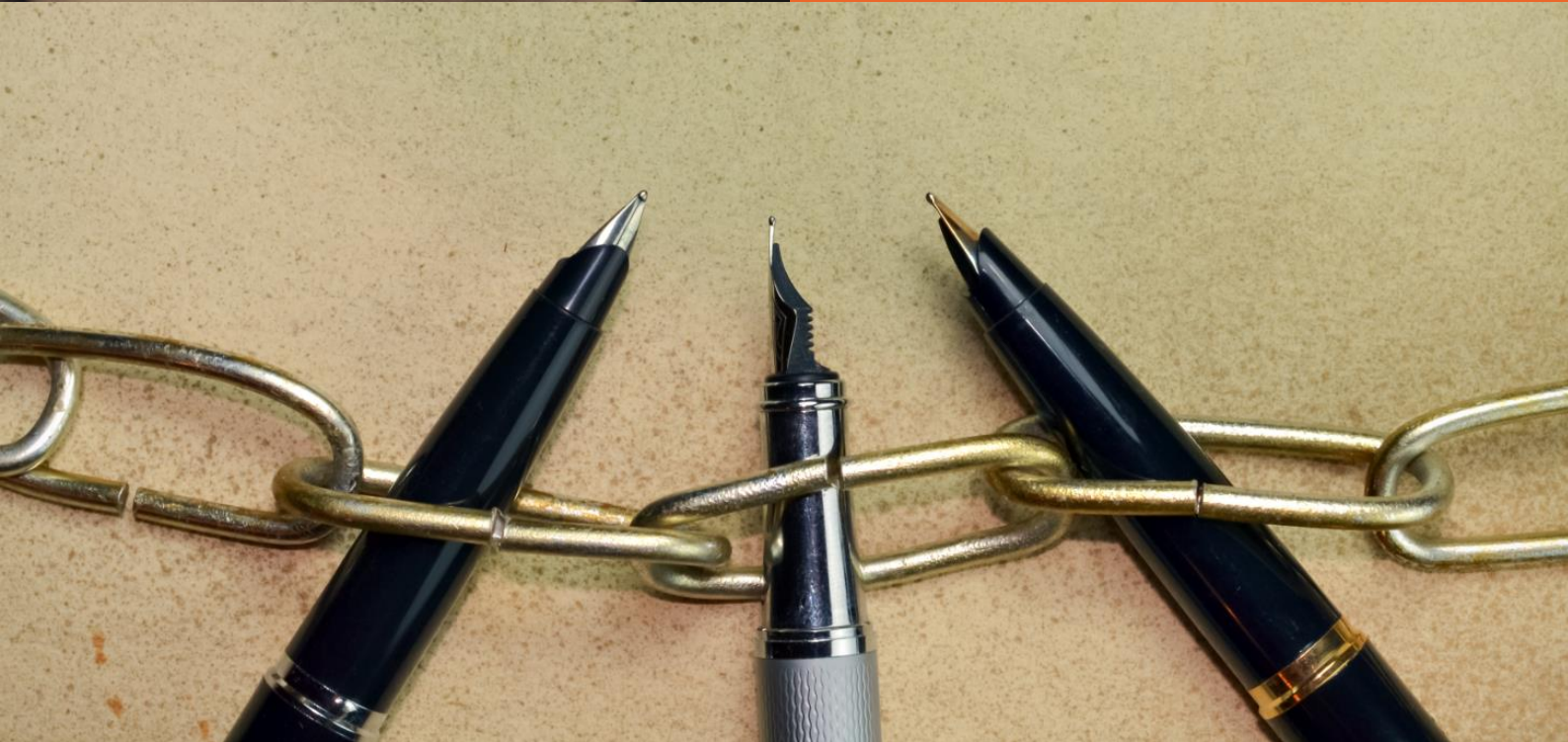




# FREEDOM OF EXPRESSION in 2021



Report by the Information  
Society Department

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[www.coe.int/freedomofexpression](http://www.coe.int/freedomofexpression)

Document prepared by the  
Information Society Department

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# FREEDOM OF EXPRESSION IN 2021

An assessment of the state of freedom of expression in  
Council of Europe member States, based on the findings of  
Council of Europe bodies and monitoring mechanisms

REPORT PREPARED BY THE  
INFORMATION SOCIETY DEPARTMENT

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## SPECIAL FOCUS

Two years ago, the world faced a major global health crisis, one resulting in massive human, economic and social costs. The media sector was hit particularly hard, and many journalists lost their jobs. Yet, it would have been difficult to imagine then, as it is now, that two years later another unprecedented crisis would follow, with one, now former Council of Europe member state<sup>1</sup> deciding to wage war on another.

Although this report covers the developments in freedom of expression in 2021, it would be remiss not to mention the Russian aggression on Ukraine, which once again underscores the crucial role of the media, also and in particular in times of conflict and aggression, but sadly also demonstrates how vulnerable media workers are when reporting from war zones. Attacks directly targeting journalists, photoreporters, camera operators – also or especially those wearing the “press” insignia – are mounting, and the tragic list of victims gets longer by the day.<sup>2</sup>

Still, we see the formidable effort of many Ukrainian and other media to deliver reliable information to the public: information that can help protect civilians against threats, that attests to the grim reality of war, that brings this war to the attention of the international community. We also see the equally powerful, albeit much more sinister efforts of the Russian state to subdue the (domestic) media and enforce on them the official narrative. Media reporting and, indeed, public discourse in wartime have raised many questions among European policymakers, media regulators and self-regulatory bodies, media organisations, online platforms, academia and civil society.

The complexities surrounding this, or indeed any war are impossible to sketch here, but will be reflected in more detail in future reports, when its magnitude and consequences, including those of the information war fought largely in the digital battle space, will be better grasped.

In the meantime, pre-existing problems, those affecting media independence and viability, impoverishing diversity, compromising journalists’ safety across the continent or, indeed, our trust in information – persist and call for immediate responses.

## INTRODUCTION AND METHODOLOGY

In 2021, Dmitry Muratov, editor of Novaya Gazeta, and Maria Ressa, editor of Rappler, won the Nobel Peace Prize – the first time it was awarded to a journalist since 1935 when Carl von Ossietzky won it for reporting on Germany's secret rearmament programme. Muratov and Ressa were lauded “for their courageous fight for freedom of expression” and as “representatives of all journalists who stand up for this ideal in a world in which democracy and freedom of the press face increasingly adverse conditions.”<sup>3</sup> The Council of Europe

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<sup>1</sup> Following the [decision](#) of the Committee of Ministers on 16 March 2022 the Russian Federation is no longer a member of the Council of Europe.

<sup>2</sup> See the alerts on the Council of Europe's Platform to promote the protection of journalism and safety of journalists which features a special page on the War in Ukraine: <https://fom.coe.int/pagesspeciales/detail/1>.

<sup>3</sup> Nobel Peace Prize 2021 announcement: <https://www.nobelprize.org/prizes/peace/2021/press-release/>

Secretary General expressed her delight at the award, noting the important work done by Muratov bringing to light human rights violations on European soil.<sup>4</sup>

The situation on the ground gravely underscored the urgent need for protecting journalists and freedom of expression. Six journalists were killed during 2021, the highest annual number to lose their lives in the course of their work in Europe since 2015, and more than ever before suffered violent attacks. The Council of Europe's online Platform to promote the protection of journalism and safety of journalists (Platform for the safety of journalists) recorded 282 alerts in 2021, an exponential rise on previous years.

The Covid-19 pandemic continued to cast a dark shadow over the profession of journalism. Although fewer regulatory restrictions were enforced than in 2020, the economic impact of the pandemic resulted in further job cuts and heightened public tensions led to frequent attacks against journalists covering lockdown or anti-vaccination demonstrations. Financial support for the media provided relief but also brought concerns about discriminatory allocation and financial dependency. Media pluralism suffered further setbacks, and in several countries the independence of media regulators was under threat. Disinformation and hate speech continued to spread on online platforms.

As well as these worrying developments, 2021 brought some positive trends. Trust in traditional news media, especially radio and television news, grew, indicating that the public continues to value high quality journalism. Several countries introduced or strengthened action plans for the protection of journalists, legislation has been introduced to protect whistleblowers, and some countries are in the process of strengthening access to information laws.

Overall, it must be recognised that freedom of expression, the cornerstone of democracy and key to the enjoyment of other rights, faces many challenges. The Council of Europe is working to meet them.

In 2021, the Conference of Ministers for Media and Information Society focused on safety, the resilience of frameworks for the protection of freedom of expression, the changing media environment, and the impact of artificial intelligence on freedom of expression. The ministers and other high-ranking officials representing member states resolved to take effective steps safeguarding freedom of expression in relation to these themes. The ministers, among others, pledged to adopt national action plans for the safety of journalists to provide an enabling environment for the full enjoyment of freedom of expression by all. They committed to developing further guidance and addressing the key challenges and developments regarding freedom of expression, media and digital technologies.

Building on this and its previous work, the Council of Europe is well-placed to convene expertise and share good practices as well as provide recommendations for more effective protection of freedom of expression.

