

Key actions for improved safety of journalists

POCKET GUIDE



JOURNALISTS MATTER

Council of Europe Campaign for the Safety of Journalists

COUNCIL OF EUROPE



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Based on the Council of Europe 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

Council of Europe

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Introduction

The Pocket Guide is a synthetic tool aimed at providing support to State authorities in their effort to set up, implement and boost national frameworks for the effective protection of the safety of journalists and other media actors. Designed in the framework of the Council of Europe Campaign *Journalists Matter*, it is intended to serve as a checklist for the elaboration of national action plans or strategies in the field, offering member States an overview of the most relevant areas of action and concrete measures from which they may select the those needed to address their specific country situations.

It builds on the well-established principles of the Council of Europe 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, which has inspired national and other European and international standard-setting instruments. It therefore follows the structure of said Recommendation, inviting to take action around the four pillars of prevention, protection, prosecution, and promotion of information, education and awareness rising. For each pillar the Pocket Guide lists the main thematic areas and correspondent action points.

The Pocket Guide builds on the suggestions presented in the Implementation Guide *How to protect journalists and other media actors?* of 2020, and its Extended Version of 2023. The Implementation Guide is a more elaborate and detailed technical tool developed to explain and provide context to the priority areas of the Recommendation by establishing indicators, providing background information, highlighting valuable practices, making suggestions and offering a self-assessment tool for member states.

The Implementation Guide – together with the relevant standard-setting instruments of the Council of Europe, the evolving case-law of the European Court of Human Rights, the Report and documents adopted at the 2021 Conference of Ministers responsible for Media and Information Society *Artificial intelligence – Intelligent politics* – should be consulted to better understand and implement the main areas in which action is required.

By contrast, the Pocket Guide is designed as a comprehensive yet concise collection of the main action points based on relevant CoE standards, enabling State authorities and other relevant stakeholders to scan through the proposed measures swiftly and efficiently.

In addition to the substantive provisions set out below, the Pocket Guide identifies the following procedural principles as crucial for the purpose of setting up an effective national action plan or strategies or, according to the national context, specific mechanisms or measures to ensure journalists and other media actors' safety:

1. national action needs to be based on an informed and well-researched analysis of the situation in the country as regards safety of journalists and other media actors, including a clear gender analysis;
2. there should be strong political commitment and operational leadership, as well as inter-agency coordination;
3. there must be strong civil partnership with journalists and relevant civil society actors;
4. there should be a comprehensive and effective programme of activity that builds practice and evidence over time;
5. there must be sufficient budget allocated to ensure effective implementation of agreed plans/strategies and measures;
6. there should be coordination with action plans or strategies and activities in other areas, such as plans for the protection of human rights defenders or gender equality.

Prevention

MAIN AREAS	ACTION POINTS
<p>Legal framework ensuring freedom of expression, media freedom and pluralism</p>	<p><i>Constitutional and legal guarantees for media freedom and editorial independence</i></p> <ul style="list-style-type: none"> ➤ Ensure constitutional protection of the right to freedom of expression, media freedom and its components. ➤ Enact and implement national laws and regulatory frameworks to unequivocally guarantee media freedom and all its component parts and indicate parameters for its effective enforcement.
<p>Independent, substantive review of legislative framework</p>	<ul style="list-style-type: none"> ➤ Provide for/ensure an independent, substantive review to ascertain whether the relevant legislative framework: <ul style="list-style-type: none"> ▪ complies with European and international human rights standards; ▪ is backed up by effective enforcement machinery. ➤ Include an assessment of whether safeguards are robustly and effectively implemented in practice. ➤ Ensure that the review process: <ul style="list-style-type: none"> ▪ allows for detailed public scrutiny; ▪ include public hearings; and, ▪ facilitate the full and active participation of journalists and civil society representatives. ➤ Provide a timely response through the adoption of the necessary legislative changes.

