

Steering Committee on Media and Information Society

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

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

Answer: To ensure investigation and prosecution of attacks against journalists or other media actors judicial mechanisms are established. The involved can file a suit before a civil court or/and file a complaint before the criminal court.

Question 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?

Answer: The sole non-judicial mechanism of recognizing and promoting journalists' safety internationally, is the internet platform created by the Council of Europe and operated in collaboration with the European Federation of Journalists, International Federation of Journalists and the Reporters Sans Frontiers, issuing media releases on dangers and threats against Press freedom.

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

Answer: The confidentiality of journalists' sources of information is protected in both law and practice.

Yet, the protection of journalists' sources is not absolute. There are cases in which the law recognizes important reasons why journalists' sources should be disclosed, without prejudice to the freedom of the

press. So, it is a matter of balancing between conflicting legitimate interests.

On the one hand, freedom of information includes the protection of journalists' sources, because otherwise important information would never reach the public eye.

On the other hand, there are other legitimate interests, such as the investigation of serious crimes, which occasionally may be considered as overriding the protection of freedom of information.

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

Answer: Defamation and libel are criminal offences according to articles 362 and 363 of the Greek Penal Code.

Pursuant to aforementioned articles, when a person maintains or spreads facts before a third party that may harm the honour or reputation of another individual and if these facts are false and the one liable knows they are fake, then the crime of libel defamation is committed. The offense is aiming at the individual's honour and reputation. The law protects the honour and reputation of individuals belonging to an organized society and acting in good faith.

Question 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?

Answer: Article 47 of Law 1092/1938 sets a special limitation period of 18 months for defamation offences committed through the Press that prevails over the general limitation period of 5 years set by Article 111 of the Greek Penal Code.

With the exception of the above, there are no procedural guarantees specifically for journalists or other media actors included in the civil and criminal legislation related to defamation.

Prosecution for libel defamation (Penal Code Articles 362 and 363) is conducted following a victim's complaint and not ex officio, however some exemptions exist. There is a deadline limit for filling a complaint, according to Penal Code Article 117: the victim has three months deadline since he became aware of the act taking place and the person who officiated this act.

Question 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?

Answer: Apart from Ministers of the Greek Government and members of the Greek Parliament, state officials are not protected against criticism and insult at a higher level than ordinary people.

According to Greek legislation, higher level state officials are protected against insults. In particular, Penal Code Article 168, paragraph 2, explicitly states that "whoever insults the honour of the President of the Republic or the person exerting presidential power, either by slandering in public or while in his presence, is penalized by at least three months prison confinement". Furthermore, Constitution Article 14 stipulates that newspapers or other publications will be confiscated, in case the person of the President of the Republic is insulted.

Question 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?

Answer: Laws on the protection of public order, national security or anti-terrorism have no specific safeguards for the right of freedom to expression.

Question 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?

Answer: All the recommendations mentioned above, adopted by the Council are available through its site (www.coe.int). Therefore all of them are available to all the relevant authorities and media stakeholders.