This report reviews overall trends in respect of the right to freedom of expression during 2021 in the Council of Europe member states. It follows a methodology that has been established for the past six years: it considers developments in the legal framework, noting the impact of new or proposed legislation on freedom of expression; it surveys arrests, incidents of violence and other threats against the safety of journalists and others who speak up on issues of public

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<sup>4</sup> Statement by the Secretary General, 8 October 2021: <https://www.coe.int/fr/web/secretary-general/home>

interest; it looks at developments that impact the overall environment for an independent and pluralistic media; and it considers trends relating to reliability and trust in information. Information is drawn from publicly available sources, prioritising those from within the Council of Europe mechanisms.

## **I. LEGAL GUARANTEES FOR FREEDOM OF EXPRESSION**

The legislative and regulatory framework sets the parameters for the enjoyment of the right to freedom of expression. Article 10 of the European Convention on Human Rights places two obligations on states: (1) laws or regulations must not restrict the right to freedom of expression unless this is necessary in a democratic society in pursuit of a legitimate aim; and (2) states must take and enact such laws and regulations as are needed to create an ‘enabling’ environment for the exercise of the right to freedom of expression. This double duty requires states to carefully consider the impact of new legislation on the enjoyment of the right to freedom of expression.

### **Measurement criteria**

1.1. Freedom of expression is guaranteed offline and online. The internet is available, accessible and affordable to everyone without discrimination. Any restrictions of freedom of expression, including any filtering of content, are prescribed by law, pursue the legitimate aims set out in Article 10 of the Convention, and are necessary in a democratic society.

1.2. Robust safeguards exist against the abuse of laws that restrict freedom of expression offline and online, such as public order and anti-terrorism laws, including control over the scope of restrictions exercised by public authorities or private actors, and effective judicial review and other complaint mechanisms.

1.3. The right of access to information and documents held by public authorities is guaranteed in law and in practice. Any restrictions, including on grounds of national security, are clear and necessary in a democratic society, in compliance with Article 10(2).

1.4. There is no general obligation on intermediaries to monitor content which they merely give access to, or which they transmit or store. Internet intermediaries are not held responsible for the content that is transmitted via the technology they supply except when they have knowledge of illegal activity and content and do not act expeditiously to remove it.

1.5. Any surveillance of users’ communication and activity online is compliant with Article 8 of the Convention.

1.6. Defamation laws are in line with standards developed by the European Court of Human Rights. There are no criminal offences of blasphemy or religious insult, unless incitement to violence, discrimination and hatred is an essential component. Criminal laws aimed at combating ‘hate speech’ are clear and precise and meet the requirements of Article 10(2) of the Convention.

### **Findings**

The European Court of Human Rights is the ultimate arbiter of human rights matters in Europe, and that includes respect for freedom of expression. In 2021, it issued judgments in



77 freedom of expression cases, finding a violation in 56 of them. While the cases were brought in the years prior to 2021, they continue a persistent trend of clear shortcomings in national legal frameworks for the protection of freedom of expression from which lessons should be learned. Many of them stem from inadequate legal protection for freedom of expression at the national level, or from a failure by the domestic courts to take Convention requirements into account in the interpretation of domestic law. Of equal concern is the high and growing number of judgments of the Court awaiting implementation: more than 300 remained pending at the end of 2021. Of these, 65 had been pending for more than ten years.<sup>5</sup>

During the year, several countries did introduce legislation to improve respect for freedom of expression. With the December 2021 deadline for the transposition of the 2019 EU Directive on whistleblower protection<sup>6</sup>, many countries across Europe took steps to either strengthen or introduce legislation to protect whistleblowers.<sup>7</sup> Steps were taken to strengthen access to information laws in Austria and in the Netherlands, and Iceland ratified the Council of Europe Convention on Access to Official Documents. The European Union announced a large-scale legislative initiative on media freedom, to be introduced in 2022.<sup>8</sup>

However, there were many concerning developments. A growing number of so-called ‘strategic lawsuits against public participation’ (SLAPP cases, for short) was reported in various countries. Fifteen were reported on the Platform for the safety of journalists, in countries ranging from Croatia, Bulgaria and Malta to the United Kingdom and Romania.<sup>9</sup> Not all SLAPP cases go to court. In countries where the cost of defending legal actions is very high, or if the journalist or media outlet concerned is under financial duress, a letter threatening legal action can be enough to force the withdrawal of a critical report.<sup>10</sup> As was noted by the Commissioner for Human Rights in 2020, the ease with which defamation and privacy laws can be used to this end is concerning. By the end of 2021, both the Council of Europe and the European Union have launched initiatives to tackle the issue: the European Parliament adopted a Resolution aiming to stop such abusive legal actions<sup>11</sup> and the European Commission issued a public consultation, as a way to informing a regulatory proposal on the matter.<sup>12</sup> The Secretary General of the Council of Europe identified the growing number of frivolous and vexatious lawsuits against journalist as a serious threat to freedom of expression,<sup>13</sup> and a Committee of Experts has been appointed to produce a draft Recommendation on the matter.

Criminal laws were used to restrict legitimate media activity in a number of countries. In Turkey, where 41 journalists remained imprisoned by the end of the year, the criminal law

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<sup>5</sup> Statistics drawn from the Department for the Execution of Judgments: <https://hudoc.exec.coe.int>.

<sup>6</sup> Directive 2019/1937 on the protection of persons who report breaches of Union law, 26 November 2019: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32019L1937>

<sup>7</sup> See the EU Whistleblowing Monitor: <https://whistleblowingmonitor.eu/>.

<sup>8</sup> As announced in the [EU Commission President’s State of the Union address](#), 15 September 2021.

<sup>9</sup> As reported on <https://fom.coe.int/alerte>.

<sup>10</sup> As highlighted by the Council of Europe Commissioner for Human Rights in 2020: <https://www.coe.int/en/web/commissioner/-/time-to-take-action-against-slapps>.

<sup>11</sup> European Parliament resolution on strengthening democracy and media freedom and pluralism in the EU, 11 November 2021: [https://www.europarl.europa.eu/doceo/document/TA-9-2021-0451\\_EN.html - title1](https://www.europarl.europa.eu/doceo/document/TA-9-2021-0451_EN.html - title1)

<sup>12</sup> [Consultation on EU action against abusive litigation \(SLAPP\)](#) targeting journalists and rights defenders, 4 October 2021.

<sup>13</sup> [Current trends in threats to Freedom of Expression](#): interference with the coverage of public events, broadcasting bans and strategic lawsuits, 22 November 2021.

provision penalising ‘insulting the president’ continued to be used despite European Court of Human Rights jurisprudence repeatedly holding that it is incompatible with the European Convention on Human Rights.<sup>14</sup> In Russia, legislation introduced at the end of 2020 requires media outlets or journalists who receive funding from abroad to mark their content as “foreign agent-produced”. In 2021, large fines were imposed on those who refused to comply; urgent applications have been made to the European Court of Human Rights to stop the practice.<sup>15</sup> Other legislation impacting on freedom of expression included a new Greek law toughening the criminal law prohibition on publishing ‘false news’;<sup>16</sup> and in Albania the so-called ‘anti-defamation’ package of laws that proposes to restrict media content remained pending.<sup>17</sup> In Hungary, emergency laws introduced during the Covid-19 pandemic criminalising ‘fearmongering’ were made permanent.<sup>18</sup>

While the right of access to information is formally guaranteed in all Council of Europe member states, in practice there were numerous obstacles. In Romania, it was reported that local authorities insufficiently prioritised transparency measures; in Croatia, there were shortcomings concerning the enforcement of decisions by the Information Commissioner; and in Luxembourg, lengthy procedures impeded effective access to official documents.<sup>19</sup>

The use of surveillance measures to target journalists was an issue of concern across Europe. In May, the European Court of Human Rights handed down two key judgments on so-called ‘bulk surveillance’: the use of software that intercepts the electronic communications of millions of individuals and scans them for indications of potentially unlawful activity.<sup>20</sup> In one of the cases, journalists’ organisations were among the applicants and the Court held that such surveillance violates not just the right to respect for private life but also the right to freedom of expression. These judgments stood in contrast to practice on the ground. In Germany, legislation was adopted broadening the use of surveillance and removing special

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<sup>14</sup> E.g. Alert 135/2021, Turkish Journalist Hakkı Boltan Sentenced to 2 Years and 17 Days in Prison for Insulting President and Prime Minister: <https://fom.coe.int/alerte/detail/102825702;globalSearch=true>; and Alert 218/2021, Dimokratia Journalists Charged in Turkey with “insult to the President”: <https://fom.coe.int/alerte/detail/107636550;globalSearch=true>. In *Vedat Şorli v. Turkey* (19 October 2021, application no. 42048/19) the Court held that Turkey should bring its domestic laws in line with the requirements of the European Convention on Human Rights (par. 54): [https://hudoc.echr.coe.int/fre-{"itemid":\["002-13439"\]}](https://hudoc.echr.coe.int/fre-{)

<sup>15</sup> Application no. 44137/19 *Gennadiy Petrovich Sheyda v. Russia and 6 other applications*, communicated on 3 February 2022. Also see the following alerts on the Platform: no. 6/2021, Russian Regulator Announces Fines for RFE/RL Outlets under Expanded ‘Foreign Agent’ Law (<https://fom.coe.int/alerte/detail/80635726;globalSearch=true>); no. 173/2021, Dozhd TV and IStories Tagged as “Foreign Agents” (<https://fom.coe.int/alerte/detail/105899475;globalSearch=true>); and no. 79/2021, Ministry of Justice Labels Outlets Meduza and PASMI as “Foreign Agents” (<https://fom.coe.int/alerte/detail/98449133;globalSearch=true>).

