



JOURNALISTS MATTER
Council of Europe Campaign for the Safety of Journalists



Towards a checklist for dedicated national action plans on the safety and protection of journalists and other media actors

Paper prepared in the context of

‘Journalists Matter’

The Council of Europe Campaign for the Safety of Journalists

By

Prof. Tarlach McGonagle

Leiden Law School

Leiden University

Table of contents

Executive summary	3
Introduction: the need and push for dedicated national action plans	6
Revised procedural principles for setting up national action plans or strategies.....	10
I. Prevention	11
II. Protection.....	14
III. Prosecution.....	19
IV. Promotion of information, education and awareness raising	22
Conclusions	24
Checklist for National Action Plans (NAPs).....	25

Executive summary

The Council of Europe's flagship standard-setting instrument on the safety of journalists is the Committee of Ministers' Recommendation CM/Rec(2016)4 to member States on the protection of journalism and the safety of journalists and other media actors. The central aim of the Recommendation is to help States to fulfil their positive obligation under the European Convention on Human Rights to ensure a safe and favourable environment for everyone to be able to participate in public debate, online and offline, and without fear.

The Recommendation is not self-executing-it requires operationalisation at the national level. Given the breadth and detailed nature of the Recommendation, an array of measures are needed to implement it effectively. Various Council of Europe texts and initiatives have been developed to steer the Recommendation towards effective implementation by member States, such as an implementation strategy and guides; a specific resolution, 'Safety of Journalists', adopted at the 2021 Council of Europe Conference of Ministers responsible for Media and Information Society; and 'Journalists Matter', the Council of Europe's ongoing Campaign for the Safety of Journalists.

Across these texts and initiatives, dedicated national action plans (NAPs) for the safety of journalists and other media actors are increasingly being seen as strategic documents for galvanising efforts to implement the Recommendation in the Council of Europe's 46 member States. At the 2021 Conference of Ministers responsible for Media and Information Society, the participating Ministers committed to develop dedicated NAPs in an inclusive manner and with strong political leadership. The participating Ministers invited the Council of Europe to: "elaborate guidance for the drafting of national action plans on the safety of journalists and other media actors, in line with Recommendation CM/Rec(2016)4 on the protection of journalism and safety of journalists and other media actors as well as its implementation strategy and guide".

A first step towards the elaboration of such advice came in the form of the Pocket Guide, *Key actions for improved safety of journalists*, prepared in the context of the 'Journalists Matter' campaign. The present paper takes that work forward, providing detailed analytical groundwork for, and ultimately culminating in, a checklist for NAPs.

To appreciate the growing emphasis on NAPs, it is important to note at the outset that when NAPs are well-designed and properly implemented, they offer numerous benefits and advantages for the implementation of Recommendation CM/Rec(2016)4 and for generally raising the standards of legal and practical protection for journalists and other media actors. They can be rallying points that serve or help to, among other things:

- Ensure comprehensive/systematic engagement with the broad set of problems and challenges for the safety and protection of journalists and other media actors;
- Facilitate structured and sustainable planning for such engagement;
- Identify strategic priorities, outcomes and other deliverables;
- Coordinate efforts among different stakeholders to realise those priorities and achieve those outcomes and deliverables;
- Build, consolidate and strengthen communities of interest and networks of stakeholders.

On the back of this understanding, the present paper first revises and expands the set of ‘procedural principles’ for drafting NAPs or equivalent strategies, as originally laid out in the Pocket Guide. It provides additional refinement and specification for the six principles that could usefully guide the dynamic and inclusive process of elaborating NAPs.

The paper then takes a pillar-by-pillar approach, reflecting the four organisational pillars of CM/Rec(2016)4: prevention, protection, prosecution (with key focuses on general requirements and impunity), and promotion of information, education, and awareness-raising. The paper examines the substantive guidelines for each pillar and distils key points corresponding to the guidelines for inclusion in a checklist for NAPs.

