

Declaration of the Committee of Ministers on the protection of journalism and safety of journalists and other media actors¹

*(Adopted by the Committee of Ministers on 30 April 2014
at the 1198th meeting of the Ministers' Deputies)*

1. Journalists and other media actors in Europe are increasingly being harassed, intimidated, deprived of their liberty, physically attacked and even killed because of their investigative work, opinions or reporting. These abuses and crimes are often met with insufficient efforts by relevant State authorities to bring the perpetrators to justice, which leads to a culture of impunity.
2. This alarming situation is not exclusively limited to professional journalists and other traditional media actors. As many intergovernmental bodies have recognised, including the United Nations Human Rights Committee in its General Comment No. 34,² the scope of media actors has enlarged as a result of new forms of media in the digital age.³ Those at risk also include others who contribute to inform the public debate and persons performing journalistic activity or public watchdog functions.
3. The right to freedom of expression, to receive and impart information, ideas and opinions without interference is guaranteed by Article 10 of the European Convention on Human Rights (ETS No. 5, the "Convention"); it constitutes one of the fundamental principles upon which a democratic society is based. The public watchdog functions of the media are crucial for upholding these rights and for the protection of all other human rights. Misuse of power, corruption, discrimination, criminal activity or human rights violations have come to light as a direct result of the work of investigative journalists and other media actors. Making the facts known to the public is essential for redressing such situations and holding to account those responsible.
4. Journalists and others who perform public watchdog functions through the media are often in a vulnerable position vis-à-vis the public authorities or powerful interests groups because of their role in informing the public and provoking debate on issues of public interest. Obstacles created in order to hinder access to information of public interest may not only discourage journalists and other media actors from fulfilling their public watchdog role,⁴ but may also have negative effects on their safety and security.
5. Attacks against journalists and other media actors constitute particularly serious violations of human rights because they target not only individuals, but deprive others of their right to receive information, thus restricting public debate, which is at the very heart of pluralist democracy.
6. The European Court of Human Rights has held that the role played by journalists in a democratic society confers upon them certain increased protections under Article 10 of the Convention. The exercise of media freedom, including in relation to matters of serious public concern, also involves duties and responsibilities. The safeguard afforded by Article 10 to journalists in relation to reporting on issues of general interest is subject to the proviso that they are acting in good faith in order to provide accurate and reliable information in accordance with the ethics of journalism.⁵
7. The European Court of Human Rights has established that States are required to create a favourable environment for participation in public debate by all persons, enabling them to express their

¹ The Russian Federation made a reservation concerning this Committee of Ministers' Declaration, specifically denying its application to "other media actors", as it considers this term to be unspecific and without any basis in binding international legal documents.

² General Comment No. 34, point 44: "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, and general State systems of registration or licensing of journalists are incompatible with paragraph 3. Limited accreditation schemes are permissible only where necessary to provide journalists with privileged access to certain places and/or events. Such schemes should be applied in a manner that is non-discriminatory and compatible with Article 19 and other provisions of the International Covenant on Civil and Political Rights, based on objective criteria and taking into account that journalism is a function shared by a wide range of actors."

³ See Committee of Ministers' Recommendation CM/Rec(2011)7 to member States on a new notion of media.

⁴ See in this regard *Társaság a Szabadságjogokért v. Hungary*, Application No. 37374/05, judgment of 14 April 2009, paragraph 38.

⁵ See, for example, *Standard Verlagsgesellschaft mbH (No. 2) v. Austria*, Application No. 37464/02, judgment of 22 February 2007, paragraph 38.

opinions and ideas without fear.⁶ To do this, States must not only refrain from interference with individuals' freedom of expression, but are also under a positive obligation to protect their right to freedom of expression against the threat of attack, including from private individuals, by putting in place an effective system of protection.

8. Eradicating impunity is a crucial obligation upon States, as a matter of justice for the victims, as a deterrent with respect to future human rights violations and in order to uphold the rule of law and public trust in the justice system.⁷ All attacks on journalists and other media actors should be vigorously investigated in a timely fashion and the perpetrators prosecuted. The effective investigation of such attacks requires that any possible link to journalistic activities be duly taken into account in a transparent manner.

9. A favourable environment for public debate requires States to refrain from judicial intimidation by restricting the right of individuals to disclose information of public interest through arbitrary or disproportionate application of the law, in particular the criminal law provisions relating to defamation, national security or terrorism. The arbitrary use of laws creates a chilling effect on the exercise of the right to impart information and ideas, and leads to self-censorship. Furthermore, prompt and free access to information as the general rule and strong protection of journalists' sources are essential for the proper exercise of journalism, in particular in respect of investigative journalism.⁸

10. 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 and can even threaten the safety of the persons concerned. It can also undermine the protection of journalists' sources.

11. In view of the foregoing, the Committee of Ministers:

- alerts member States to the increasing number of reports of attacks on journalists and other media actors in several parts of Europe, including specific dangers that female journalists face. These constitute attacks on the right to freedom of expression, to hold opinions and to receive and impart information and ideas and to other fundamental rights provided for in the European Convention on Human Rights;
- decides to facilitate the development of an Internet-based platform drawing on information supplied by interested media freedom organisations to record and publicise possible infringements of the rights guaranteed by Article 10 of the European Convention on Human Rights;
- urges member States to fulfil their positive obligations to protect journalists and other media actors from any form of attack and to end impunity in compliance with the European Convention on Human Rights and in the light of the case law of the European Court of Human Rights; and invites member States to review at least once every two years the conformity of domestic laws and practices with these obligations on the part of member States;
- encourages member States to contribute to the concerted international efforts to enhance the protection of journalists and other media actors by ensuring that legal frameworks and law-enforcement practices are fully in accord with international human rights standards. The implementation of the UN Plan of Action on the Safety of Journalists and the Issue of Impunity is an urgent and vital necessity;
- will intensify its standard-setting and co-operation activities for the protection of journalism and the safety of journalists and other media actors as a priority and contribute expertise to other international organisations with regard to the particular competence of the Council of Europe;
- will consider further measures to ensure the protection of journalists from threats and acts of violence, as well as measures to eradicate impunity, and the alignment of laws and practices concerning defamation, anti-terrorism and protection of journalists' sources with the European Convention on Human Rights;
- will address the specific challenges and threats that women journalists are confronted with in the course of their work.

⁶ *Dink v. Turkey*, Application Nos. 2668/07, 6102/08, 30079/08, 7072/09, 7124/09, judgment of 14 September 2010, paragraph 137.

⁷ See the Guidelines of the Committee of Ministers of the Council of Europe on eradicating impunity for serious human rights violations, adopted on 30 March 2011.

⁸ See, for example, the Council of Europe Convention on Access to Official Documents (CETS No. 205) and Committee of Ministers Recommendation Rec(2000)7 on the right of journalists not to disclose their sources of information.