<sup>16</sup> Alert 243/2021, New Law against Disinformation Threatens Press Freedom: <https://fom.coe.int/alerte/detail/107636771;globalSearch=true>

<sup>17</sup> During a visit of the OSCE Media Freedom Representative, Albanian authorities reiterated they would revise the draft laws: <https://www.osce.org/representative-on-freedom-of-media/500902>

<sup>18</sup> Commissioner for Human Rights, Memorandum on freedom of expression and media freedom in Hungary, 30 March 2021: <https://rm.coe.int/memorandum-on-freedom-of-expression-and-media-freedom-in-hungary/1680a1e67e>

<sup>19</sup> As highlighted in the [EU Rule of Law reports](#) for 2020-2021, COM/2021/700 final, 20 July 2021.

<sup>20</sup> *Big Brother Watch and Others v. the United Kingdom*, application nos. 58170/13, 62322/14 and 24960/15 ([https://hudoc.echr.coe.int/fre#{"itemid%22:\[%22001-210077%22\]}](https://hudoc.echr.coe.int/fre#{)); *Centrum för rättvisa v. Sweden*, application no. 35252/08 ([https://hudoc.echr.coe.int/fre#{"itemid%22:\[%22002-13279%22\]}](https://hudoc.echr.coe.int/fre#{)), both 25 May 2021.



protection for journalists. In Azerbaijan, Hungary, Belgium and Poland so-called ‘spyware’ was found on the computers of journalists; and the Moroccan government brought defamation cases in French and German courts over allegations regarding the use of spyware against journalists and politicians by the Moroccan authorities.<sup>21</sup> A motion for a Recommendation on the issue was tabled at the Parliamentary Assembly.<sup>22</sup>

## II. SAFETY OF JOURNALISTS AND OTHERS WHO SPEAK UP

Journalists should be able to report safely and without threats or harassment, and anyone who wishes to speak up on an issue of public interest or contribute to a public debate should be able to do so without fear of reprisal. States should ensure that journalists and other media actors receive protection when they are under threat; and that those who have information on issues of public interest are able to communicate with journalists securely and confidentially.

### Measurement criteria

2.1. There are no killings, physical attacks, disappearances or other forms of violence against journalists, bloggers, artists, politicians or others who use their right to freedom of expression to speak up on issues of public interest.

2.2. There is no impunity for crimes against those who speak out on issues of public interest. There is an effective legal framework in place including criminal law provisions dealing with the protection of the physical and moral integrity of the person, and there are independent, prompt and effective investigations of all crimes against those who speak out.

2.3. Political leaders and public officials engage positively with the media and do not denigrate journalists or others who speak out. Verbal intimidation or harmful rhetoric against media actors and others who speak up in political discourse is promptly condemned by authorities.

2.4. All those who face threats to the exercise of their right to freedom of expression are provided with adequate protection when requested.

2.5. Journalists and other media actors are not arrested, detained, imprisoned or harassed because of critical reporting. There are no selective prosecutions, sanctions, inspections or other arbitrary interferences against journalists and other media actors, and others who speak out on matters of public interest, nor are they subjected to state surveillance for their exercise of the right to freedom of expression.

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<sup>21</sup> Alert 122/2021, German Law Increases Government Surveillance and Hacking Powers, Removes Protection for Journalists (<https://fom.coe.int/alerte/detail/101681412;globalSearch=true>); Alert 225/2021, Journalist Małgorzata Warzecha’s Computer Hacked (<https://fom.coe.int/alerte/detail/107636592;globalSearch=true>); Alert 187/2021, Journalist Peter Verlinden Targeted with Pegasus Spyware (<https://fom.coe.int/alerte/detail/106711510;globalSearch=true>); Alert 148/2021, Journalists targeted with Pegasus spyware; (<https://fom.coe.int/alerte/detail/104274411;globalSearch=true>); Alert 155/2021, Morocco Sues Several Media Outlets in France Following Pegasus Revelations (<https://fom.coe.int/alerte/detail/104525764;globalSearch=true>).

<sup>22</sup> Pegasus and similar spyware and secret state surveillance, Motion, 21 September 2021: <https://assembly.coe.int/LifeRay/APCE/pdf/ReportsUnderPreparation/RepPrepAll-E.pdf>

2.6. There are no reprisals against whistleblowers who, in good faith and as a matter of last resort, provide information to journalists and other media actors on matters of public interest.

2.7. Journalists and other media actors are not forced to reveal their confidential sources unless ordered by an independent authority, when the legitimate interest in the disclosure clearly outweighs the interest in keeping the information secret and when alternative measures were not available. .

## Findings

While the Council of Europe's Conference of Ministers for Media and Information Society focused on the safety of journalists and some member states took steps to protect journalists, the situation on the ground deteriorated. During 2021, six journalists lost their lives in the line of duty, the highest number of journalists killed in Europe in one year since the 2015 attack on the Charlie Hebdo offices in Paris. Four were deliberately targeted: Greek crime reporter Giorgos Karaivaz was shot by two men outside his house; Turkish Radio Host Hazim Özsu was shot by a man who disliked his comments; Georgian journalist Aleksandre Lashkarava died after being beaten by anti-LGBTQI+ protesters; and Dutch journalist Peter R. de Vries was shot when he left a TV studio.<sup>23</sup> Two Azerbaijani journalists, Maharram Ibrahimov and Siraj Abishov, died when the car they travelled in hit a landmine.<sup>24</sup>

Concern about the murders of journalists has been raised in consecutive annual reports of the Council of Europe Secretary General, with particular attention to the ongoing state of impunity in nearly all of these cases and the need for states to take effective steps to protect journalists and bring those responsible for violence to justice. At the end of the year, 26 unresolved cases of murder against journalists remained, most of them dating back many years with little progress made in the investigations.<sup>25</sup> The European Court of Human Rights affirmed the duty on states to take thorough and effective steps to investigate the murder of journalists,<sup>26</sup> but during the year there was only one conviction: a retrial confirmed guilty verdicts for the murderers of Serbian journalist, Slavko Ćuruvija.<sup>27</sup>

The annual number of alerts lodged with the Council of Europe Platform for the safety of journalists rose again, to 282 – a 41% increase on 2020, which had itself seen an unprecedented rise in the number of alerts on previous years.<sup>28</sup>

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<sup>23</sup> As reported on the Platform for the safety of journalists:

<https://fom.coe.int/listejournalistes/tues?years=2021>

<sup>24</sup> *Idem*.

<sup>25</sup> For detail see <https://human-rights-channel.coe.int/end-impunity-for-crimes-against-journalists-en.html>

<sup>26</sup> *Estemirova v. Russia*, 31 August 2021, application no. 42705/11:

[https://hudoc.echr.coe.int/app/conversion/pdf/?library=ECHR&id=003-7103673-9617595&filename=judgment Estemirova v. Russia - case concerning investigation into Estemirova assassination.pdf](https://hudoc.echr.coe.int/app/conversion/pdf/?library=ECHR&id=003-7103673-9617595&filename=judgment%20Estemirova%20v.%20Russia%20-%20case%20concerning%20investigation%20into%20Estemirova%20assassination.pdf)

<sup>27</sup> MFRR welcomes renewed convictions for murder of Slavko Ćuruvija: <https://www.ecpmf.eu/serbia-mfrr-welcomes-renewed-convictions-for-murder-of-slavko-curuvija/>

<sup>28</sup> This represents a 19% increase on the previous year and a 67% increase on 2019.

