other media actors and for combating impunity. This should involve putting into practice the principles of open government and open justice and adopting a constructive and responsive attitude to civil society and media reporting on threats and violence against journalists and other media actors, highlighting gender-specific and other issues, as appropriate. It should also involve active co-operation in publicising and educating about relevant issues and standards.

II. Principles

The preceding recommendation, including its guidelines, is based on an extensive body of principles anchored in the European Convention on Human Rights and in the relevant judgments and decisions of the European Court of Human Rights. A relevant selection of these principles are set out and contextualised in the following paragraphs. The principles have been grouped into the following categories: freedom of expression; enabling environment; safety, security, protection; contribution to public debate and chilling effect.

Freedom of expression

1. The right to freedom of expression, as enshrined in Article 10 of the European Convention on Human Rights, Article 19 of the Universal Declaration of Human Rights, Article 19 of the International Covenant on Civil and Political Rights and other international and regional instruments, is a fundamental human right enjoyed by everyone, offline and online, without discrimination. It is a compound right, comprising the right to hold opinions and the rights to seek, receive and impart information and ideas of all kinds without interference and regardless of frontiers.

2. The right to freedom of expression and information, as guaranteed by Article 10 of the Convention, constitutes one of the essential foundations of a democratic society and one of the basic conditions for its progress and the development of every individual. Freedom of expression is applicable not only to "information" or "ideas" that are favourably received or regarded as inoffensive or as a matter of indifference, but also to those that offend, shock or disturb the State or any sector of the population. In this way, freedom of expression facilitates robust public debate, which is another prerequisite of a democratic society characterised by pluralism, tolerance and broadmindedness. Any interference with the right to freedom of expression of journalists and other media actors therefore has societal repercussions as it is also an interference with the right of others to receive information and ideas and an interference with public debate.

3. The exercise of the right to freedom of expression carries with it duties and responsibilities, as stated in Article 10, paragraph 2. In the context of journalism, relevant duties and responsibilities are understood as including acting in good faith in order to provide accurate and reliable information, in accordance with the ethics of journalism.

4. While the right to freedom of expression is not absolute, an interference with this right is only permitted if it is prescribed by law, pursues one of the legitimate aims set out in Article 10, paragraph 2 of the Convention, is necessary in a democratic society – which implies that it corresponds to a pressing social need – and is proportionate to the legitimate aims pursued. These aims are: national security, territorial integrity or public safety, the prevention of disorder or crime, the protection of health or morals, the protection of the reputation or rights of others, preventing the disclosure of information received in confidence and maintaining the authority and impartiality of the judiciary.

5. Moreover, some types of hate speech which incite violence or hatred fall under Article 17 of the Convention (prohibition of abuse of rights) and are therefore not afforded protection because their aim is to destroy some of the rights and freedoms set forth in the Convention.

6. All human rights are universal, indivisible, interdependent and interrelated and there is important interplay between the right to freedom of expression and other human rights, such as the rights to freedom of thought, conscience and religion, the right to freedom of assembly and association and the right to vote in free and fair elections.

7. Other human rights associated with issues surrounding the safety of journalists and other media actors and the fight against impunity include: the right to life (Article 2), the prohibition of torture (Article 3), the right to liberty and security (Article 5), the right to a fair trial (Article 6), no punishment without law (Article 7), the right to respect for private and family life (Article 8) and the right to an effective remedy (Article 13).

8. The Convention is a living instrument which is to be interpreted in light of present-day conditions and in a way that ensures that all of the rights it guarantees are not theoretical or illusory but practical and effective, both in terms of the substance of those rights and the remedies available in case of their violation.

9. Ongoing technological developments have transformed the traditional media environment, as described, *inter alia*, in CM/Rec(2011)7 on a new notion of media, leading to new conceptions of media and new understandings of the evolving media ecosystem. Advances in information and communication technologies have made it easier for an increasingly broad and diverse range of actors to participate in public debate. Consequently, the European Court of Human Rights has repeatedly recognised that individuals, civil society organisations, whistle-blowers and academics, in addition to professional journalists and media, can all make valuable contributions to public debate, thereby playing a role similar or equivalent to that traditionally played by the institutionalised media and professional journalists.

10. The UN Human Rights Committee has similarly stated that "journalism is a function shared by a wide range of actors, including professional full-time reporters and analysts, as well as bloggers and others who engage in forms of self-publication in print, on the Internet or elsewhere". The UN General Assembly has also acknowledged that "journalism is continuously evolving to include inputs from media institutions, private individuals and a range of organisations that seek, receive and impart information and ideas of all kinds, online as well as offline … thereby contributing to shape public debate". According to the UN Plan of Action on the Safety of Journalists and the Issue of Impunity, "the protection of journalists should not be limited to those formally recognised as journalists, but should cover others, including community media workers and citizen journalists and others who may be using new media as a means of reaching their audiences".

