

Appendix 11

(Item 5.3)

**Guidelines of the Committee of Ministers of the Council of Europe
on protecting freedom of expression and information in times of crisis**

*(Adopted by the Committee of Ministers on 26 September 2007
at the 1005th meeting of the Ministers' Deputies)*

Preamble

The Committee of Ministers,

1. Emphasising that freedom of expression and information and freedom of the media are crucial for the functioning of a truly democratic society;
2. Reaffirming that Article 10 of the European Convention on Human Rights (ETS No. 5) and the relevant case law of the European Court of Human Rights remain the fundamental standards concerning the exercise of the right to freedom of expression and information;
3. Deeply concerned by the fact that crisis situations, such as wars and terrorist attacks, are still wide spread and threaten seriously human life and liberty, and the fact that governments, concerned about the survival of society may be tempted to impose undue restrictions on the exercise of this right;
4. Condemning the killings and other attacks on media professionals and recalling its Recommendation No. R (96) 4 on the protection of journalists in situations of conflict and tension;
5. Recalling Resolution No. 1 on freedom of expression and information in times of crisis adopted by the Ministers of states participating in the 7th European Ministerial Conference on Mass Media Policy (Kyiv, 10-11 March 2005);
6. Having taken note of Resolution 1535 (2007) and Recommendation 1783 (2007) of the Parliamentary Assembly of the Council of Europe on threats to the lives and freedom of expression of journalists;
7. Welcoming Resolution 1738 (2006) of the Security Council of the United Nations condemning attacks on media professionals in conflict situations and recognising the urgency and necessity of taking action for the protection of these professionals;
8. Underlining that dialogue and co-operation between governments, media professionals and civil society can contribute to the efforts to guarantee freedom of expression and information in times of crisis;
9. Convinced not only that media coverage can be crucial in times of crisis by providing accurate, timely and comprehensive information, but also that media professionals can make a positive contribution to the prevention or resolution of certain crisis situations by adhering to the highest professional standards and by fostering a culture of tolerance and understanding between different groups in society,
10. Adopts, as an extension and complement to the "Guidelines on human rights and the fight against terrorism" adopted on 11 July 2002, the following guidelines and invites member states to ensure that they are widely disseminated and observed by all relevant authorities.

I. Definitions

1. As used in these guidelines,

- the term “crisis” includes, but is not limited to, wars, terrorist attacks, natural and man-made disasters, i.e. situations in which freedom of expression and information is threatened (for example, by limiting it for security reasons);
- the term “media professionals” covers all those engaged in the collection, processing and dissemination of information intended for the media. The term includes also cameramen and photographers, as well as support staff such as drivers and interpreters.

II. Working conditions of media professionals in crisis situations

Personal safety

2. Member states should assure to the maximum possible extent the safety of media professionals – both national and foreign. The need to guarantee the safety, however, should not be used by member states as a pretext to limit unnecessarily the rights of media professionals such as their freedom of movement and access to information.
3. Competent authorities should investigate promptly and thoroughly the killings and other attacks on media professionals. Where applicable, the perpetrators should be brought to justice under a transparent and rapid procedure.
4. Member states should require from military and civilian agencies in charge of managing crisis situations to take practical steps to promote understanding and communication with media professionals covering such situations.
5. Journalism schools, professional associations and media are encouraged to provide as appropriate general and specialised safety training for media professionals.
6. Employers should strive for the best possible protection of their media staff on dangerous missions, including by providing training, safety equipment and practical counselling. They should also offer them adequate insurance in respect of risks to the physical integrity. International organisations of journalists might consider facilitating the establishment of an insurance system for freelance media professionals covering crisis situations.
7. Media professionals who are expelled from zones with restricted access for disobeying national and international law, inciting violence or hatred in the content of their news or spreading propaganda of warring parties should be accompanied by military forces to a neutral, secure region or a country or embassy.

Freedom of movement and access to information

8. Member states should guarantee freedom of movement and access to information to media professionals in times of crisis. In order to accomplish this task, authorities in charge of managing crisis situations should allow media professionals accredited by their media organisations access to crisis areas.
9. Where appropriate, accreditation systems for media professionals covering crisis situations should be used in accordance with Principle 11 of the Appendix to Recommendation No. R (96) 4 of the Committee of Ministers to member states on the protection of journalists in situations of conflict and tension.
10. If required by national law, accreditation should be given to all media professionals without discrimination according to clear and fast procedures free of bureaucratic obstacles.

11. Military and civilian authorities in charge of managing crisis situations should provide regular information to all media professionals covering the events through briefings, press conferences, press tours or other appropriate means. If possible, the authorities should set up a secure information centre with appropriate equipment for the media professionals.