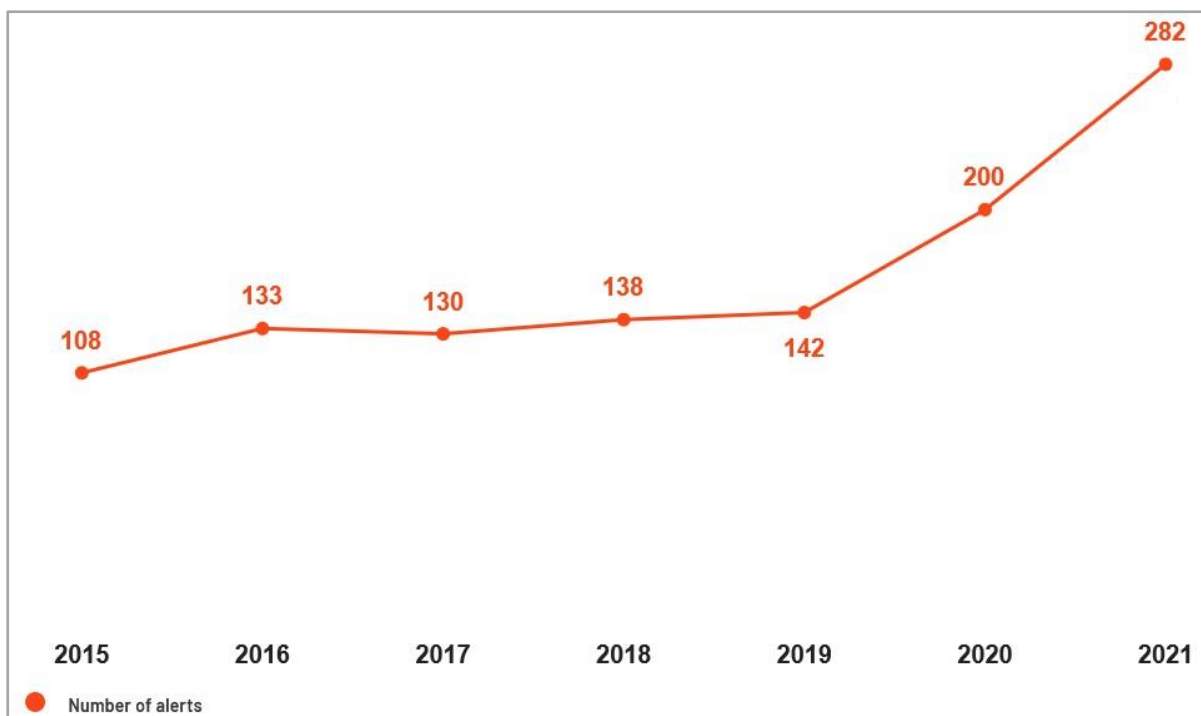


Figure 1. Number of alerts on Platform for the safety of journalists, 2015-2021

The number of physical attacks on journalists rose by 61%, while incidents of harassment and intimidation, including by politicians and government officials, increased by 57%. Across Europe, journalists increasingly received death threats, were beaten up on assignments, and have been attacked in their offices, cars, and even in their own houses.<sup>29</sup> Some media faced attacks on their websites, while individual journalists received online threats and, in some cases, had private financial information about them published maliciously.<sup>30</sup> Women journalists faced particularly grave and gender-based threats, as highlighted by the Council of Europe Commissioner for Human Rights<sup>31</sup> and in the June 2021 Ministerial Resolution on the Safety of Journalists. All this points to the urgency of devising national action plans for the safety of journalists which should be based on the specific situations in the individual member states and address the specific risks faced by journalists working there.

Reporting on public demonstrations was dangerous, with the number of incidents of violence against the media at protests more than doubling in the last two years.<sup>32</sup> Covid-19-related

<sup>29</sup> E.g. Alert 210/2021, Death Threats and Shotgun Cartridge Sent to RAI Regional Office (<https://fom.coe.int/alerte/detail/107636497;globalSearch=true>); Alert 29/2021, Action 24 TV Station Attacked with Stones, Paint and Molotov Cocktail (<https://fom.coe.int/alerte/detail/91471013;globalSearch=true>) ; Alert 74/2021, Photographer's Car Sent into the Ditch (<https://fom.coe.int/alerte/detail/97954727;globalSearch=true>); Alert 160/2021, Molotov Cocktails Thrown into Journalist Willem Groeneveld's Home (<https://fom.coe.int/alerte/detail/105181566;globalSearch=true>).

<sup>30</sup> E.g. Alert 117/2021, Cyprus newspapers receive threats, cyber-attacks (<https://fom.coe.int/alerte/detail/101434096;globalSearch=true>); Alert 27/2021, Anonymous Telegram channel publishes financial information of Russian journalist Elena Solovyova (<https://fom.coe.int/alerte/detail/91150712;globalSearch=true>).

<sup>31</sup> Combating violence against women in a digital age utilising the Istanbul Convention, 24 November 2021

<sup>32</sup> The Human Rights Commissioner expressed strong concern on this issue at World Press Freedom Day: 'Journalists covering public assemblies need to be protected', 30 April 2021. Similar concern was expressed by

protests were among the riskiest assignments for journalists, along with right-wing protests and counter-protests by right-wing elements at LGBTQI+ events. Often the police failed to take protective action or impeded the journalists' work by arresting them, like in the Netherlands and Germany, and in some cases they contributed to the violence: journalists covering protests were shot at in Spain and Martinique.<sup>33</sup>

Incidents of violence against journalists often take place against a background of strong negative rhetoric against the media, led by senior politicians. In Malta, the Board of Inquiry that investigated the circumstances that led to the murder of the investigative journalist Daphne Caruana Galizia, named the climate of hostility and the government's "dehumanization" of Caruana Galizia through constant negative rhetoric as a strong contributory factor.<sup>34</sup> While at the European level, ministers committed to condemning attacks against journalists and creating a positive and enabling environment for journalism, in some states politicians continued their verbal attacks.<sup>35</sup> Following a critical report on media freedom, the Slovenian Prime Minister tweeted that the Council of Europe Commissioner for Human Rights was "part of #fakenews network".<sup>36</sup>

In some countries progress was made. The United Kingdom published its first ever action plan for the protection of journalists;<sup>37</sup> the Dutch 'PersVeilig' press safety protocol was reviewed

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the Secretary General in her report "Current trends in threats to Freedom of Expression: interference with the coverage of public events, broadcasting bans and strategic lawsuits" ([SG/Inf\(2021\)36](#)), referencing a number of Platform alerts: Alert 50/2021, [Police Accused of Assaulting Newspaper Matthew Dresch at Protest in Bristol](#); Alert 26/2021, [Photojournalist Yannis Liakos Attacked by Police During Protests in Athens](#); Alert 35/2021, [Several Turkish Journalists Detained, Physically Assaulted Covering Women's March](#); Alert 57/2021, [Russian RFE/RL Correspondent Daria Komarova Faces Three Trials over Protest Coverage](#); Alert 168/2021, [Authorities Attempt to Discourage Journalists, Social Media Platforms, and News Outlets from Covering Protests; At least 50 Journalists Subsequently Detained, Obstructed and Assaulted by Police in Russia](#).

<sup>33</sup> Alert 223/2021, Journalists Targeted with Live Ammunition in Martinique (<https://fom.coe.int/alerte/detail/107636589;globalSearch=true>); Alert 25/2021, Photojournalist Joan Gálvez shot with detonating ammunition by Catalan riot police (<https://fom.coe.int/alerte/detail/91122670;globalSearch=true>); Alert 202/2021, German Journalist Michael Trammer Detained, Charged with Trespassing while Covering Protests (<https://fom.coe.int/alerte/detail/107636416;globalSearch=true>); Alert 203/2021, De Volkskrant Journalist Mac van Dinther Arrested while Covering Protests (<https://fom.coe.int/alerte/detail/107636458;globalSearch=true>).

<sup>34</sup> Public Inquiry Report, 29 July 2021

<sup>35</sup> Resolution on the safety of journalists, 11 June 2021: <https://rm.coe.int/coeminamedia-resolution-on-safety-of-journalists-en/1680a2dc9a>. Incidents included: Alert 185/2021, Czech Prime Minister Andrej Babiš Lambasts Investigative Journalist (<https://fom.coe.int/alerte/detail/106649107;globalSearch=true>); Alert 153/2021, Poland: Smear Campaign against Journalist Jacek Harfukowicz (<https://fom.coe.int/alerte/detail/104466541;globalSearch=true>); Alert 94/2021, Bulgaria: New Minister of the Interior suggests removal of journalists from bTV show (<https://fom.coe.int/alerte/detail/99999851;globalSearch=true>); Alert 89/2021, Croatian President Milanovic verbally attacked HRT journalists (<https://fom.coe.int/alerte/detail/99410815;globalSearch=true>); Alert 86/2021, Slovenia: PM Janša accuses STA Director of collaborating in "murder" of journalist (<https://fom.coe.int/alerte/detail/99251551;globalSearch=true>)

<sup>36</sup> Prime Minister Janša Attempts to Discredit Commissioner for Human Rights Dunja Mijatovic's Report on Media Freedom in Slovenia: <https://go.coe.int/R6V5V>

<sup>37</sup> 9 March 2021: <https://www.gov.uk/government/publications/national-action-plan-for-the-safety-of-journalists/national-action-plan-for-the-safety-of-journalists>

and suggestions were made for improvement (in the face of a growing number of incidents);<sup>38</sup> Finland, Sweden and Montenegro took steps to strengthen their criminal law frameworks for the protection of journalists; and Austria started appointing police officers as contact points for journalists during demonstrations (Medienkontaktbeamte).<sup>39</sup> The EU Commission published a Recommendation to strengthen the safety of journalists and other media professionals.<sup>40</sup>

The number of reported incidents of detention and imprisonment of journalists rose by 33%. By the end of 2021, 64 journalists were in detention, in Turkey, Azerbaijan, Russia, Ukraine and the United Kingdom. Many of the journalists concerned were convicted of matters such as supposed support for extremist movements or terrorist organisations. In April 2021, the European Court of Human Rights ruled in one such case that there was “no reasonable suspicion” of any criminal offence, resulting in the journalist being freed.<sup>41</sup> A number of similar applications remain pending. Several other cases concerned journalists detained temporarily in border zones whilst reporting on the ongoing refugee crisis.<sup>42</sup>

There were several reports across Europe of journalists forced to reveal their sources, in apparent contravention of European standards, as well as several reports that journalists had been placed under surveillance.<sup>43</sup> The European Court of Human Rights ruled, in the ‘Big Brother Watch’ case referenced above, that surveillance regimes that allow for bulk interceptions threaten journalists’ right to protect their sources.<sup>44</sup>

### III. INDEPENDENT AND PLURALISTIC MEDIA ENVIRONMENT

The media is the fourth pillar of democracy. By reporting on issues of public interest, it complements the other three pillars (the legislative, the executive and the judiciary) and holds them to account. But journalists can fulfil their role as ‘watchdog of democracy’ only if the media environment in which they work is independent and pluralistic, and their working conditions allow them to report freely and without fear or favour. The media should not be under the controlling influence of only few powerful businesses or individuals, and voices and views from across society should be reported and reflected in the media. It is the duty of the

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<sup>38</sup> See <https://www.persveilig.nl/>

<sup>39</sup> As reported in the EU Rule of Law Report 2021 (<https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1634551652872&uri=CELEX%3A52021DC0700>) ; by the Montenegrin NGO, Human Rights Action; and by the Human Rights Commissioner (Journalists covering public assemblies need to be protected, 30 April 2021) <https://www.coe.int/en/web/commissioner/-/journalists-covering-public-assemblies-need-to-be-protected?inheritRedirect=true>

<sup>40</sup> Recommendation on the protection, safety and empowerment of journalists, 16 September 2021: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32021H1534>

<sup>41</sup> *Ahmet Hüsrev Altan v. Turkey*, 13 April 2021, application no. 13252/17: <https://hudoc.echr.coe.int/fre#%7B%22itemid%22:%5B%22001-209444%22%5D%7D>

<sup>42</sup> E.g. Alert 227/2021, Journalist Tim Lüddemann and His Team Detained by Greek Police (<https://fom.coe.int/alerte/detail/107636625;globalSearch=true>) ; Alert 219/2021, Journalists Arrested for Filming at Poland-Belarus Border Zone (<https://fom.coe.int/alerte/detail/107636555;globalSearch=true>) ; Alert 109/2021, Greek police question Dutch TV crew covering migration (<https://fom.coe.int/alerte/detail/101263145;globalSearch=true>).