The prevention pillar is primarily concerned with ensuring a safe and favourable environment in which journalists and other media actors can perform their public watchdog role and participate freely in public debate. This requires well-calibrated legislative and policy frameworks that are fully aligned with the European Convention on Human Rights (ECHR) and the case-law of the European Court of Human Rights, especially regarding Article 10 ECHR. The lynchpin of CM/Rec(2016)4 is an independent mechanism to review the conformity of those national frameworks - and their implementation - with Article 10 ECHR. This part of the checklist accordingly pays considerable attention to the independent body that would be responsible for the review process. It includes focuses on the requisite body’s autonomous working methods and the need to ensure political and financial conditions to guarantee its operational independence and effectiveness.

A central focus of the protection pillar is the elaboration of a national action plan with a steering committee to oversee its implementation. Such an approach facilitates a structured division of tasks and responsibilities and the development of timeframes. This part of the checklist sets out a range of concrete strategies and measures for roll-out in general situations, but also in particular situations where journalists and other media actors are under specific types of pressure as they seek to access and disseminate information in the public interest. Examples of such situations include: times of crisis, during election periods, at public demonstrations and in conflict or war zones. Much of the emphasis and effort is about engaging different actors and stakeholders.

The prosecution pillar of CM/Rec(2016)4 comprises two substantive focuses: general requirements and impunity. These focuses are mirrored in the points for inclusion in the checklist. The general requirements include the development of a protocol for investigations into crimes against journalists and other media actors and specific agreements/procedures for dealing with such crimes. Victim support schemes are also emphasised. The more specific focus on combating or eradicating impunity includes attention for relevant strategies and mechanisms and the development of a range of cooperation structures.

The part of the checklist that corresponds to the promotion of information, education and awareness-raising pillar sets out various points for concrete and practical action lines at the national level which closely follow, and elaborate on, the specific guidelines in CM/Rec(2016)4.

The detailed checklist, developed per pillar and set out more succinctly in the appendix, is a detailed roadmap. As with most roadmaps, many roads can lead to the intended destination, crossing different types of landscapes along the way. The checklist aims to offer helpful guidance for the elaboration of NAPs, not prescriptive instructions. It has been written in a way that anticipates and encourages further development and refinement, drawing on insights from the increasing number of NAPs being developed in different Council of Europe member States.

Introduction: the need and push for dedicated national action plans

The Council of Europe's flagship standard-setting instrument on the safety of journalists is the Committee of Ministers' Recommendation CM/Rec(2016)4 to member States on the protection of journalism and the safety of journalists and other media actors.¹ The Recommendation uses forceful language and exhorts Member States to raise their game in respect of safety and protection issues.

The central aim of the Recommendation is to help States to fulfil their positive obligation under the European Convention on Human Rights to ensure a safe and favourable environment for everyone to be able to participate in public debate, online and offline, and without fear. Drawing on the principles established by the European Court of Human Rights in its case-law, the Recommendation offers detailed guidance to States on how to further improve their laws, policies and practice dealing with safety of journalists and other media actors. It promotes the idea that protection has to be a 360-degree concept. Protection is needed against the threats that come from all angles and it should comprise physical, psychological/emotional, practical, financial and legal protection.

The road to effective implementation of the Recommendation at the national level has been paved by various Council of Europe initiatives and documents, including: an initial Implementation Strategy; Implementation Guide; Extended Implementation Guide. Whereas the initial Implementation Strategy was a first attempt to map out a range of good practices and possible concrete measures, the dynamic of the implementation efforts has since largely shifted to the detailed Implementation Guides. The first Implementation Guide focuses on protection and prosecution, while the subsequent Extended Implementation Guide focuses on prevention and promotion (of information, education and awareness-raising).

