

Steering Committee on Media and Information Society

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

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Draft list of questions for CDMSI members on the implementation of Council of Europe standards related to safety of journalists

1. Have there been any facts of killing or physical violence against journalists, other media actors or media outlets in your country because of the exercise of their right to freedom of expression within the last two years (2013-2014)? If yes, please list.

Andorra has never recorded a case of killing or physical violence against journalists.

2. Are there any pending procedures concerning facts defined above before the judicial authorities in your country? If yes, since when and what is the stage of the procedure? Please list.

There are not pending procedures since no case has been recorded.

3. Is police protection provided when requested by journalists or other media actors who declare and substantiate being threatened? Do prosecutors and courts deal with cases where journalists or other media actors have received threats or have been attacked, in an adequate and timely manner? If there are such cases, please list.

It has never been necessary to provide police protection since no journalist has ever requested it.

4. Are there any journalists or other media actors arrested or imprisoned for crimes and offences linked with journalistic activities; are there any journalists or other media actors allegedly imprisoned for their journalistic activities?

No journalists or other media actors are arrested, imprisoned or allegedly imprisoned for crimes or offences linked with journalistic activities.

5. Have there been any media outlets closed by judicial or administrative decision within the last two years (2013, 2014); if yes, please list.

Not until today.

6. Is the confidentiality of journalists' sources of information protected in both law and practice? Please list administrative measures taken or court cases, if any, introduced for the disclosure of journalists' sources within the last two years (2013-2014).

The confidentiality of journalists' sources of information is protected in both law and practice. There has never been such a case before the Andorran Tribunals in the last two years. Moreover, Act 6/2008, of 15/05, on the exercise of professions and on

professional associations, provides in its article 10 that, in the exercise of their profession, professionals have the right and duty of professional secrecy regarding information that they have received. Furthermore, a sentence from the Andorran Constitutional Court (cause: 2007-24-RE ,of 01/02/2008) clearly stated that the right to professional secrecy of a journalist was violated when a judge authorized to wiretap his cellular phone in order to know his sources of information. The Court considered the *wiretapping*, made without the required constitutional guarantees, violated not only the secrecy of communications, but also the right to professional secrecy.

7. Does the domestic legislation in your country regarding defamation/libel include criminal law provisions? If yes, how many criminal defamation/libel cases have been introduced against journalists or other media actors within the last two years (2013-2014)?

The Andorran Criminal Code has provisions against defamation/libel although no case has been submitted before the Andorran Tribunals against journalists or other media actors in the history of Andorra.

8. What are the procedural guarantees (the right to defence, the periods of limitation applicable to defamation suits, *exceptio veritatis* and the burden of proof, presumption of good faith etc.) included in the civil and/or criminal legislation related to defamation?

In the case of defamation, the Andorran Criminal Code provides in its article 81 that such offences prescribe after six months of its commission. Article 173 of the same code further states, in case of defamation, that the accused is acquitted when he or she provides proof of its allegations (*exceptio veritatis*). The Andorran Criminal Code also provides for civil responsibility in cases of defamation.

9. In the domestic legal framework, are state officials protected against criticism and insult at a higher level than ordinary people, for instance through penal laws that carry a higher penalty?

According to the article 173 of Andorran Criminal Code, any act of defamation against an authority or a civil servant with regard to acts committed in the exercise of their functions or activities is punished with a higher penalty (maximum penalty of two years of prison) than if it is committed against ordinary citizens (maximum penalty of one year of prison). In addition, authorities and civil servants, when defamed, can file a simple complaint before the police and the procedure begins automatically. However, ordinary citizens should file a lawsuit before the Andorran Tribunals.

10. Do laws on the protection of public order, national security or anti-terrorism have safeguards for the right to freedom of expression? What are these safeguards?

The Andorran Constitution guaranties in its article 12 the right to freedom of expression, of communication and of information. Moreover, the same article states that preliminary censorship or any other means of ideological control on the part of the public authorities shall be prohibited. Article 15 also states that the privacy of communication shall also be guaranteed.

11. Are there any statistical data available on the attacks, threats or physical violence against journalists and media actors?

There is not statistical data since no attacks, threads or acts of physical violence against journalists and media actors have ever been recorded in Andorra

12. Are the following instruments translated into the national language and disseminated widely, in particular brought to the attention of judicial authorities and

police services? Are these made available to representative organizations of lawyers and media professionals?

They have never been translated since they are also available in the French language, which is commonly spoken and understood in Andorra. Moreover, there has never been a need to disseminate them since no cases have been yet recorded.

- Recommendation CM/Rec(2011)7 of the Committee of Ministers to member states on a new notion of media, 21 September 2011.
- Guidelines of the Committee of Ministers of the Council of Europe on eradicating impunity for serious human rights violations (2011)
- Recommendation 1876 (2009) of the Parliamentary Assembly on the state of human rights in Europe: the need to eradicate impunity
- Guidelines of the Committee of Ministers of the Council of Europe on protecting freedom of expression and information in times of crisis, adopted on 26 September 2007
- Recommendation CM/Rec(2004)16 of the Committee of Ministers to member States on the right to reply in the new media environment
- Recommendation CM/Rec(2000)7 of the Committee of Ministers to member states on the right of journalists not to disclose their sources of information.
- Recommendation CM/Rec(2007)15 of the Committee of Ministers to member states on measures concerning media coverage of election campaigns
- Recommendation CM/Rec(2007)2 of the Committee of Ministers to member states on media pluralism and diversity of media content
- Recommendation No. R (2003) 13 on the provision of information through the media in relation to criminal proceedings
- Belgrade Conference of Ministers Resolution n° 3 Safety of Journalists