<sup>43</sup> As reported on the Council of Europe Platform for the safety of journalists: <https://fom.coe.int/recherche;motCle=surveillance>

<sup>44</sup> *Big Brother Watch and Others v. the United Kingdom*, 25 May 2021, application nos. 58170/13, 62322/14, and 24960/15: <https://hudoc.echr.coe.int/fre#%7B%22itemid%22:%5B%22001-210077%22%5D%7D>

state, as the ultimate guarantor of pluralism, to create a regulatory environment under which all media can operate on a 'level playing field'. There should be no unfair competitive advantages; ownership, management and financial structures should be transparent; state advertising and support for the media must be transparently allocated in a non-discriminatory manner; and public service media should be sufficiently funded to fulfil their mission.

### **Measurement criteria**

3.1. The public has access to a variety of print, broadcast and online media that represent a wide range of political and social viewpoints, interests and groups within society, including local communities, minorities and those with special needs. Political parties and candidates have fair and equal access to the media, and ownership of media by political actors is strictly regulated. Coverage of elections by broadcast media is balanced and impartial.

3.2. Regulatory frameworks safeguard the editorial independence of media outlets from government, media owners, and political or commercial interests, and are respected in practice. Print, broadcast and internet-based media are not subject to direct or indirect censorship.

3.3. Media concentration is addressed through effective regulation and monitored by independent regulatory authorities vested with powers to act against concentration. Information about media ownership and economic influence over media is easily accessible to the public. Online platforms identify paid-for content.

3.4. The operating environment for independent and community media is favourable. All types of media (public service, private, and community) have fair and equal access to technical and commercial distribution channels and electronic communication networks, as well as to state advertising and state subsidies and other funding schemes. They are encouraged to develop new business models including through supportive fiscal and regulatory regimes.

3.5. All state support measures for media take into account the distinct role and contribution to journalism of different media actors, including commercial media, public service media, community media, and independent journalists. National frameworks providing for support measures are based on clear, objective and transparent criteria and include appropriate safeguards to protect the editorial independence and operational autonomy of all media.

3.6. Public service media have institutional autonomy, secure funding and adequate technical resources to be protected from political or economic interference. They play an active role in promoting social cohesion and integration through proactive outreach to diverse sectors and age groups of the population, including minorities and those with special needs.

3.7. Journalists have satisfactory working conditions with adequate levels of pay and social protection. All content creators, including individuals as well as media businesses, are fairly rewarded for their work and copyright is protected against abuse, including online. Journalists are not subjected to undue requirements before they can work. Foreign journalists are not refused entry or work visas because of their potentially critical reports.

### **Findings**

In 2020, the Covid-19 pandemic hit the media hard, leading to closures and job losses. States across Europe provided support packages. These were vital to the survival of many news outlets, but also created risky financial dependencies and concerns about discriminatory



allocation.<sup>45</sup> During 2021 the pandemic persisted, but in many countries the level of economic support was reduced. While the global advertising market recovered, ad revenue is increasingly concentrated with three global conglomerates – Alphabet, Meta and Amazon – and large national companies, meaning that many smaller media outlets struggle.<sup>46</sup> More people paid for online news in 2021, but the overall number of paying readers remained low – below 20% in most European countries except for Norway, Sweden, Finland and Romania.<sup>47</sup> It was reported that the only media to truly flourish in 2021 were online entertainment platforms.<sup>48</sup>

Recognizing that the pandemic to a large extent accelerated pre-existing structural problems, European media ministers resolved to work with the media industry to support a pluralistic and independent media ecosystem and enhance the resilience of the media.<sup>49</sup> In EU countries, the Media and Audiovisual Action Plan supported recovery as well as ongoing transformation into the digital era,<sup>50</sup> and the proposed EU Digital Services Act was seen as an opportunity to redress the balance between online platforms and content producers.<sup>51</sup> In terms of this relationship between platforms and the media, which requires redefining in legislation and in practice, the Council of Europe’s Recommendation [CM/Rec\(2022\)11](#) on principles for media and communication governance brings a number of principles adapted to the digital and converged environment in which media and platform regulation can no longer exist independently of one another.

While structural support for the media was welcomed, there were continued concerns in some countries about the allocation of support as well as regulatory developments that threatened pluralism. The use of state advertising as a means of indirect control was flagged up in the EU’s Annual Rule of Law report as an issue of concern in Austria, Croatia, Bulgaria, Hungary, and Poland, and close ties between the state and the media threatened political independence of the media in the Czech Republic, Malta, Slovenia, Poland, Bulgaria, and Hungary.<sup>52</sup> Transparency of ownership was cause for concern in Slovenia, the Czech Republic and Bulgaria, but a number of countries took positive steps: Greece and Finland adopted legislation requiring ownership structures to be made public, and Ireland and Lithuania put media ownership databases online.<sup>53</sup> It is not clear whether they go so far as to disclose the

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<sup>45</sup> As reported in the Secretary General’s 2021 Annual Report: <https://www.coe.int/en/web/secretary-general/report-2021#page-0>

<sup>46</sup> Stats roundup: the impact of Covid-19 on marketing & advertising, 13 December 2021: <https://econsultancy.com/stats-roundup-coronavirus-impact-on-marketing-advertising/>.

<sup>47</sup> Reuters Institute Digital News Report: <https://reutersinstitute.politics.ox.ac.uk/digital-news-report/2021>

<sup>48</sup> As reported by the Parliamentary Assembly’s Committee on Culture, Science, Education and Media: The impact of the Covid-19 pandemic on education and culture, 8 November 2021 (<https://pace.coe.int/en/files/29593>). See also Ofcom’s August 2021 Media Nations report.

<sup>49</sup> Resolution on the changing media and information environment and Resolution on the impacts of the COVID-19 pandemic on freedom of expression, 11 June 2021: <https://rm.coe.int/coeminamedia-resolution-on-media-environment-en/1680a2dc92>

<sup>50</sup> <https://digital-strategy.ec.europa.eu/en/policies/media-and-audiovisual-action-plan>

<sup>51</sup> A concern flagged up by, amongst others, the European Federation of Journalists: <https://europeanjournalists.org/blog/2021/12/03/eu-digital-service-act-european-citizens-need-a-stronger-dsa/>

<sup>52</sup> EU Commission Rule of Law Report, COM(2021) 700 final, 20 July 2021

<sup>53</sup> *Idem*. See <http://www.mediaownership.ie/> for the Irish database ; <https://lrkm.lrv.lt/lt/veiklos-sritys/visuomenes-informavimo-politika/viesosios-informacijos-rengeju-ir-skleideju-informacine-sistema-virsis> for the announced Lithuanian database.

identities of natural persons with beneficial shareholdings, as recommended by Committee of Ministers Recommendation CM/Rec(2018)1 of the Committee of Ministers to member States on media pluralism and transparency of media ownership.