There have been various calls on States to implement effectively or fully the Guidelines that are appended to Recommendation CM/Rec(2016)4: by the Parliamentary Assembly of the Council of Europe (PACE);² and on the side of the European Union, by both the European Parliament³ and the European Commission.⁴

A further important impetus for implementation of the Recommendation came in the form of a specific resolution, 'Safety of Journalists', adopted at the Conference of Ministers responsible for Media and Information Society, jointly organised by the Council of Europe and the Republic of Cyprus and held online on 10-11 June 2021.

Now in full flow, 'Journalists Matter', the Council of Europe Campaign for the Safety of Journalists, was devised by way of follow-up to the Conference of Ministers. The campaign is

¹ 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, 13 April 2016.

² PACE Resolution 2179 (2017) Political influence over independent media and journalists, 29 June 2017, para. 7.1; PACE Resolution 2213 (2018) The status of journalists in Europe, 25 April 2018, para. 6.2.

³ European Parliament Resolution of 3 May 2018 on media pluralism and media freedom in the European Union (2017/2209(INI)), para. 7.

⁴ European Commission, Recommendation on ensuring the protection, safety and empowerment of journalists and other media professionals in the European Union, 16 September 2021.

centrally concerned with ensuring the effective implementation of Recommendation CM/Rec(2016)4 and enhancing the protection of journalists and other media actors.

These texts, developments and initiatives show a growing emphasis on dedicated national action plans as crucial instruments for the effective implementation of the Recommendation in the 46 Council of Europe Member States.

Dedicated national action plans, if well-designed and properly implemented, offer numerous benefits and advantages for the implementation of Recommendation CM/Rec(2016)4 and for generally raising the standards of legal and practical protection for journalists and other media actors. Dedicated national action plans can be rallying points that serve or help to, among other things:

- Ensure comprehensive/systematic engagement with the broad set of problems and challenges for the safety and protection of journalists and other media actors;
- Facilitate structured and sustainable planning for such engagement;
- Identify strategic priorities, outcomes and other deliverables;
- Coordinate efforts among different stakeholders to realise those priorities and achieve those outcomes and deliverables;
- Build, consolidate and strengthen communities of interest and networks of stakeholders.

The political push for dedicated national action plans really began to build up a head of steam at the 2021 Conference of Ministers. The participating Ministers underscored the need for urgent and effective action and identified dedicated national action plans as a key instrument in achieving this goal:

The time for effective action is now. The urgency of the situation needs to be matched by an urgent engagement at the political level by member States. Dedicated national action plans on the safety of journalists and other media actors must be established and implemented to tackle this emergency in a comprehensive and coordinated manner, based on the above Recommendation. These national action plans should be grounded in an informed and well-researched analysis of the situation in the country, including the professional situation of journalists, the applicable legal framework for the safety of journalists, and the effectiveness of existing safety measures, and should include a gender perspective and other aspects of diversity.⁵ Most importantly, national action plans must be premised by the recognition at the highest political level that threats and violence against journalists and other media actors constitutes an attack on democracy.⁶

The participating Ministers committed to develop – with strong political leadership and in inclusive fashion - dedicated national action plans:

⁵ [Ed.: footnote omitted.]

⁶ Resolution on the Safety of Journalists, Conference of Ministers responsible for Media and Information Society, jointly organised by the Council of Europe and the Republic of Cyprus and held online on 10-11 June 2021, para. 8.

We commit to devise, based on Council of Europe Recommendation CM/Rec(2016)4 and best practices of Council of Europe member States and other jurisdictions, dedicated national action plans on the safety of journalists, setting a comprehensive and effective programme of activity, with urgency-based priorities and adequate resources for their implementation. Strong political and operational leadership, coordination between the authorities involved, and the effective involvement – at all stages – of civil society, academia, journalists and their professional associations are instrumental to the success of such plans and should receive appropriate attention.⁷

Political commitment and multistakeholder involvement are thus seen as crucial for the effectiveness of national approaches spearheaded by dedicated national action plans. The participating Ministers also drew attention to the need for dedicated national action plans to tackle head-on the specific risks, challenges and threats faced by journalists and other media actors on grounds of their gender, race, colour, ethnic or national origin, language, religion or sexual orientation or other personal characteristics:

We resolve, in the context of the national action plans, to promptly and decisively address the specific risks, challenges and threats that women journalists and other media actors face on account of their gender, also in the online sphere. We furthermore resolve to appropriately address the threats, abuse and intimidation faced by journalists and other media actors on grounds of their race, colour, ethnic or national origin, language, religion or sexual orientation or other personal characteristics.⁸

The participating Ministers invited the Council of Europe to: “elaborate guidance for the drafting of national action plans on the safety of journalists and other media actors, in line with Recommendation CM/Rec(2016)4 on the protection of journalism and safety of journalists and other media actors as well as its implementation strategy and guide”.⁹

A first step towards the elaboration of such advice came in the form of the Pocket Guide, *Key actions for improved safety of journalists*, prepared in the context of ‘Journalists Matter’, the Council of Europe Campaign for the Safety of Journalists.

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;

⁷ *Ibid.*, para. d.

⁸ *Ibid.*, para. e.

⁹ *Ibid.*, para. I.

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.”¹⁰

The present document seeks to contribute further to the development of the guidance envisaged under the Resolution by supplementing the guidance already provided in the Pocket Guide. It has been prepared in the context of the Journalists Matter campaign.

Note on approach

The four pillars provide an organisational structure for the Recommendation. While the Recommendation takes a holistic approach to protection and safety issues, the pillars seek to create different practical, complementary focuses within the broader issues. The pillars are closely aligned and mutually re-enforcing. Some measures may be developed under one pillar, but have their origins and/or follow-through effects in other pillars. This document will follow the pillar-by-pillar approach for reasons of convenience and consistency, but it should be noted that dedicated national action plans ought to take a holistic approach and thus cover all pillars, while bearing in mind the close relationship between them.

¹⁰ Pocket Guide, *Key actions for improved safety of journalists*, prepared in the context of ‘Journalists Matter’, the Council of Europe Campaign for the Safety of Journalists, n.d., p. 3; see also p. 11.

Revised procedural principles for setting up national action plans or strategies

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.
 - Concrete focuses of this (qualitative and quantitative) analysis should include:
 - National law and policy framework, its implementation and broader practice;
 - Disaggregated data on (registered) threats and violence against journalists and other media actors;
 - Systematic attention for gender-based threats and violence;
 - Systematic attention for threats and violence based on other grounds or characteristics;
 - Due attention for regional and local contexts, as well as transnational dimensions;
 - Due attention for the digital dimension to safety and protection issues.
2. There should be strong political commitment and operational leadership, as well as inter-agency coordination.
 - Political commitment should have the widest possible backing, e.g. through a code of conduct for politicians or a specific cross-party political pledge; operational leadership should be used to continuously deliver on the national action strategies.
3. There must be strong civil partnership with journalists and relevant civil society actors.
 - Partnerships should also be forged with tech companies with a view to improving online safety and digital security.
4. There should be a comprehensive and effective programme of activity that builds practice and evidence over time.
 - Implementation of the programme should be subject to ongoing (or at least periodic/interim) review; it could be useful to build learning loops into the process.
5. There must be sufficient budget allocated to ensure effective implementation of agreed plans/strategies and measures.
 - The budget should be adequate and multi-annual to ensure sustainability and viability.
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.
 - Also specifically relevant in this regard are national media policy, media literacy policy, digital strategies, AI strategies, etc.

I. Prevention

Recommendation CM/Rec(2016)4 takes the European Court of Human Rights' seminal finding in *Dink v. Turkey* – that States have a positive obligation to ensure a safe and favourable environment for participation in public debate by everyone without fear – as its starting point.¹¹ The recommendation seeks to operationalise this principle by providing guidance to States on how they could best go about fulfilling their relevant positive obligations. Pillar I (Guidelines 1-7), in particular, aims to create conditions that are favourable for public debate, which would help to prevent threats and attacks against journalism and journalists and other media actors. Its focus is on the broader multimedia ecosystem that shapes public debate, online and offline.