12. The competent authorities in member states should provide information to all media professionals on an equal basis and without discrimination. Embedded journalists should not get more privileged access to information than the rest except for the advantage naturally due to their attachment to military units.

III. Protection of journalists' sources of information and journalistic material

13. Member states should protect the right of journalists not to disclose their sources of information in accordance with Recommendation No. R (2000) 7 of the Committee of Ministers on the same subject. Member states should implement in their domestic law and practice, as a minimum, the principles appended to this recommendation.

14. With a view, *inter alia*, to ensuring their safety, media professionals should not be required by law-enforcement agencies to hand over information or material (for example, notes, photographs, audio and video recordings) gathered in the context of covering crisis situations nor should such material be liable to seizure for use in legal proceedings. Any exceptions to this principle should be strictly in conformity with Article 10 of the European Convention on Human Rights and the relevant case law of European Court of Human Rights.

IV. Guarantees against misuse of defamation legislation

15. Member states should not misuse in crisis situations libel and defamation legislation and thus limit freedom of expression. In particular, member states should not intimidate media professionals by law suits or disproportionate sanctions in libel and defamation proceedings.

16. The relevant authorities should not use otherwise legitimate aims as a pretext to bring libel and defamation suits against media professionals and thus interfere with their freedom of expression.

V. Guarantees against undue limitations on freedom of expression and information and manipulation of public opinion

17. Member states should not restrict the public's access to information in times of crisis beyond the limitations allowed by Article 10 of the European Convention on Human Rights and interpreted in the case law of the European Court of Human Rights.

18. Member states should always bear in mind that free access to information can help to effectively resolve the crisis and expose abuses that may occur. In response to the legitimate need for information in situations of great public concern, the authorities should guarantee to the public free access to information, including through the media.

19. Member states should not use vague terms when imposing restrictions of freedom of expression and information in times of crisis. Incitement to violence and public disorder should be adequately and clearly defined.

20. International and national courts should always weigh the public's legitimate need for essential information against the need to protect the integrity of court proceedings.

21. Member states should constantly strive to maintain a favourable environment, in line with the Council of Europe standards, for the functioning of independent and professional media, notably in crisis situations. In this respect, special efforts should be made to support the role of public service media as a reliable source of information and a factor for social integration and understanding between the different groups of society.

22. Member states should consider criminal or administrative liability for public officials who try to manipulate, including through the media, public opinion exploiting its special vulnerability in times of crisis.

VI. Responsibilities of media professionals

23. Media professionals need to adhere, especially in times of crisis, to the highest professional and ethical standards, having regard to their special responsibility in crisis situations to make available to the public timely, factual, accurate and comprehensive information while being attentive to the rights of other people, their special sensitivities and their possible feeling of uncertainty and fear.

24. If a system of embedded journalists needs to be maintained and journalists choose to make use of it, they are advised to make this clear in their reports and to point out the source of their information.

25. Self-regulation as the most appropriate mechanism for ensuring that media professionals perform in a responsible and professional way needs to be made more effective in times of crisis. In this regard, co-operation between self-regulatory bodies is encouraged at both the regional and the European levels. Member states, professional organisations of journalists, other relevant non-governmental organisations and the media are invited to facilitate such co-operation and provide further assistance where appropriate.

26. Media professionals are invited to take into consideration in their work Recommendation No. R (97) 21 of the Committee of Ministers to member states on the media and the promotion of a culture of tolerance and to apply as a minimum the professional practices outlined in the appendix to this recommendation.

VII. Dialogue and co-operation

27. National governments, media organisations, national or international governmental and non-governmental organisations should strive to ensure the protection of freedom of expression and information in times of crisis through dialogue and co-operation.

28. At the national level, relevant stakeholders such as governmental bodies, regulatory authorities, non-governmental organisations and the media including owners, publishers and editors might consider the establishment of voluntary fora to facilitate, through dialogue, the exercise of the right to freedom of expression and information in times of crisis.

29. Media professionals themselves are encouraged, directly or through their representative organisations, to engage in a constructive dialogue with the authorities in situations of crisis.

30. Non-governmental organisations and in particular specialised watchdog organisations are invited to contribute to the safeguarding of freedom of expression and information in times of crisis in various ways, such as:

- maintaining help lines for consultation and for reporting harassment of journalists and other alleged violations of the right to freedom of expression and information;

- offering support, including in appropriate cases free legal assistance, to media professionals facing, as a result of their work, lawsuits or problems with the public authorities;

- co-operating with the Council of Europe and other relevant organisations to facilitate exchange of information and to effectively monitor possible violations.

31. Governmental and non-governmental donor institutions are strongly encouraged to include media development and media assistance as part of their strategies for conflict prevention, conflict resolution and post-conflict reconstruction.