The annual Media Pluralism Monitor, a scientific tool devised by the European University Institute to measure media pluralism, found a high to medium risk to media pluralism in all 32 countries that were surveyed; a high to medium risk of political dependence in 24 of 32 countries surveyed; and a medium to high risk to social inclusiveness in 28 out of 32 countries surveyed. The overall risk scores were at their highest since 2014, when the survey began.<sup>54</sup> The Eurobarometer, an annual survey that captures public opinion across 39 European countries, indicated that the public at large thought that the media represented diverse points of view but at the same time found strong concern that most media are subject to political or commercial pressure.<sup>55</sup> Except in a few north-western European countries, there was a high perception of pressure on public service media.<sup>56</sup>

In some countries, media outlets were banned or were refused licence renewals, threatening media pluralism. Hungary's Klub Radio was refused to have its licence renewed; in Ukraine, several news channels and websites were banned; and in Poland, there was concern around the take-over of one of the country's largest media groups by a state-controlled petrochemical company.<sup>57</sup> Proposed legislation banning majority non-European ownership of media companies was vetoed by the Polish President and sent back to parliament while the Human Rights Commissioner expressed concern about two other proposed Polish laws, concerning social media regulation and advertising revenue tax on media outlets.<sup>58</sup> Russia's so-called 'foreign agent' law, concern about which was flagged up in the Secretary General's 2021 Report, continued to be used in what was perceived to be a campaign to apply pressure to independent media.<sup>59</sup>

In a number of countries, concerns were raised over the independence of media regulators. The lack of funding for the regulator was criticised in Spain and in Slovenia, whilst in Croatia, Malta, Slovakia and Hungary a lack of safeguards against political interference in the appointments process to the board of the media regulator caused concern.<sup>60</sup> In Albania, there

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<sup>54</sup> <https://cmpf.eui.eu/mpm2021-results/>

<sup>55</sup> Standard Eurobarometer 94 - Winter 2020-2021: <https://europa.eu/eurobarometer/surveys/detail/2355>

<sup>56</sup> EBU Market Insights: Trust in media 2021, September 2021: [https://www.ebu.ch/publications/research/login\\_only/report/trust-in-media](https://www.ebu.ch/publications/research/login_only/report/trust-in-media)

<sup>57</sup> Council of Europe Commission on Human Rights, Memorandum on freedom of expression and media freedom in Hungary, 30 March 2021 (<https://rm.coe.int/memorandum-on-freedom-of-expression-and-media-freedom-in-hungary/1680a1e67e>); Alert 161/2021, Ukrainian News Website Strana.ua Banned (<https://fom.coe.int/alerte/detail/105414653;globalSearch=true>); Alert 205/2020, Orlen's Takeover of Polska Press Exposes Media Pluralism: <https://fom.coe.int/alerte/detail/79364611;globalSearch=true>

<sup>58</sup> Alert 143/2021, Bill to Ban Non-European Media Ownership (<https://fom.coe.int/alerte/detail/103932445;globalSearch=true>); and letter from the Council of Europe Commissioner on Human Rights, 8 March 2021 (<https://www.coe.int/en/web/commissioner/-/poland-draft-laws-on-the-media-sector-should-respect-european-human-rights-standards-on-freedom-of-expression-media-pluralism-and-data-protection>).

<sup>59</sup> A Democratic Renewal for Europe, p. 40 (<https://edoc.coe.int/en/annual-activity-report/9506-a-democratic-renewal-for-europe-annual-report-by-the-secretary-general.html>); Platform Alert 173/2021, Dozhd TV and IStories Tagged as "Foreign Agents": <https://fom.coe.int/alerte/detail/105899475;globalSearch=true>

<sup>60</sup> EU Commission Rule of Law Report, COM(2021) 700 final, 20 July 2021: [https://ec.europa.eu/info/policies/justice-and-fundamental-rights/upholding-rule-law/rule-law/rule-law-mechanism/2021-rule-law-report/2021-rule-law-report-communication-and-country-chapters\\_en](https://ec.europa.eu/info/policies/justice-and-fundamental-rights/upholding-rule-law/rule-law/rule-law-mechanism/2021-rule-law-report/2021-rule-law-report-communication-and-country-chapters_en)

was concern over the creation of a new government information agency and the appointment of a government ally to chair the board of the media regulatory body.<sup>61</sup> In Turkey, the media regulator imposed fines on six media outlets that were critical of the government's response to wildfires raging in the southwest of the country and it was found that half of all fines it had issued had targeted one station known for its critical stance.<sup>62</sup>

Research conducted on behalf of the European Broadcasting Union affirmed a strong positive link between the strength of democracy and the strength of public service media.<sup>63</sup> Yet, in some countries public service media were under fire. There was concern over political pressure and the independence of the regulatory board of public service media in the Czech Republic and in Ukraine; the Slovenian Press Agency had its funding threatened; and the UK government indicated that it intended to sell off Channel 4, one of the country's public broadcasters with a remit to represent unheard voices.<sup>64</sup>

Journalists' working conditions, and in particular, the lack of secure employment, were a concern in some countries. In Ukraine, all journalists at the Kyiv Post were laid off without any notice; in Poland, an editor at the public broadcaster was dismissed for allowing an artist to perform with a rainbow flag; and the President of the Croatian Journalists' Union was threatened with dismissal by the national public broadcaster for talking about sexual harassment among its staff.<sup>65</sup>

#### IV. RELIABILITY AND TRUST IN INFORMATION

In an era of proliferating content and delivery platforms, citizens cannot make informed democratic choices or exercise their right to participate in public affairs without high quality information from the media. Quality journalism is therefore an essential public good.

For quality journalism to thrive, constant investment is required in journalism education as well as in media and information literacy for the wider public. Well-functioning self-regulatory mechanisms should offer easy access to an effective remedy for individuals to complain about inaccurate or unethical reporting, regardless of whether the content is published online or in traditional media. As the provision of content on digital and social media platforms is

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<sup>61</sup> Alert 204/2021, New Agency to Control State Information and Media Relations; Concern after government ally elected to head key media regulator: <https://ipi.media/albania-concern-after-government-ally-elected-to-head-key-media-regulator/>

<sup>62</sup> Alert 180/2021, Radio Television High Council Fines TV Channels Over Wildfire Coverage; Turkish Media Overseer Penalising Independent Media With Fines: <http://tiny.cc/RTUKfines>

<sup>63</sup> How public service media deliver value, December 2021: <https://www.ebu.ch>

<sup>64</sup> Alert 58/2021, Pressure on PSM Governance Threatens Independence of Czech Television and Erodes Media Freedom and Pluralism (<https://fom.coe.int/alerte/detail/97161825;globalSearch=true>); Alert 113/2021, Independence of the Public Broadcaster's Supervisory Board challenged (<https://fom.coe.int/alerte/detail/100946871;globalSearch=true>) ; Alert 62/2021, Slovenian Press Agency (STA) under Financial Pressure from the Government (<https://fom.coe.int/alerte/detail/97247209;globalSearch=true>); [Channel 4: a change of ownership?](#) UK Parliament research briefing, December 2021.

<sup>65</sup> Alert 221/2021, Kyiv Post Journalists Fired Collectively (<https://fom.coe.int/alerte/detail/107636571;globalSearch=true>); Alert 146/2021, TVP Programme Editor Dismissed over a Rainbow Flag (<https://fom.coe.int/alerte/detail/104278700;globalSearch=true>); Alert 40/2021, President of Croatian Journalists' Union Threatened with Dismissal (<https://fom.coe.int/alerte/detail/92617024;globalSearch=true>)

increasingly ruled by algorithmic decision-making, platforms should ensure that these algorithms function transparently, with full respect for users' rights, and that they tackle the spread of contentious, harmful, and illegal content.

These, and many other recommendations for strengthening the environment the role of quality journalism in our societies, are featured in the recently adopted Recommendation [CM/Rec\(2022\)4](#) of the Committee of Ministers to member States on promoting a favourable environment for quality journalism in the digital age.

### **Measurement criteria**

4.1. Quality journalism, which seeks to provide accurate and reliable information of public interest, and complies with the principles of fairness, independence, transparency, and public accountability, is acknowledged as public good that is essential to the health of democracies.

4.2. Journalists, including freelance journalists, media actors and individuals are committed to producing quality journalism, have access to life-long training opportunities to update their skills and knowledge, specifically in relation to their duties and responsibilities in the digital environment, including through fellowship programmes and financial support measures.

4.3. The media's commitment to verification and quality control is complemented by effective self-regulatory mechanisms such as ombudspersons and media councils. The public is aware of relevant complaints mechanisms allowing for the flagging of content that breaches journalistic ethics. Media regulatory bodies are pluralistic and broadly representative of wider society.

4.4. There are effective self- or co-regulatory mechanisms in place to deal with risks related to algorithmic decision-making regarding online content, and to tackle the dissemination of contentious, harmful, and illegal content on digital platforms. Decision-making is transparent and respects the rights of all users. Digital platforms ensure that there is independent oversight and access to effective remedies for all alleged violations of human rights.

4.5. Educational policies are in place to further media and information literacy among all age groups. Media literacy initiatives promote the cognitive, technical and social skills that enable people to make informed and autonomous decisions about their media use, grant trust to credible news sources, and communicate effectively, including by creating and publishing content.

### **Findings**

With the pandemic into its second year and concern about misinformation high, particularly in relation to Covid-19, public trust in the media was an issue of concern throughout 2021. Trust in social media and media through search was low, which was worrying particularly in countries where many people got their news from these sources. Online and on social media, misinformation abounded and hate speech was high.

2021 saw higher trust in traditional media and established news 'brands'. Radio and television news was particularly trusted, reversing a decline in TV news consumption that had been ongoing since 2013.<sup>66</sup> There was a strong positive correlation between countries with

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<sup>66</sup> 2021 Digital News Report, University of Oxford Reuters Institute ([https://reutersinstitute.politics.ox.ac.uk/sites/default/files/2021-06/Digital\\_News\\_Report\\_2021\\_FINAL.pdf](https://reutersinstitute.politics.ox.ac.uk/sites/default/files/2021-06/Digital_News_Report_2021_FINAL.pdf)); EBU Market Insights: Trust in media 2021, September 2021

respected public service media, and trust in media generally.<sup>67</sup> Except in a small number of countries, public service media were generally among the most trusted media.<sup>68</sup> People valued neutrality: most preferred news media that reflected a range of views and left it up to the audience to make up their mind. The media was trusted more than political institutions.<sup>69</sup>

However, there were important geographic differences: while more than half the people in northern and some western European countries said they trusted the news, this figure fell to below a third in several central and eastern European countries. Young people, women, and people who are politically partisan often felt less fairly represented by the media and insufficient coverage of issues they care about.<sup>70</sup> There was a dearth of female and non-white editors, and media were not doing enough to tackle their diversity problem.<sup>71</sup>

While self and co-regulatory bodies for the media continued to function across Europe, effective implementation was problematic in all but a small number of countries.<sup>72</sup> There were also challenges in terms of the ability of self-regulatory mechanisms to regulate online media, with journalists doubting that self-regulatory codes of ethics responded to ethical challenges in online media.<sup>73</sup> Across Europe different approaches were followed in self- and co-regulation.