Guideline 1 urges States to ensure that their national constitutional and legislative frameworks effectively guarantee media freedom and pluralism, which are essential features of a favourable environment for public debate. It specifies that the independence and sustainability of public service media and community media are very important in this regard. This guideline could be seen as a small seed that would later grow to become Recommendation CM/Rec(2018)1 on media pluralism and transparency of media ownership, which expanded on these issues at length and in detail.

A comprehensive legislative framework needs to be in place to create the conditions in which journalists and other media actors can fulfil their public watchdog role effectively. Such a national framework should on the one hand ensure that journalists have access to information and that they can freely investigate, report and comment on matters of public interest and be able to rely on confidentiality and security of communications and sources when doing so. The national framework should moreover comprise legislative provisions, including of a criminal law nature, that offer journalists and other media actors effective protection against threats and attacks. The framework should thus protect journalistic activities and everyone who engages in such activities. Gender-related issues should be centrally reflected in national frameworks. Guideline 2 draws attention to the importance of the above focuses. It also underlines the need for adequate employment laws and working conditions for journalists, making it a forerunner of Recommendation CM/Rec(2022)4 on promoting a favourable environment for quality journalism in the digital age and the Committee of Ministers' 2019 Declaration on the financial sustainability of quality journalism in the digital age, which expand on these issues at length and in detail.

The system of review and revision of domestic laws and practice affecting the protection of journalism and the safety of journalists and other media actors, set out in paragraph 7 of the Recommendation, is brought to life in Guidelines 3 and 4. Guideline 3 makes clear that the envisaged reviews ought to be independent and substantive. They aim to ensure that safeguards for the right to freedom of expression are robust and effective in practice. States should organise the first review expeditiously, with subsequent reviews to be conducted on an ongoing basis (at regular periodic intervals). The reviews should cover all (draft) laws and practice. They should assess the extent to which national legislative frameworks and their implementation comply with European human rights standards, including States' relevant negative and positive obligations to

¹¹ *Dink v. Turkey*, nos. 2668/07 and 4 others, 14 September 2010, para. 137.

protect and promote freedom of expression and public debate. The reviews should put forward recommendations based on their key findings. By aiming for such a rigorous review system, the Recommendation seeks to have real impact and not be just another paper tiger.

The Recommendation does not prescribe which institution should carry out the reviews – the role could be played by various existing or newly created bodies, as long as they meet certain conditions. States themselves are best placed to determine which body is best-suited for the task, taking into account the specific features of the national context. Guideline 4 focuses instead on the conditions that the body responsible for the review must meet: independence; backed by an authoritative mandate, sufficient resources and political commitment to create a favourable context for the review. The reviewing body should moreover have an explicit mandate to collect, receive and use information from any source and be given optimal access to documents and officials. States should ensure that the review process is transparent and inclusive, with full and active participation by civil society, including through public hearings.

Guideline 5 seeks to ensure formal and meaningful engagement with, and follow-up to, the review reports. It envisages States authorities responding to the reports' findings and recommendations with corrective or follow-up action, as appropriate. States authorities should also systematically channel the findings and recommendations of the reports (as well as their own responses and follow-up actions) into relevant Council of Europe and other reporting, monitoring or information-sharing mechanisms and procedures. Several examples of such mechanisms are listed.

Guideline 6 focuses in a detailed and extensive way on the chilling effect of defamation laws on freedom of expression. It recalls the need for truth/public interest defences in defamation actions, as well as other safeguards against the misuse or abuse of defamation laws to stifle journalistic and other contributions to public debate. It is particularly critical of the chilling effect caused by criminal defamation laws, pointing to the European Court of Human Rights' repeated finding that criminal sanctions - and especially prison sentences - for press offences, are only permissible in exceptional circumstances. This is very much in line with States' positive obligation to ensure a favourable environment for public debate. Recommendation CM/Rec(2024)2 on countering the use of strategic lawsuits against public participation (SLAPPs) clarifies the wide scope of possible contributions to public debate.

