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PRESIDENCY OF LITHUANIA  
Council of Europe  
May – November 2024  
PRÉSIDENCE DE LA LITUANIE  
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Mai – Novembre 2024



## Vilnius Dialogue

### **Fostering the Culture of Public Debate in Europe: Implementing requirements of Article 10 of the ECHR. Strengthening judicial capacity to protect freedom of expression and counter SLAPPs**

**24 October 2024, Vilnius**

## Conclusions

The "Vilnius Dialogue" Conference was organised jointly by the Council of Europe and the Supreme Court of Lithuania, under the auspices of the Lithuanian Presidency of the Committee of Ministers of the Council of Europe. Participants, including presidents of supreme courts, high-ranking judges, representatives from ministries of justice, experts, and journalists from seven countries, discussed current issues affecting freedom of expression in Europe, with a specific focus on:

- The role of the European Court of Human Rights and its case-law, as well as the role of the national judiciaries, in the protection of freedom of expression;
- Defamation cases, and the limits of permissible criticism of public officials, judges, prosecutors and law enforcement officers;
- Judicial protection against SLAPPs (Strategic Lawsuits Against Public Participation);
- The role of the judiciary in ensuring access to information;
- Freedom of expression in times of war and public emergency; countering propaganda and disinformation, while ensuring a fair balance in the national judicial proceedings.

The main takeaways from the Conference included:

- Freedom of expression is a fundamental pillar of a democratic society, requiring pluralism, tolerance, and open-mindedness. While it may be subject to clearly defined exceptions, these must be interpreted narrowly and convincingly to ensure that journalists and other media actors can freely receive and disseminate information, which is essential for keeping the public informed and enabling effective participation in the democratic process.



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- The 2023 Reykjavik Declaration<sup>1</sup> highlights the Council of Europe's key role in setting international standards on freedom of expression and related areas, such as media freedom, access to information, and the fight against hate speech and disinformation, particularly in view of the growing influence of digital technologies.
- It is essential to strengthen the implementation of Council of Europe standards by member states to prevent unjustified restrictions on freedom of expression and to enhance domestic capacity to comply with Article 10 of the European Convention on Human Rights. The judiciary plays a crucial role in implementing freedom of expression protection standards and ensuring alignment with the Article 10 of ECHR.
- The extensive case law of the European Court of Human Rights (the Court) concerning freedom of expression, along with its recent developments, the [Court's Knowledge Sharing Platform](#), and relevant Council of Europe standards and recommendations, provide essential guidance for protecting freedom of expression. Raising awareness of recent developments in the Court's jurisprudence is crucial for its application by national judiciaries, judges, and higher courts. This concerns also the criminal proceedings, where the most severe penalties can be applied to suppress speech and create a chilling effect.
- The courts and independent judiciaries of Member States, in line with the subsidiarity principle, play a key role in establishing a coherent and consistent national judicial practice that aligns with the case law of the Court, bearing in mind the principles of shared responsibility for protecting rights in Europe and the process-based review. Courts play a vital role in ensuring safeguards against arbitrary or unjustified interferences with freedom of expression and in striking a fair balance between this right, as protected by Article 10, and competing interests, particularly when the right to respect for private life under Article 8 is involved. National superior courts have a key role in ensuring the implementation of the Court's judgments, both in terms of individual and general measures, particularly in addressing established violations of freedom of expression and preventing future breaches of the Convention, including through re-opening, where appropriate, of the proceedings<sup>2</sup> and by guiding changes to the domestic case-law.
- The dialogue between the highest national jurisdictions could be strengthened by regularly translating major national freedom of expression cases and creating a comprehensive database of these rulings.

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<sup>1</sup> [2023 Reykjavik Declaration from the Summit of Heads of State and Government of the Council of Europe](#).

<sup>2</sup> [CM/Rec\(2000\)2](#) Recommendation of the Committee of Ministers to Member States on the re-examination or re-opening of the proceedings of certain cases at domestic level following judgments of the European Court of Human Rights; Thematic factsheet of the Department for the Execution of Judgments on Re-opening of the Proceedings: <https://rm.coe.int/tfs-reopening-en/1680a8a486>.



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- Upholding freedom of expression standards also necessitates the adoption of preventive measures against SLAPPs (Strategic Lawsuits Against Public Participation), in accordance with Recommendation CM/Rec (2024)2 of the Committee of Ministers.<sup>3</sup> This can be effectively pursued through Council of Europe [cooperation programmes](#), which provide policy guidance, legal advice, capacity-building, and training initiatives for relevant authorities, judiciary, legal professionals and the media. Gathering data and information on the implementation of Council of Europe Recommendations is essential for assessing the progress in adopting anti-SLAPP measures. The future case law of the Court may provide additional guidance to national courts regarding the definition of SLAPPs and how to address them procedurally.
- The implementation of Court's judgments regarding access to information, along with the application of the standards established in those rulings by national courts, can significantly enhance democratic processes, quality of public debate and serve a corrective function where authorities have blatantly withheld information. This should also include ensuring journalists have access to areas affected by migration crises or conflict zones.
- Journalists and media actors have a duty, especially during times of war and public emergencies, to maintain the highest standards of reporting, providing fact-based, fact-checked, objective, and balanced information to counteract propaganda, disinformation, and misinformation. Cross-border cooperation among stakeholders should be strengthened to effectively combat disinformation. It is the responsibility of judges, prosecutors, and law enforcement officials, amongst other stakeholders, to address speech that contradicts the values protected by the Convention, as such speech would not be covered by protection of Article 10.
- National authorities have a fundamental responsibility to protect journalists from violence, threats, and harassment, ensuring they can perform their duties without fear. By participating in the Council of Europe's ["Journalists Matter" campaign](#) and responding effectively to alerts published on the Council of Europe [Platform for the Protection of Journalism and Safety of Journalists](#), authorities can implement specific measures, foster dialogue with journalists, and raise awareness about the vital role journalists play in society.

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<sup>3</sup> [Recommendation CM/Rec\(2024\)2 of the Committee of Ministers to member States on countering the use of strategic lawsuits against public participation \(SLAPPs\)](#).