MAIN AREAS	ACTION POINTS
<i>Legal safeguards necessary for journalists/media professionals to be able to perform their work</i>	
<p>Legislative framework with guarantees for:</p> <ul style="list-style-type: none"> ➤ public access to information, ➤ privacy and data protection, ➤ confidentiality and security of communications ➤ protection of journalistic sources and whistle-blowers 	<p><i>Public access to information</i></p> <ul style="list-style-type: none"> ➤ Guarantee by law journalists’ access, on request, to official documents held by public authorities. ➤ Ensure that any limitations do not exceed what is determined by law and necessary in a democratic society to protect a legitimate aim, in accordance with the case-law of the European Court of Human Rights [hereinafter “ECtHR”]. ➤ Ensure processing access to information requests, and granting of access, in a timely manner. ➤ Provide an effective appeals mechanism for denial of access. ➤ Set up effective mechanisms of oversight and enforcement. <p><i>Privacy and confidentiality and secrecy of communications</i></p> <ul style="list-style-type: none"> ➤ Ensure that surveillance of a journalist’s communications that risks compromising confidential sources of information may only be authorised by a judge or other independent body. ➤ Protect by law the privacy and data protection rights of journalists. ➤ Provide effective exemption for journalistic activities in the data protection laws. ➤ Ensure that national legal restrictions of freedom of expression for the protection of privacy incorporate the ECtHR’s standards.

MAIN AREAS	ACTION POINTS
<p>Legislative framework with guarantees for:</p> <ul style="list-style-type: none"> ➤ public access to information, ➤ privacy and data protection, ➤ confidentiality and security of communications ➤ protection of journalistic sources and whistle-blowers 	<p><i>Protection of journalistic sources</i></p> <ul style="list-style-type: none"> ➤ Guarantee the right of journalists not to disclose information identifying a source. ➤ Ensure that disclosure may be ordered only by a judge or another independent body, if the legitimate interest in disclosure clearly outweighs the public interest of source protection and reasonable alternative measures do not exist or have been exhausted. <p><i>Whistle-blowers</i></p> <ul style="list-style-type: none"> ➤ Ensure legal protection against reprisals for disclosures made in the public interest. ➤ Ensure that whistleblowing to the media is allowed in the public interest and when internal reporting is unreliable or ineffective and there is a low prospect of the breach or alleged wrongdoing being effectively addressed. ➤ Ensure availability of legal aid and other practical support measures to whistle-blowers.
<p>Legislative framework with guarantees for effective protection of journalists and other media actors, offline and online</p>	<p><i>Criminal law protection</i></p> <ul style="list-style-type: none"> ➤ Put in place criminal law provisions cultivating a culture of accountability and aiming to deter the commission of crimes against journalists and media actors, backed up by an effective law enforcement machinery. ➤ Provide enhanced penalties for such offences when motivated by hate, intolerance or discrimination of any kind, including based on gender.

MAIN AREAS	ACTION POINTS
<p>Legislative framework with guarantees for effective protection of journalists and other media actors, offline and online</p>	<p><i>Employment law protection</i></p> <ul style="list-style-type: none"> ➤ Ensure that labour laws guarantee adequate working conditions for journalists (especially by preventing and mitigating precarious employment and ensuring protection against individual and collective dismissals). ➤ Provide for suitable insurance by employers for their employees in the journalistic profession. ➤ Ensure that freelance journalists enjoy a core of common rights enjoyed by salaried employees, including minimum pay and appropriate social protection.
<p>Defamation laws with safeguards for protecting freedom of expression that conform to European and international human rights standards</p>	<ul style="list-style-type: none"> ➤ Ensure that national defamation laws provide a proportionate response to defamation by including the following safeguards for freedom of expression: <ul style="list-style-type: none"> ▪ defences of truth, public interest, and fair comment; ▪ a distinction between the assessment of allegations of fact and value judgments; ▪ no enhanced protection for politicians /public figures, state bodies, public officials, the monarchy or its members; ▪ procedural fairness and equality of arms; ▪ proportionate sanctions - both in criminal and civil proceedings (prioritise non-pecuniary remedies such as the right of reply or correction);

MAIN AREAS	ACTION POINTS
<p>Defamation laws with safeguards for protecting freedom of expression that conform to European and international human rights standards</p>	<ul style="list-style-type: none"> ▪ proportionate awards for damages and costs. ➤ Decriminalise defamation and insult laws, or at a minimum remove the sentence of imprisonment except in the cases of hate speech/incitement to violence established by the ECtHR.
<p>Legislation on surveillance and interception of communications with precise and effective safeguards against misuse and abuse</p>	<ul style="list-style-type: none"> ➤ Ensure the establishment of a clear legislative framework that regulates surveillance and interception of communications data. ➤ Ensure review of potential abuse/misuse of relevant legal provisions by a judicial authority. ➤ Ensure that oversight mechanisms are independent, have effective powers, are sufficiently resourced and represent a range of relevant stakeholders.
<p><i>Wider regulatory framework favourable to media freedom, independence and pluralism and related measures</i></p>	
	<p><i>Media pluralism, transparency of ownership, and avoiding concentration of ownership</i></p> <ul style="list-style-type: none"> ➤ Introduce comprehensive legislation on media ownership and its necessary transparency, including regarding the beneficial owners of media companies, and make the relevant information (register) accessible to the public. ➤ Ensure a regular independent evaluation of the state of media pluralism and independence of the media. ➤ Promote the availability, findability, and accessibility of a diversity of media content.