‘Fake news’ was cited as an issue of strong concern and a threat to democracy by 82% of respondents in the 94<sup>th</sup> Eurobarometer survey, with 76% saying it was a particular problem in their country. At the same time, 65% of people thought that they could identify fake news, up from previous years indicating improved media and information literacy.<sup>74</sup> This subjective, self-evaluated finding in the Eurobarometer survey stands in contrast with the finding in Media Pluralism Monitor, based on objective scores, that media and information literacy is low-to-medium in most countries, noting an absence of formal programmes to tackle the issue. In several countries the problem of low media and information literacy was compounded by low digital skills generally.<sup>75</sup>

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([https://www.ebu.ch/publications/research/login\\_only/report/trust-in-media](https://www.ebu.ch/publications/research/login_only/report/trust-in-media)). The 94th Eurobarometer survey found the same.

<sup>67</sup> EBU Market Insights: Trust in media 2021, September 2021:

[https://www.ebu.ch/publications/research/login\\_only/report/trust-in-media](https://www.ebu.ch/publications/research/login_only/report/trust-in-media)

<sup>68</sup> Poland, Hungary, Turkey, Croatia and Italy were the only countries where public service media were not among the top five best trusted news brands: EBU Market Insights: Trust in media 2021, September 2021:

[https://www.ebu.ch/publications/research/login\\_only/report/trust-in-media](https://www.ebu.ch/publications/research/login_only/report/trust-in-media)

<sup>69</sup> EBU Market Insights: Trust in media 2021, September 2021:

[https://www.ebu.ch/publications/research/login\\_only/report/trust-in-media](https://www.ebu.ch/publications/research/login_only/report/trust-in-media)

<sup>70</sup> *Idem*.

<sup>71</sup> Reuters Institute, Women and leadership in the news media 2021: evidence from 12 markets, 8 March 2021

(<https://reutersinstitute.politics.ox.ac.uk/women-and-leadership-news-media-2021-evidence-12-markets>);

Race and leadership in the news media 2021: evidence from five markets, 21 March 2021:

<https://reutersinstitute.politics.ox.ac.uk/race-and-leadership-news-media-2021-evidence-five-markets>

<sup>72</sup> Belgium, Denmark, Estonia, Germany, the Netherlands, and Sweden: Media Pluralism Monitor 2021, p. 73:

[https://cadmus.eui.eu/bitstream/handle/1814/71970/CMPF\\_MPM2021\\_final-report\\_QM-09-21-298-EN-N.pdf?sequence=1&isAllowed=y](https://cadmus.eui.eu/bitstream/handle/1814/71970/CMPF_MPM2021_final-report_QM-09-21-298-EN-N.pdf?sequence=1&isAllowed=y)

<sup>73</sup> Media Councils in the Digital Age: Survey results:

[https://presscouncils.eu/userfiles/files/Media%20Councils%20in%20the%20Digital%20Age\\_final\\_report\\_rev.pdf](https://presscouncils.eu/userfiles/files/Media%20Councils%20in%20the%20Digital%20Age_final_report_rev.pdf)

<sup>74</sup> 94<sup>th</sup> Eurobarometer survey: <https://europa.eu/eurobarometer/surveys/detail/2355>

<sup>75</sup> Media Pluralism Monitor 2021:

[https://cadmus.eui.eu/bitstream/handle/1814/71970/CMPF\\_MPM2021\\_final-report\\_QM-09-21-298-EN-N.pdf?sequence=1&isAllowed=y](https://cadmus.eui.eu/bitstream/handle/1814/71970/CMPF_MPM2021_final-report_QM-09-21-298-EN-N.pdf?sequence=1&isAllowed=y)



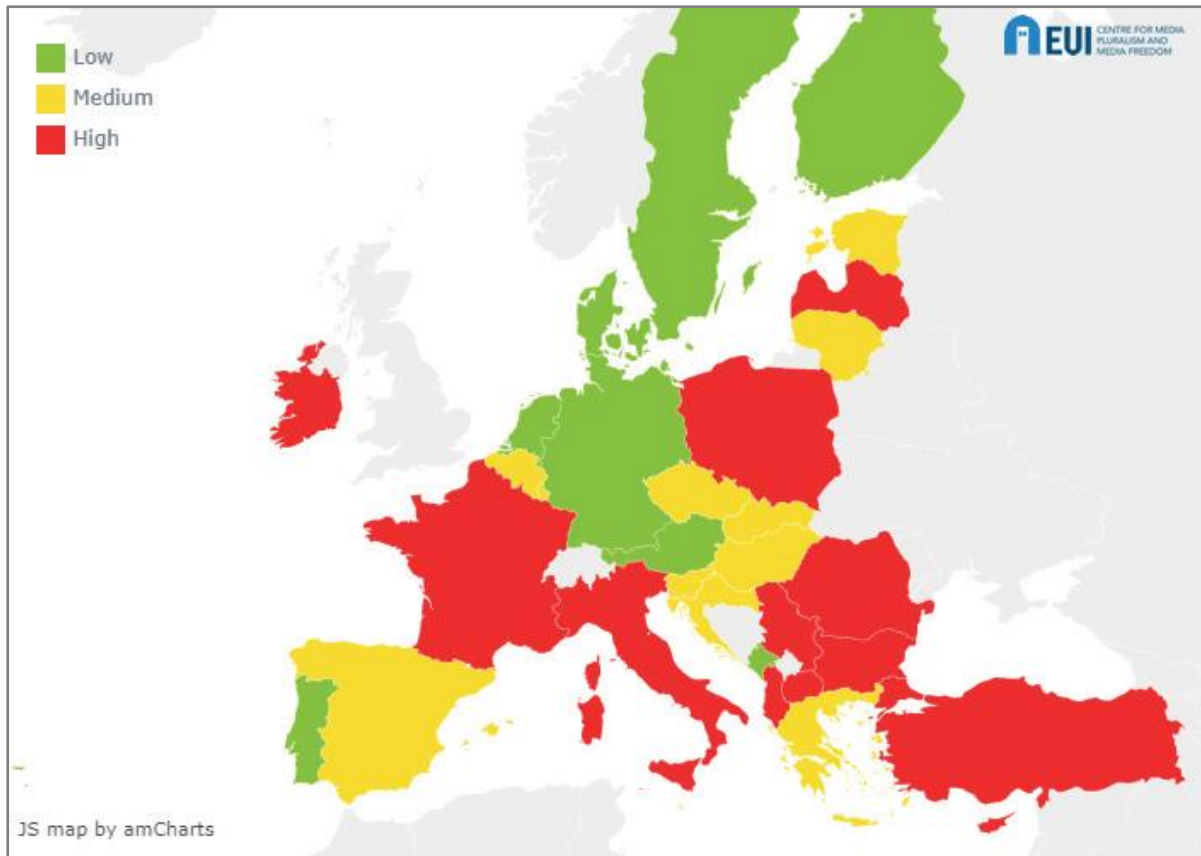


Figure 2. Risks to Media and Information Literacy across Europe, [Media Pluralism Monitor 2021](#)

In many countries, regulation of social media was seen as necessary but also fraught with risk.<sup>76</sup> Several social media platforms signed up to a strengthened Code of Practice on Disinformation, but the impact of this remained to be seen.<sup>77</sup> Facebook committed to reviewing its practices when it transpired that high profile celebrities and politicians had been allowed to post content in blatant violation of its own guidelines.<sup>78</sup> As European countries are moving towards co-regulatory approaches, the Council of Europe adopted a Guidance Note outlining best practices, providing practical guidance and pointing to existing good practices for policy development, regulation and use of content moderation in the online environment.<sup>79</sup>

<sup>76</sup> The French Constitutional Court struck down online hate speech legislation in 2020, holding that it was not necessary, appropriate and proportionate to the aim pursued: Decision 2020-801, 18 June 2020 (in French): <https://www.conseil-constitutionnel.fr/decision/2020/2020801DC.htm>

<sup>77</sup> Media Pluralism Monitor 2021, p. 105; Code of Practice on Disinformation: <https://digital-strategy.ec.europa.eu/en/policies/code-practice-disinformation>

<sup>78</sup> Wall Street Journal, 13 September 2021, Facebook Says Its Rules Apply to All: Company Documents Reveal a Secret Elite That's Exempt.

<sup>79</sup> Guidance note on best practices towards effective legal and procedural frameworks for self-regulatory and co-regulatory mechanisms of content moderation, May 2021: <https://rm.coe.int/content-moderation-en/1680a2cc18>



## V. CONCLUSIONS

While public trust and demand for quality journalism grew, the conditions under which the media worked to produce quality output were very challenging. Violence against journalists and media outlets worsened and in some countries was almost normalised. There has been sustained action on this issue by the Council of Europe, including the provision of recommendations to end violence and detailed implementation guidelines, and member states must meet the challenge that they are now faced with if journalism is to be able to continue its function as a watchdog of democratic society. The legal framework for freedom of expression needs to be strengthened in a number of countries, as shown by the many violations of the right to freedom of expression found by the European Court of Human Rights, and countries should redouble their efforts to implement these judgments in a timely manner.