The focus of Guideline 7 is on the legal bases for, and procedural safeguards governing, State surveillance and interception of communications data, which is only allowed in very limited circumstances. Issues such as judicial review, due process, user notification and multi-actor oversight are mentioned.

Key points in Recommendation	Key points for checklist
- States should ensure a favourable environment for freedom of expression, including media pluralism and an independent public service broadcasting system. - A comprehensive legislative framework for protection of journalists and other media actors	- Designation of independent body for the review of national legislative and policy frameworks and their implementation - Formal mandate for independent review body

should include legal protection for journalistic sources and whistleblowers. • There should be independent, substantive reviews of national laws and practice at regular periodic intervals, which include attention for: ○ Gender-related issues, and ○ Anti-terrorism, extremism and national security. • National review mechanisms should be independent, have authoritative mandates and adequate resources. • Defamation laws should include freedom of expression safeguards. • State surveillance should include safeguards against misuse and be subject to effective oversight mechanisms.	• Description of goals, working methods, deliverables and planning of independent review body • Adequate resources for independent review body • Government declaration of support for independent review procedure and commitment to respond to/follow up on main findings and recommendations • Detailed template and focuses for the review (see the list in the <i>Pocket Guide</i>) • Road-map for multi-actor discussion, dissemination and follow-up on main findings and recommendations of review reports
--	--

II. Protection

The second pillar (Guidelines 8 – 16) is very much concerned with the here and now; what can be done to counter threats and attacks once they materialise. It focuses on the legislative frameworks, the enforcement machinery and the wider range of practices that together help to ensure effective protection of journalism and safety for journalists and other media actors.

Guidelines 8 and 9 make clear that threats to the life and physical integrity of journalists and other media actors demand immediate and resolute responses. Measures such as **police protection** or **voluntary evacuation to a safe place** can only be operationalised if proper structures and protocols are devised in advance. Once in place, they can be activated or implemented if and when required.

It is very much in the spirit of CM/Rec(2016)4 to ensure that the details of police protection and voluntary evacuation to safe places or secret/undercover addresses are worked out in consultation with the targets of threats and are tailored to their needs, taking into account specific details relating to gender (identity) and/or ethnic minority or other status.

Guideline 10 calls on States to encourage the establishment of or support the operation of **hotlines** and **24-hour emergency contact points**. A best practice in this regard would be to provide adequate, sustainable funding for such emergency services, while leaving the administration of such services to independent organisations or collaborative initiatives. Such an approach would help to ensure the effectiveness and reliability of emergency services, while insulating the services from governmental or political interference. The adequate funding should be provided on a multi-annual basis in order to ensure the sustainability of the emergency services. The operation of the emergency services should involve close cooperation between different stakeholders.

States have a positive obligation to ensure a safe and favourable environment for everyone to be able to participate in public debate without fear. CM/Rec(2016)4 stresses repeatedly that the *general* positive obligations on States imply *specific* positive obligations for different branches of State authorities. In other words, the different branches of State authorities share the responsibility to fulfil States' positive obligations. This shared responsibility has specific implications for different State and public authorities. Guideline 11 shows how this responsibility pans out for **law enforcement officials**, who have to adhere to certain **procedural guarantees** in all cases of **deprivation of liberty** of journalists or other media actors.

Guideline 12 operationalises the notion of shared responsibility further; it points to the need to develop tailored **protocols** and **training programmes** for all State authorities who are responsible for fulfilling State obligations concerning the protection of journalists and other media actors:

- Judges
- Prosecutors
- Police officers
- Military personnel
- Prison wardens
- Immigration officials
- Other State authorities, as appropriate.