11. The obligation on States to ensure the effective exercise of human rights involves not only negative obligations of non-interference, but also positive obligations to secure those rights to everyone within their jurisdiction.

12. Genuine, effective exercise of freedom of expression may require various positive measures for protection, even in the sphere of relations between individuals. These positive obligations include, among others: to create a favourable environment for participation in public debate for everyone and to enable the expression of ideas and opinions without fear; to put in place an effective system of protection for authors and journalists; to afford protection against physical violence and intimidation; to protect life; to investigate fatalities; and the duty to prevent torture and ill-treatment.

Enabling environment

13. A favourable or enabling environment for freedom of expression has a number of essential features which collectively create the conditions in which freedom of expression and information and vigorous public debate can thrive. The right to receive information embraces a right of access to information. The public has a right to receive information and ideas of public interest, which journalists and other media actors have the task of imparting. The gathering of information is an essential preparatory step in journalism and an inherent, protected part of press freedom. The participation of journalists and other media actors in public debate on matters of legitimate public concern must not be discouraged, for example by measures that make access to information more cumbersome or by arbitrary restrictions, which may become a form of indirect censorship.

14. The media ecosystem is shaped by the interplay of legal, political, socio-cultural, economic, technological and other influences and its vitality is crucial for ensuring an enabling environment for freedom of expression and information in

democratic society. One feature of the media ecosystem is that individuals have become empowered as a result of new technologies that facilitate their ability to participate in public debate. Another feature of the media ecosystem is that online intermediaries may carry out an influential gate-keeping function in respect of public debate that is conducted via their private networks, such as social media. It must be recalled that online intermediaries are indirectly bound to respect their users' right to freedom of expression and other human rights.

15. Media pluralism and diversity of media content are essential for the functioning of a democratic society and are the corollaries of the fundamental right to freedom of expression and information as guaranteed by Article 10 of the Convention. States have a positive obligation to guarantee pluralism in the media sector, which entails ensuring that a diversity of voices, including critical ones, can be heard. Independent media regulatory authorities can play an important role in upholding media freedom and pluralism and States should therefore safeguard their independence. The adoption and effective implementation of media-ownership regulation also plays an important role in this respect. Such regulation should ensure transparency in media ownership and prevent its concentration where this is detrimental to pluralism. It should address issues such as indirect and cross-media ownership, and appropriate restrictions on media ownership by persons holding public office.

16. In the course of their work, journalists and other media actors often face specific risks, dangers and discrimination on grounds of their gender, gender identity, sexual orientation, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status. Moreover, the pursuit of particular stories and coverage of particular issues (such as sensitive political, religious, economic or societal topics, including misuse of power, corruption and criminal activities) can also expose journalists and other media actors to threats, attacks, abuse and harassment by State and/or non-State actors. Non-State actors could, for instance, be terrorist or criminal groups. These specific situations should be taken into account when affording effective preventive or protective measures.

17. Female journalists and other female media actors face specific gender-related dangers in the course of their work, such as threats, (sexual) aggression and violence, in targeted ways, in the context of mob-related sexual violence or sexual abuse while in detention. These dangers are often compounded by various factors, such as under-reporting, under-documentation, lack of access to justice, social barriers and constraints concerning gender-based violence, including stigmatisation, lack of recognition of the seriousness of the problem and discriminatory attitudes by extremist sections of society. A systematic, gender-sensitive approach is required to prevent and combat these specific dangers, as well as to counter the underlying societal customs, practices, gender stereotypes, prejudices and discrimination on which they feed. Primary responsibility for developing such strategies lies with State authorities, but media, civil society and corporate organisations also have important roles to play: a gender-specific perspective should be a central feature of all measures and programmes dealing with the protection of journalists and other media actors and the fight against impunity.

18. Being able to exercise the right to freedom of expression without fear implies that, as a minimum, the safety, security and protection are guaranteed effectively in practice for everyone, in particular journalists and other media actors, and there is an expectation that they can contribute to public debate without fear and without having to modify their conduct due to fear. Fear can arise from online harassment, threats and cyberattacks, and other illegal behaviour, including trolling, cyberstalking and hacking of e-mail and social media accounts, electronic storage, websites and mobile phones or other devices. Online harassment, threats, abuse and violations of digital security tend to target female journalists and other female media actors in particular, which calls for gender-specific responses. Threats and violence are not the only sources of fear, however. Fear can also be generated by (the threat or reasonable expectation of) a range of legal, political, socio-cultural and economic pressures, which can be exacerbated in times of economic crisis and financial austerity.

