

Steering Committee on Media and Information Society



Paris, 1st April 2015

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

1. Which are the existing mechanisms to ensure investigation and prosecution of attacks against journalists and other media actors?

Existing criminal law

2. Are there any non-judicial mechanisms, such as parliamentary or other public inquiries, ombudspersons, independent commissions, as useful complementary procedures to the domestic judicial remedies guaranteed under the ECHR, specifically dealing with threats and crimes targeting journalists and other media actors?

The Swedish National Council for Crime Prevention was in 2014 given the task to investigate threats against different actors of special importance for the democratic society (including journalists), this was a special investigation carried out in 2014 and was ordered by the government. The results are now being processed in the Ministry of Culture with the aim of continuing the work of strengthening the official mechanisms in regards to the protection of journalism, journalists and other media actors.

3. Is the confidentiality of journalists' sources of information protected in both law and practice?

Yes, it's a fundamental right in the constitution

4. Does the domestic legislation in your country regarding defamation/libel include criminal law provisions?

Yes, although libel/defamation in the media is covered by the Fundamental Law on Freedom of Expression (one part of Sweden's constitution, enacted in 1991). Prosecution in these cases is handled by the Chancellor of Justice instead of a regular prosecutor and punishments differ from those of the criminal law.

5. What are the procedural guarantees (the right to defence, the periods of limitation applicable to defamation suits, *exceptio veritatis* (defence of truth))

and the burden of proof, presumption of good faith etc.) included in the civil and/or criminal legislation related to defamation?

The trials are held by jury unlike other cases. The Chancellor of Justice acts as prosecutor and cases are at all times to be weighed against the right to freedom of expression. Furthermore only the responsible editor of the publication/broadcast can be prosecuted and not an individual journalist (or a publication/broadcaster).

6. 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?

No

7. 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?

Insofar they are regulated the safeguards are found in the three constitutional laws: the Press Freedom Act, the Fundamental Law on Freedom of Expression and the Instrument of Government.

8. 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 organisations of lawyers and media professionals?

None of them are.

- 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