



Vaduz, 11 March 2016

List of Questions for CDMSI Members on the Implementation of Council of Europe Standards Related to Safety of Journalists and Other Media Actors

Answers from the Principality of Liechtenstein

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

In Liechtenstein, journalists and other media actors enjoy a high degree of safety. So far, no attacks against journalists and other media actors have become known. Therefore, there are no additional mechanisms to ensure investigation and prosecution of such attacks besides the usual provisions of the criminal code that determines that such acts are to be prosecuted *ex officio* regardless of the identity of the victim.

- 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?*

Neither crimes nor threats against journalists and other media actors have become known so far. Therefore, there are no non-judicial mechanisms specifically dealing with such crimes and threats.

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

Yes. Article 19 Paragraph 1 of Liechtenstein's Media Law (Mediengesetz) stipulates that any owner, editor, journalist or other person employed by a media company or media service has the right to refuse answering questions concerning an author, sender or source of an article or documents before a court or administrative authority. Additionally, no information that was submitted to them in relation to their work must be surrendered. Paragraph 2 specifies that the above-mentioned rights may not be circumvented, particularly not by forcing someone to surrender documents, publications, pictures or audio files, data carriers or other displays or by confiscating them.

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

Liechtenstein's Criminal Code contains three provisions concerning defamation, slander, and insult.

Defamation (Üble Nachrede, §111 StGB, Paragraph 1) is committed if a person accuses another person of a contemptuous characteristic or attitude or dishonourable behaviour that could disparage that person or lower their public esteem. According to Paragraph 2, the punishment is increased if the offence is committed through print, radio, television, or any other kind of media that makes the information accessible to a broad audience.

Slander (Verleumdung, §112 StGB, Paragraph 1) is committed if a person accuses another person of a contemptuous characteristic or attitude or dishonourable behaviour or illegal or immoral behaviour that could disparage that person or lower their public esteem despite the knowledge that the claim is wrong. Analogous to libel, punishment is increased if the offence is committed through any kind of media.

Insult (Beleidigung, §115 StGB, Paragraph 1) is committed if a person insults, mocks, mistreats or threatens with mistreatment another person so that it is perceptible to at least one more person. If libel is committed publicly, i.e. in front of two or more persons, the offender and the offended not included, punishment is increased.

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?*

Concerning defamation, the accused may not be punished if the claim is proven true. If Paragraph 1 is applied, the accused cannot be punished if it can be proven that they had sufficient grounds for believing that the claim was true. However, *exceptio veritatis* and the presumption of good faith can only be admitted if the accused refers to the truth of the claim or his good faith. These defences are not admissible if the claim concerns either another person's private or family life or criminal acts that are not prosecuted *ex officio*, or if the claim was predominantly disseminated in order to disparage someone.

Concerning slander, the prosecution must prove that the accusations were made in the knowledge that they were false.

In a case of insult, the offender is not punished if the accused gets carried away by indignation upon the other person's behaviour to behave in the above-mentioned way if the indignation is generally understandable, particularly with regard to the amount of time that has passed since the other person's behaviour.

The periods of limitation are dependent upon the maximum penalty of a crime, ranging between one and five years for the above-mentioned offences.

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?*

State officials are not protected against criticism, and the punishment for insult or similar offenses is not higher than for citizens. The only difference lies in the fact that the offences mentioned in the answer to question 4 are prosecuted *ex officio* if committed against the Prince, the Parliament, the Government or another public authority, while they are only prosecuted on demand of the offended person (Berechtigung zur Anklage, §117 StGB) for citizens.

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?*

No, there are no particular safeguards concerning the right to freedom of expression in these contexts. However, it should be mentioned that the right to freedom of expression is enshrined in the constitution (Article 40) and is additionally safeguarded through direct applicability of the European Convention on Human Rights and other international human rights treaties.

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*
- *Belgrade Conference of Ministers Resolution n° 3 Safety of Journalists*

The mentioned instruments are not translated into the national language. However, they are widely disseminated to the responsible authorities and institutions.