MAIN AREAS	ACTION POINTS
	<ul style="list-style-type: none"> ➤ Develop effective mechanisms to support professional news media and quality independent and investigative journalism. <p><i>Public support measures for media, especially independent media including regional, local, minority, and not-for-profit community media</i></p> <ul style="list-style-type: none"> ➤ Implement support measures and ensure they are based on clear, precise, equitable, and transparent criteria. ➤ Ensure support measures respect the editorial and operational autonomy of the media; are administered in a non-discriminatory and transparent manner by an independent body. ➤ Produce annual reports on the use of public funds to support media. ➤ Carry out needs assessment of the financial sustainability of quality journalism. ➤ Provide targeted support for specific types of journalism. ➤ Ensure sufficient resources to community and independent media. ➤ Support the innovation and the development of digital strategies and new services. <p><i>Public service media</i></p> <ul style="list-style-type: none"> ➤ Protect the editorial independence and operational autonomy of public service media. ➤ Ensure stable, long-term, sustainable and transparent funding of public service media

Protection

MAIN AREAS	ACTION POINTS
<p>Implementation of concrete protection measures enabling journalists and other media actors to contribute to public debate effectively and without fear</p>	<ul style="list-style-type: none"> ➤ Implement effective law enforcement responses and redress mechanisms for targets and victims of threats of violence, including through injunctions and other forms of interim protection. ➤ Take appropriate preventive operational measures to avert a real and immediate risk to the life or physical integrity of journalists and other media actors, such as providing police protection or evacuation to a safe place. ➤ Ensure adequate procedural guarantees for all cases of deprivation of liberty of journalists or other media actors by the police or other law-enforcement officials, in order to prevent unlawful detention or ill-treatment (the right to inform a third party of deprivation of liberty, access to a lawyer and a medical doctor, challenging the lawfulness of the detention before courts, trial within a reasonable time, etc.). ➤ Ensure that the protection framework is effectively implemented, including through: <ul style="list-style-type: none"> ▪ regular exchanges and agreements between law enforcement agencies and media representatives, as well as between media representatives and prosecutor’s offices on safety of journalists issues and dedicated (joint) trainings; ▪ the analysis of the risks posed by online abuse and harassment and the provision of corresponding preventive and protective measures;

MAIN AREAS	ACTION POINTS
<p>Implementation of concrete protection measures enabling journalists and other media actors to contribute to public debate effectively and without fear</p>	<ul style="list-style-type: none"> ▪ the analysis of the specific threats and risks faced by women journalists and other media workers; ▪ designation of the protection of journalists as a priority area and the allocation of sufficient resources; ▪ creation of hotlines for real-time responses and protection; ▪ inclusion of the issue of journalism and journalists' protection and safety in the educational curricula for journalists and other concerned stakeholders. <p>➤ Adopt national action plans or strategies for the safety of journalists or, according to the national context and needs, specific protection mechanisms/measures.</p> <p>➤ Ensure that dedicated national action plans or strategies or more specific protection mechanisms, as appropriate, are based on:</p> <ul style="list-style-type: none"> ▪ high level political leadership; ▪ a risk analysis and needs assessment, including a clear gender analysis; ▪ strong operational leadership and inter-agency coordination; ▪ partnership with journalists and civil society in design, implementation and evaluation; ▪ a comprehensive and effective programme of activity; ▪ the clear identification of tasks and responsibilities; ▪ sufficient budget and human resources allocated; ▪ regular review.

MAIN AREAS	ACTION POINTS
<p>Countering discriminatory or arbitrary application of legislation or sanctions likely to silence journalists and other media actors</p>	<p><i>General measures</i></p> <ul style="list-style-type: none"> ➤ Review and eliminate overbroad definitions, likely to adversely impact journalists' work, in defamation, anti-terrorism, national security, public order, hate speech, blasphemy and memory laws. ➤ Show restraint, in line with the ECHR case-law, in resorting to criminal proceedings/criminal sanctions for press offences (under public order, anti-terrorism, national security and other laws). ➤ Provide for the proportionality of sanctions and awards in defamation cases. ➤ Put in place adequate procedural safeguards and effective remedies against abuse of laws. <p><i>Protection of journalistic sources</i></p> <ul style="list-style-type: none"> ➤ Guarantee that the right not to disclose a journalistic source and the related procedural safeguards are effectively implemented in practice. <p><i>Measures to counter discriminatory or arbitrary application of defamation legislation</i></p> <ul style="list-style-type: none"> ➤ Review domestic defamation legislation to ensure that: <ul style="list-style-type: none"> ▪ awards of damages are not disproportionately large and there are adequate and effective domestic safeguards against too large awards; ▪ they do not, except for exceptional circumstances and in line with relevant ECtHR case law, provide for prison sentences; ▪ there is no increased protection for public figures;