19. Threats to, and intimidation of, journalists and other media actors can often be seen as indicators or warning signals of wider or escalating threats to freedom of expression in society. As such, they point to a more general deterioration in human rights, democracy and rule of law.

Safety, security, protection

20. The State must guarantee the safety and physical integrity of everyone within its jurisdiction and this entails not only the negative obligation to refrain from the intentional and unlawful taking of life, but also the positive obligation to take appropriate steps to safeguard the lives of those within its jurisdiction. This positive obligation has substantive and procedural dimensions.

21. The substantive dimension involves a primary obligation for the State to secure the right to life by putting in place effective criminal law provisions to deter the commission of offences against individuals, backed up by law enforcement machinery for the prevention, suppression and punishment of breaches of such provisions. This also extends, in appropriate circumstances, to a positive obligation on the authorities to take preventive operational measures to protect individuals whose lives are at risk from the criminal acts of another individual. Bearing in mind the difficulties in policing modern societies, the unpredictability of human conduct and the operational choices which must be made in terms of priorities and resources, the scope of the positive obligation must be interpreted in a way which does not impose an impossible or disproportionate burden on the authorities. Nevertheless, the authorities should pay attention to the vulnerable position in which journalists who cover politically sensitive topics place themselves vis-à-vis those in power.

22. Unregulated and arbitrary action by State agents is incompatible with effective respect for human rights. This means that, as well as being authorised under national law, policing operations, including the policing of public demonstrations, must be sufficiently regulated by it, within a system of adequate and effective safeguards against arbitrariness and abuse of force, and even against avoidable accident. This implies a need to take into consideration not only the actions of the law enforcement agents of the State who actually use force but also all the surrounding circumstances, including such matters as the planning and control of the actions under examination. A legal and administrative framework should define the limited circumstances in which law enforcement officials may use force and firearms, in the light of the international standards which have been developed on this topic. In this respect, a clear chain of command, coupled with clear guidelines and criteria are required; specific human rights training can help to formulate such guidelines and criteria. In any case, the undeniable difficulties inherent in the fight against crime cannot justify placing limits on the protection to be afforded in respect of the physical integrity of individuals and Article 3 of the Convention does not allow authorities to weigh the physical integrity of an individual against the aim of maintaining public order.

23. The procedural dimension involves a positive obligation on the State to carry out effective, independent and prompt investigations into alleged unlawful killings or ill-treatment, either by State or non-State actors, with a view to prosecuting the perpetrators of such crimes and bringing them to justice. Article 13 of the Convention also requires States to ensure that an effective remedy is available whenever any of the substantive rights in the Convention are violated.

24. The absence of such effective measures gives rise to the existence of a culture of impunity, which leads to the tolerance of abuses and crimes against journalists and other media actors. When there is little or no prospect of prosecution, perpetrators of such abuses and crimes do not fear punishment. This inflicts additional suffering on victims and can lead to the repetition of abuses and crimes.

25. The State has an obligation to guarantee the substantive liberty of everyone within its jurisdiction and to that end must ensure that journalists and other media actors are not subjected to arbitrary arrest, unlawful detention or enforced disappearance.

26. The State should not unduly restrict the free movement of journalists and other media actors, including cross-border movement and access to particular areas, conflict zones, sites and forums, as appropriate, because such mobility and access is important for news and information-gathering purposes.

27. The effectiveness of a system of protection may be influenced by contextual factors, such as in crisis or conflict situations, where there are heightened risks for the safety and independence of journalists and other media actors, and where State authorities may experience difficulties in exerting de facto control over the territory. Nevertheless, the relevant State obligations apply *mutatis mutandis* in such specific contexts, which are at all times subject to international human rights law and international humanitarian law.

28. Ensuring the safety and security of journalists and other media actors is a precondition for ensuring their ability to participate effectively in public debate. The persistence of intimidation, threats and violence against journalists and other media actors, coupled with the failure to bring to justice the perpetrators of such offences, engender fear and have a chilling effect on freedom of expression and on public debate. States are under a positive obligation to protect journalists and other media actors against intimidation, threats and violence irrespective of their source, whether governmental, judicial, religious, economic or criminal.

Contribution to public debate

29. Journalists and other media actors make an essential contribution to public debate and opinion-making processes in a democratic society by acting as public or social watchdogs and by creating shared spaces for the exchange of information and ideas and for discussion. Their watchdog role involves, inter alia, informing the public about matters of public interest, commenting on them, holding public authorities and other powerful forces in society to account and exposing corruption and abuse of power.