Media continued to battle for economic survival and individual journalists worked under conditions of uncertainty. The industry continued to look for viable business models, and financial, political and commercial pressures all contributed to a decline in media pluralism. Whilst trust in traditional news brands grew, media and information literacy efforts should also be stepped up – particularly with regard to online media.

The Council of Europe and its member states, in cooperation with media, online platforms, academia and civil society stakeholders, are consistently supporting the positive developments and outlining measures to curb the negative trends in the media and communication field. In December 2021, the first concrete results of the Ministerial Conference were delivered by the Steering Committee for Media and Information Society (CDMSI) and its expert committees<sup>80</sup> in the form of four draft recommendations, three of which have recently been adopted by the Committee of Ministers:

- Recommendation [CM/Rec\(2022\)11](#) on principles for media and communication governance
- Recommendation [CM/Rec\(2022\)12](#) on electoral communication and media coverage of election campaigns
- Recommendation [CM/Rec\(2022\)13](#) on the impacts of digital technologies on freedom of expression<sup>81</sup>

The fourth instrument, Draft recommendation on a comprehensive approach to combating hate speech, is awaiting imminent adoption<sup>82</sup>.

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<sup>80</sup> In the biennium 2020-21 the CDMSI directed the work of three expert committees, Committee of Experts on Freedom of Expression and Digital Technologies (MSI-DIG), Committee of Experts on Media Environment and Reform (MSI-REF), and Committee of Experts on Combating Hate Speech (ADI/MSI-DIS); the latter worked under the direction of both the CDMSI and the Steering Committee on Anti-Discrimination, Diversity, and Inclusion (CDADI).

<sup>81</sup> The recommendations were adopted on 6 April 2022 and can be found on the Committee of Ministers' webpage with adopted texts: <https://www.coe.int/en/web/cm/adopted-texts>

<sup>82</sup> The situation on 11 April 2022, the date of the finalisation of the present report.

In addition, in 2021 the CDSMI adopted two guidance notes on different aspects of mostly automated decision-making on digital and social media platforms, content moderation and prioritisation.<sup>83</sup>

It is hoped that the practical tools will guide member states, platforms and other relevant stakeholders in their policy and decision making in the areas which are subject to growing regulatory attention.

In the coming years, the Organisation will focus its attention on a more effective implementation of Recommendation CM/Rec(2016)4 of the Committee of Ministers to member States on the protection of journalism and safety of journalists and other media actors, also by addressing online attacks against women journalists and the need for better protection of journalists during protests. The Implementation Guide to Recommendation CM/Rec(2016)4 will be updated, in particular as regards the dimensions of ‘prevention’ and ‘promotion’ of journalists’ safety; it will also offer practical guidance on the elaboration of dedicated national action plans on the safety of journalists, one of the commitments resulting from the 2021 Ministerial conference mentioned above.

Further support will be provided to slow the spread of mis- and disinformation, by providing guidance on countering disinformation on online platforms, but also by focusing on quality journalism, collecting and sharing good practices for sustainable media financing and by supporting media users with practical media and information literacy tools.

The rise in abusive lawsuits aimed at silencing critical voices will be addressed through a standard-setting instrument, a recommendation on strategic lawsuits against public participation which is to be developed until the end of 2023.

Finally, continuous guidance and identification of best practices on the use of artificial intelligence (AI) tools related to the promotion of freedom of expression and media freedom will be key to ensure wide access to new technologies and the skills needed to use them. The Council of Europe’s dedicated body on AI, the Ad hoc Committee on Artificial Intelligence (CAHAI), prepared the *Possible elements for a legal framework on artificial intelligence, based on the Council of Europe’s standards on human rights, democracy and the rule of law*, which are to be followed by the development of such legal framework in this biennium. While this work will address the horizontal aspects of AI, other Council of Europe bodies will continue working on AI-related issues at the sectoral level. In the area of freedom of expression, guidelines will be prepared on the use of digital tools including AI for journalism and by journalists.

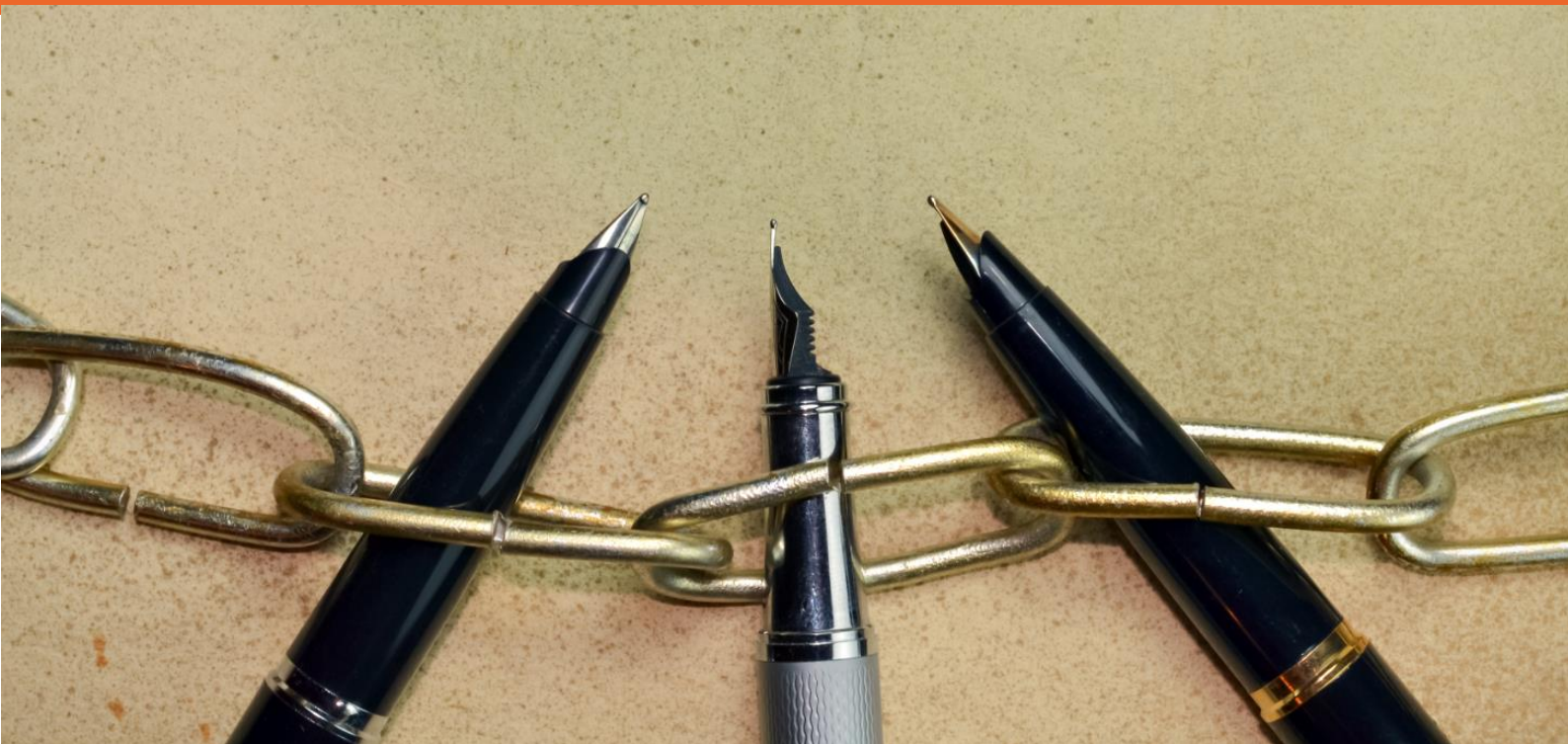
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<sup>83</sup> Guidance note on best practices towards effective legal and procedural frameworks for self-regulatory and co-regulatory mechanisms of content moderation (<https://rm.coe.int/content-moderation-en/1680a2cc18>) and Guidance note on the prioritisation of public interest online (<https://rm.coe.int/cdmsi-2021-009-guidance-note-on-the-prioritisation-of-pi-content-e-ado/1680a524c4>).



**The right to freedom of expression** enshrined in the European Convention on Human Rights has for several decades been of central importance to the organisation. The right of individuals to form, hold and express their opinions without undue interference is crucial for the realisation of all other human rights, it enables citizens to make informed choices and to participate actively in democratic processes, ensuring that powerful interests are held to account.

**Freedom of expression**, therefore, deserves the highest attention, today as ever. Consecutive yearly assessments have shown that threats to this anchor of democratic societies have been growing across the continent. This has proven detrimental to our resilience to crisis situations, such as the Covid-19 pandemic and the war in Ukraine. It is evident that the core principles of freedom of expression and media independence are indispensable for European democracies and of crucial value even more acutely in times of crisis.



The Council of Europe is the continent's leading human rights organisation. It comprises 46 member states, including all members of the European Union. All Council of Europe member states have signed up to the European Convention on Human Rights, a treaty designed to protect human rights, democracy and the rule of law. The European Court of Human Rights oversees the implementation of the Convention in the member states.