MAIN AREAS	ACTION POINTS
<p>Countering discriminatory or arbitrary application of legislation or sanctions likely to silence journalists and other media actors</p>	<ul style="list-style-type: none"> ▪ freedom of expression safeguards are in place that conform to European and international human rights standards; ▪ a range of civil remedies is available as an alternative to damages in appropriate cases; ▪ extra-judicial bodies, such as press councils, are promoted with a view to providing a proportionate response to defamation. <p><i>Countering abuse of law and/or legal process in defamation cases</i></p> <p>➤ Adopt legislative and/or other measures to prevent, with due respect to the independence of justice, the abuse of the judicial process and to prevent “libel tourism”.</p> <p><i>Develop effective anti-SLAPP legislation to put in place:</i></p> <ul style="list-style-type: none"> ▪ adequate set of structural and procedural safeguards, ▪ remedies and support measures for targets and victims, ▪ education, training and awareness-raising programmes, ▪ and capacity building. <p><i>Develop anti-SLAPP legislation to allow defendants in defamation cases to bring a motion to strike a case brought against him/her because it involves speech on a matter of public concern.</i></p> <p><i>Introduce legal aid schemes accessible also to journalists, especially to freelance journalists.</i></p>

MAIN AREAS	ACTION POINTS
<p>Role of journalists and other media actors covering demonstrations and other events</p>	<p><i>Prevention of / hindrance to media coverage of demonstrations and other events</i></p> <ul style="list-style-type: none"> ➤ Encourage regular meetings and working groups gathering journalists, media actors, representatives of police forces and prosecutors to assess needs in the field. ➤ Encourage the development of dedicated guidelines and establish agreements between police and media reporters. ➤ Ensure that journalists are briefed ahead of events and that there is a safe communication perimeter for media reporting. ➤ Ensure that there are channels of communication between law enforcement authorities and media representatives. <p><i>Protection of journalists from police violence</i></p> <ul style="list-style-type: none"> ➤ Issue guidelines and provide training to the police and, where necessary, the military, and prohibit harassment, intimidation or physical attacks on journalists by members of law enforcement forces. ➤ Involve NHRIs in devising, assessing and implementing specific action plans aimed at stemming abuse of force against journalists and other media actors. ➤ Encourage media organisations to provide trainings and support in case of attacks.
<p>Role of public authorities</p>	<ul style="list-style-type: none"> ➤ Condemn physical and other attacks/threats/pressure on journalists and other media actors by state officials and public figures.

MAIN AREAS	ACTION POINTS
Role of public authorities	<ul style="list-style-type: none"> ➤ Encourage the adoption of parliaments' codes of conduct for MPs requiring them to <ul style="list-style-type: none"> ▪ refrain from putting pressure, threatening or attacking the journalists and other media actors, as well as from coercing/inducing/pressurising journalists into abandoning professional standards and disseminating propaganda; ▪ condemn all instances of threats and violence against journalists and other media actors. ➤ Take clear public positions at the highest levels of government regarding the important role of journalists in society. ➤ Engage in international cooperation with a view to exchange good practices for the protection of media freedom, prevention and remedying of abuses against the media.
Training on the protection of journalists	<p><i>Training programmes for state authorities and agents</i></p> <ul style="list-style-type: none"> ➤ Raise awareness about the role of journalists as “public watchdogs” in a democratic society, including when covering public demonstrations, reporting from conflict zones and in times of crisis. ➤ Ensure that particular attention is given to the specific risks facing journalists and other media actors in the course of their work, including discrimination on different grounds, as well as more widely to their exposure to threats, attacks, abuse and harassment by state and/or non-state actors.

MAIN AREAS	ACTION POINTS
<p>Training on the protection of journalists</p>	<ul style="list-style-type: none"> ➤ Build capacity to counter discriminatory or arbitrary application of defamation legislation, to prevent abuse of the judicial process and relevant measures, including best practices and to prevent forum shopping in defamation cases. ➤ Improve tools to identify and investigate threats and other criminal offenses taking place online. <p><i>Involvement of National Human Rights Institutions and journalists' associations</i></p> <ul style="list-style-type: none"> ➤ Cooperate with NHRIs in training judges and prosecutors.

