

Steering Committee on Media and Information Society



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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 Czech Republic

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

Criminal law does not know a special protection for journalists and other media actor in the Czech Republic. Attacks against them are the same crimes as attacks against any other citizens/ordinary people (murder, killing, injury to health, blackmailing, dangerous threatening etc.).

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?

There are not any formal non-judicial mechanisms protecting journalists and other media actors against threats and crimes. However, journalists can contact the Office of the Ombudsman to ask for protection against interference and/or injustice from the state authorities. In theory, the Czech Parliament can also create ad hoc commissions to investigate serious social problems. Both its Chambers have also its commissions dealing with media issues.

As for self-regulatory mechanisms, there is the Syndicate of Journalists of the Czech Republic (NGO) and its Committee to Protection of Freedom of Expression. This Committee tries to help with protection of freedom of expression and also of journalists. It publishes opinions and encourages public debate on individual cases.

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

About protection of the information source and content are talking both the Press Act No. 46/2000 (section 16) and the Broadcasting Act No. 231/2001 (section 41). And this special right is derived right from the Czech constitutional law. So, the confidentiality of journalists' sources of information is protected in Czech law. Also, it is protected in practice. For example, the Constitutional

Court of the Czech Republic has made many decisions about important role of this journalists' right to ensure the protection of this right.

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

Yes, it does. The defamation (slander) crime is regulated by the Penal (or Criminal) Code, Act No. 40/2009 (section 184).

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?

There is guaranteed right to defence during all criminal procedure in the Czech Republic. This general right is regulated by the Code of Criminal Procedure, Act No. 141/1961 (section 2), and it is derived from the Czech constitutional law and of course from the international law. The Czech criminal law does not know any special period of limitation for defamation (slander) crimes. Nevertheless, a truth statement cannot be defamation (slander) under the Czech criminal law. The burden of proof belongs to the public prosecutor in these cases.

The Czech civil legislation regulates protection of personality. Every person has right to dignity, honor and esteem. This personal right is regulated by the Civil Code, Act No. 89/2012 (section 81). By the section 612 of this Code, period of limitation is applicable only to the right to material compensation in the case of suits to protect these rights. The burden of proof belongs to the plaintiff. Defence of truth and good faith of the speaker/author of the speech are important factors.

In all cases, courts/judges have to deal with the balance between personal rights and freedom of expression.

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?

The Czech Penal (or Criminal) Code regulates crimes such as: violence against a public authority (section 323), threatening with intention to affect public authority (section 324), violence against a public official (section 325) and threatening with intention to affect public official (section 326). However, these crimes do not protect state officials against criticism and insults.

Dangerous threatening crime (section 353) regulates higher penalty for cases of dangerous threatening a court expert and/or a court interpreter because of their official activities.

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?

Safeguards for the right to freedom of expression are regulated by the Czech constitutional law. The freedom of expression and the right to information are garanted by the Charter of Fundamental Rights and Basic Freedoms, Act No.

2/1993 (article 17). The freedom of expression and the right to seek and disseminate information may be limited by law in the case of measures that are necessary in a democratic society for protecting the rights and freedoms of others, the security of the state, public security, public health, or morals. Interpretation and application of all Czech laws have to respect these constitutional limits.

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?

- 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

These instruments are available on the website of the Ministry of Culture. Their translations into the Czech language are being added sequentially. However, the professional public knows these instruments. For example, these instruments are presented by media academics at universities.