

RECOMMENDATION (2016)4 ON THE PROTECTION OF JOURNALISM AND SAFETY OF JOURNALISTS AND OTHER MEDIA ACTORS

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The recommendation is based on the case law of the European Court of Human Rights.
It:

- ▶ calls on states to uphold their positive obligations under Article 10 ECHR and to establish effective safeguards that enable journalists and other media actors to work without fear of intimidation or harm
- ▶ defines journalism by its public watchdog function and extends protections to a broad range of media actors, including citizen journalists and bloggers
- ▶ provides a comprehensive framework to ensure safety through prevention, protection, and prosecution measures, as well as through awareness raising

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Built on four pillars:

1. Prevention
2. Protection
3. Prosecution
4. Promotion and awareness raising

PREVENTION

THE PREVENTION PILLAR OF THE GUIDELINES OF RECOMMENDATION CM/REC(2016)4

- (1) Legal framework to ensure independence of the media and safeguard media pluralism
- (2) Legislative framework guarantees public access to information, privacy and data protection, confidentiality and security of communications and protection of journalistic sources and whistle-blowers
- (3) Legislative framework guarantees effective protection of all journalists and other media actors
- (4) Implementation of comprehensive legislative framework that enables journalists and other media actors to contribute to public debate effectively and without fear

THE PREVENTION PILLAR OF THE GUIDELINES OF RECOMMENDATION CM/REC(2016)4

- (5) Independent, substantive review of legislative framework
- (6) Defamation laws include freedom of expression safeguards that conform to European and international human rights standards
- (7) Clear legal basis for surveillance and interception of communications data that includes safeguards against misuse and abuse

PROTECTION

Protection pillar:

- (1) Early warning, rapid response mechanisms, protection measures
- (2) Training
- (3) Discriminatory or arbitrary application of laws to silence journalists and other media actors
- (4) Safety of journalists during demonstrations
- (5) Hostility / undermining journalists through negative rhetoric

PROSECUTION

An effective investigation

- ▶ Investigations are capable of leading to the establishment of the facts, the identification and successful prosecution of those responsible for violence against journalists and other media actors.
- ▶ Guiding principles: adequacy; independence; thoroughness; promptness; public scrutiny

Operational requirements to stem impunity

- ▶ Practical/operational requirements to stem impunity include specialised investigation units, and the introduction of measures safeguarding the independence and safety of law enforcement/judiciary
- ▶ Where investigations and prosecutions do not result in bringing to justice the perpetrators, special judicial or inquiries by independent bodies are carried out

Appropriate sanctions

- ▶ aggravated penalties
- ▶ no limitation periods for crimes against freedom of expression and for obstruction of justice

Remedies available to journalists and their next of kin

- ▶ Effective and appropriate remedies are available, including legal redress, financial compensation, medical and psychological treatment, relocation and shelter.
- ▶ The victim's next of kin should be involved in procedures.

AWARENESS RAISING

The awareness-raising (promotion) pillar of the Guidelines of Recommendation CM/Rec(2016)4

- ▶ States should proactively highlight gender-specific issues and issues concerning impermissible grounds for discrimination.
- ▶ States should translate the Recommendation into the national and minority languages of the country
- ▶ States should ensure the widest possible dissemination of the Recommendation, in a variety of publicity materials.
- ▶ States should capitalise on the publicity opportunities provided by internationally designated days such as World Press Freedom Day (3 May), International Day to End Impunity for Crimes against Journalists (2 November) and International Right to Know Day (28 September).

The awareness-raising (promotion) pillar of the Guidelines of Recommendation CM/Rec(2016)4

- ▶ States should co-operate with information-gathering, awareness-raising and other initiatives co-ordinated by international and regional intergovernmental organisations concerning the safety of journalists and other media actors
- ▶ Journalism training school curricula pay prominent attention to the issue of safety of journalists and other media actors, including the Recommendation.
- ▶ Media and information literacy initiatives pay prominent attention to the issue of safety of journalists and other media actors, including the Recommendation.

The awareness-raising (promotion) pillar of the Guidelines of Recommendation CM/Rec(2016)4

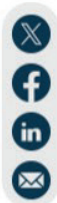
Partnerships with civil society

- ▶ States should develop partnerships with civil society and the media for the promotion of best practices for the protection of journalists and other media actors and for combating impunity.
- ▶ States should adopt a constructive and responsive attitude to civil society and media reporting on threats and violence against journalists and other media actors.
- ▶ States should actively co-operate with media and civil society organisations in publicising and educating about safety issues and standards.

IMPLEMENTATION GUIDES

<https://www.coe.int/en/web/freedom-expression/implementation-guide>

Implementation Guide for CM/Rec(2016)4



How to protect journalists and other media actors?

IMPLEMENTATION GUIDE

📄 Implementation Guide to Recommendation CM/Rec(2016)4 on the Protection of journalism and safety of journalists and other media actors

📄 Extended Implementation Guide to selected topics under Prevention and Promotion Pillars of the Guidelines of Recommendation CM/Rec (2016)4 on the Protection of journalism and safety of journalists and other media actors

For each priority topic area identified in the Recommendation, the Implementation Guide:

💡 **Establishes indicators** in order to generate baseline information against which progress in the Implementation of the Recommendation can be assessed;

🔍 **Provides background information** including references to the case-law of the European Court of Human Rights and to other sources;

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The two guides provide detailed implementation guidance including examples of national practice. See, for example:

C. VALUABLE PRACTICES AND INITIATIVES WHICH PROVIDE GUIDANCE IN THIS AREA

Criminal law protections

Several European countries have specific provisions in their penal codes criminalising violence against journalists, or violence that aims to silence freedom of expression. Of these, the Ukrainian criminal code is the most specific and elaborate. It includes the following provisions:

- ▶ Article 171 criminalises the interference with professional activities of journalists, defined as including illegal seizure of journalistic materials, illegal denial of access to information, illegal prohibition to cover certain topics or individuals, and any other intended prevention of a journalist's lawful professional activity. The offence extends to exerting any influence on a journalist in order to prevent them from performing their journalistic work.
- ▶ Articles 345-1, 347-1, 348-1 and 349-1 criminalise threats or violence, destruction of property, murder or attempted murder, and hostage taking of a journalist or their family in connection with the journalist's professional activity.