Prosecution

MAIN AREAS	ACTION POINTS
<p>Effective investigation and prosecution of persons involved in killings of, attacks on and ill-treatment of journalists and other media actors to ensure punishment of those responsible for such crimes and avoid a culture of impunity</p>	<ul style="list-style-type: none"> ➤ Create, in line with applicable Council of Europe standards, conditions for independent and effective investigation (capable of leading to the establishment of the facts, the identification and, if appropriate, punishment of those responsible) respectful of the essential requirements of adequacy, independence, thoroughness, promptness, openness to public scrutiny/accessibility to the victims or their families. ➤ Undertake systematic internal inquiries into the quality of performance in the investigation of crimes against journalists, with the involvement of media representatives/other stakeholders. ➤ Consider the setting up of a specialised prosecutor office competent for prosecuting attacks against (the physical integrity of) journalists and other media actors or ensure that prosecution of such crimes is led by the chief prosecutor. ➤ Create an independent investigative body for criminal or disciplinary complaints against police officers where Articles 2 or 3 of the European Convention on Human Rights are engaged. <p><i>Other practical/operational requirements to stem impunity</i></p> <ul style="list-style-type: none"> ➤ Set up specialised, designated units of relevant State authorities in which officials have been given adequate training in international human rights norms and safeguards.

MAIN AREAS	ACTION POINTS
<p>Effective investigation and prosecution of persons involved in killings of, attacks on and ill-treatment of journalists and other media actors to ensure punishment of those responsible for such crimes and avoid a culture of impunity</p>	<ul style="list-style-type: none"> ➤ Develop specific protocols/methodological guidance to ensure that investigations and prosecutions into suspected attacks against journalists are conducted effectively, promptly, thoroughly, independently and impartially. ➤ Establish a specialised safety mechanism responsible for addressing impunity issues, as a stand-alone entity or as a specialised section or programme within an existing body. ➤ Consider conducting legal reforms to ensure the introduction of aggravated penalties in relation to public officials who, by neglect, complicity or design, act in a way that prevents or obstructs the investigation, prosecution or punishment of those responsible for these crimes. ➤ Record reliable disaggregated statistics on the number of complaints reported, investigations opened, prosecutions and convictions related to threats, attacks against and killings of journalists and other media actors. ➤ Entrust NHRIs with non-judicial investigations into cases of human rights violations to facilitate fact-finding, without prejudice to the state’s prosecuting and investigating authorities.
<p>Remedies available to journalists and their next of kin</p>	<ul style="list-style-type: none"> ➤ Comply with relevant standards to protect victims from further victimisation and distress, to receive appropriate support throughout proceedings and have access to justice, and to have appropriate access to compensation. ➤ Ensure gender-sensitive support for women journalists targets of criminal offences. ➤ Ensure access to adequate, State-provided aid as of the earliest stages of a criminal investigation. ➤ Strengthen witness protection in cases relating to attacks on journalists.

Promotion of information, education and awareness raising

MAIN AREAS	ACTION POINTS
<p>Raising awareness of safety of journalists' issues; translation and dissemination of Recommendation CM/Rec(2016)4 and related Implementation Guide</p>	<ul style="list-style-type: none"> ➤ Use the opportunities provided by internationally days dedicated to freedom of expression and freedom of the media to raise awareness on the issue of safety of journalists. ➤ Co-operate with information-gathering, awareness-raising and other initiatives co-ordinated by international and regional intergovernmental organisations. ➤ Ensure that journalism training school curricula, as well as media and information literacy initiatives, pay prominent attention to the issue of safety of journalists and other media actors, offline and online. ➤ Proactively highlight gender-specific issues and issues concerning impermissible grounds for discrimination. ➤ Ensure translation and the widest possible dissemination of the Recommendation CM/Rec(2016)4 and other relevant instruments.
<p>Partnerships with civil society and journalists</p>	<ul style="list-style-type: none"> ➤ Ensure ongoing dialogue with a broad range of civil society groups and representatives from the media for the promotion of best practices. ➤ Develop partnerships with civil society and the media and encourage such partnerships to find and implement solutions to threats to the safety of journalists and other media actors and for combating impunity. ➤ Adopt a constructive and responsive attitude to civil society and media reporting on threats and violence against journalists and other media actors. ➤ Actively co-operate with media and civil society organisations in publicising and educating about safety issues and standards.



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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.

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