30. In order to enable journalists and other media actors to fulfil the tasks ascribed to them in a democratic society, the European Court of Human Rights has recognised that their right to freedom of expression should enjoy a broad scope of protection. Such protection includes a range of freedoms that are of functional relevance to the pursuit of their activities, such as: protection of confidential sources, protection against searches of professional workplaces and private domiciles and the seizure of materials, protection of news and information-gathering processes, and editorial and presentational autonomy.

31. The operational or functionally relevant freedoms enjoyed by journalists and other media actors, which cover news and information-gathering, processing and dissemination activities, are necessary for their right to freedom of expression to be practical and effective, both offline and online.

32. Article 10 of the Convention protects not only the ideas and information expressed, but also the manner in which they are conveyed. This implies that journalists and other media actors have the freedom to choose their own technique or style for reporting on matters of public interest, which includes possible recourse to a degree of exaggeration, or even provocation. In addition to reporting, other genres contribute to public debate in different ways and should accordingly be protected, such as satire, which is a form of artistic expression and social commentary and, by its inherent features of exaggeration and distortion of reality, naturally aims to provoke and agitate.

Chilling effect

33. A chilling effect on freedom of expression arises when an interference with this right causes fear, leading to self-censorship and ultimately the impoverishment of public debate, which is to the detriment of society as a whole. Accordingly, State authorities should avoid taking measures or imposing sanctions that have the effect of discouraging participation in public debate.

34. Legislation and how it is applied in practice can give rise to a chilling effect on freedom of expression and public debate. Interferences that take the form of criminal sanctions have a greater chilling effect than those constituting civil sanctions. Thus, the dominant position of State institutions requires the authorities to show restraint in resorting to criminal proceedings. A chilling effect on freedom of expression can arise not only from any sanction, disproportionate or not, but also the fear of sanction, even in the event of an eventual acquittal, considering the likelihood of such fear discouraging one from making similar statements in the future.

35. Although sentencing is in principle a matter for the national courts, the imposition of a prison sentence for a press offence will be compatible with journalists' freedom of expression as guaranteed by Article 10 of the Convention only in exceptional circumstances, notably where other fundamental rights have been seriously impaired, as, for example, in the case of hate speech or incitement to violence.

36. Actual misuse, abuse or threatened use of different types of legislation to prevent contributions to public debate, including defamation, anti-terrorism, national security, public order, hate speech, blasphemy and memory laws can prove effective as means of intimidating and silencing journalists and other media actors reporting on matters of public interest. The frivolous, vexatious or malicious use of the law and legal process, with the high legal costs required to fight such law suits, can become a means of pressure and harassment, especially in the context of multiple law suits. The harassment can prove particularly acute when it concerns journalists and other media actors who do not benefit from the same legal protection or financial and institutional backing as those offered by large media organisations. In this respect, it should be recalled that it is central to the concept of a fair trial, in civil as in criminal proceedings, that a litigant is not denied the opportunity to present his or her case effectively before the court and that he or she is able to enjoy equality of arms with the opposing side. States are therefore required to take appropriate measures, which could include the institution of a legal aid scheme, in order to ensure that each side is afforded a reasonable opportunity to present his or her case.

37. A chilling effect also results from the arbitrary use of administrative measures such as registration and accreditation schemes for journalists, bloggers, Internet users, foreign correspondents, NGOs, etc., and tax schemes, in order to harass journalists and other media actors, or to frustrate their ability to contribute effectively to public debate. The discriminatory allocation of public media or press subsidies or of State advertising revenue can also produce a chilling effect on critical editorial lines pursued by the media, in particular for smaller media organisations and in precarious economic climates.

38. The surveillance of journalists and other media actors, and the tracking of their online activities, can endanger the legitimate exercise of freedom of expression if carried out without the necessary safeguards. They can also threaten the safety of the persons concerned and undermine the protection of journalists' sources. Surveillance and tracking are facilitated when the integrity of communications and systems are compromised, for example, when service providers or hardware or software manufacturers build surveillance capabilities or backdoors into their services or systems, or when service providers are implicated in State surveillance practices. In order for systems of secret surveillance to be compatible with Article 8 of the Convention, they must contain adequate and effective safeguards against abuse, including independent supervision, since such systems designed to protect national security entail the risk of undermining or even destroying democracy on the ground of defending it.

39. Attacks on and intimidation of journalists and other media actors inevitably have a grave chilling effect on freedom of expression and this effect is all the more piercing when the prevalence of attacks and intimidation is compounded by a culture of legal impunity for their perpetrators. Such a culture of legal impunity is an indicator of endemic abuse of human rights.

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Council of Europe Campaign for the Safety of Journalists

MINISTRY OF STATE
Department of Media, Connectivity and Digital Policy

5, rue Plaetis
L-2338 Luxembourg

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LE GOUVERNEMENT
DU GRAND-DUCHÉ DE LUXEMBOURG