Dedicated contact or liaison persons/points should be established within all relevant State or public authorities as a matter of priority. Protocols for the different authorities should be developed with active involvement of journalists, media actors and their representative organisations on the one hand, and representatives of state or public authorities and professional sectors on the other hand.

Tailored training programmes should be facilitated and promoted for the different authorities and sectors. The training programmes should cover a range of topics: international, European and national legal frameworks; practical and operational measures of protection; gender and diversity issues; digital security; etc.

Under Guideline 14, States should take into account the **specific democratic role and value** of journalists and other media actors in **particular contexts**, such as:

- **in times of crisis,**
- **during election periods,**
- **at public demonstrations and**
- **in conflict zones.**

The Recommendation thus identifies a number of specific contexts in which access to information and the ability to report are particularly challenging, and in which there may be particular challenges for ensuring the protection of journalists and other media actors seeking to access information and report. Before teasing out the particular challenges in each of these contexts, it should be recalled that since the adoption of Recommendation CM/Rec(2016)4, the Committee of Ministers has adopted Recommendation CM/Rec(2022)4 to member States on promoting a favourable environment for quality journalism in the digital age. This Recommendation provides a detailed blue-print for how States can raise awareness and appreciation of the public watchdog role of journalists and other media actors in the digital age. This Recommendation should inform the dedicated national action plans in relevant ways.¹²

Particular context	Council of Europe guidance
Times of crisis	Guidelines of the Committee of Ministers of the Council of Europe on protecting freedom of expression and information in times of crisis (2007), as (informally) revisited in response to the Covid-19 pandemic: COVID-19 and media freedom – guidance based on the Council of Europe standards
Election periods	Recommendation CM/Rec(2022)12 on electoral communication and media coverage of election campaigns
Demonstrations	Growing case-law of the European Court of Human Rights (see e.g. Guide on Article 11 ECHR)
Conflict zones	CM/Rec(2016)4 – Guidelines 14 and 16; Principles 26 and 27; Recommendation No. R (96) 4 of the Committee of Ministers to member States on the protection of journalists in situations of conflict and tension, 3 May 1996, as informally revisited: Freedom of expression in times of conflict

¹² See, in this connection, Guideline 1, above.

It is imperative that government leaders and officials **publicly condemn** all threats and violence against journalists and other media actors; failure to condemn such crimes could perversely contribute to their banalisation or normalisation. Guideline 15 is infused with the conviction that threats to, and violence against, journalists and other media actors are unacceptable in democratic societies where free and robust public debate nourish political and public affairs. States authorities, governmental leaders and figures are uniquely placed to contribute to a zero tolerance attitude towards threats and violence. They can leverage the weight of the authority of their offices and roles to publicly, unequivocally and forcefully condemn threats and violence against journalists and other media actors. In the spirit of this provision, it would be fitting for leaders and officials not only to condemn threats and violence, but to go the extra mile and publicly affirm solidarity with, and support for, the public watchdog role of journalists and other media actors. Such resolute and principled stances against threats and violence targeting journalists and other media actors are precisely the sort of strong political leadership and commitment envisaged by the Conference of Ministers' Safety of Journalists Resolution. It is significant that Guideline 15 refers not only to State officials, but also to public figures. The latter are not linked to government; they are well-known persons in the public arena who presumably have some measure of influence over public opinion by virtue of their prominence in society. That public figures should also refrain from undermining or attacking journalists and other media actors, and should condemn threats and attacks, underscores the wider societal importance of protecting journalists and other media actors.

Encourage media organisations to fulfil their **institutional responsibilities** towards **journalists and freelancers** in all aspects of safety. Under the ECHR, States have legally-binding positive obligations, but all natural and legal persons exercising the right to freedom of expression have various duties and responsibilities. For media organisations, those duties and responsibilities derive from their status as employers and their institutional structures and processes that shape how their employees and other collaborators carry out their public watchdog role. These duties and responsibilities could also be considered duties of care towards employees and other collaborators or as ethical responsibilities which are part of their larger corporate social responsibility. Guideline 16 already lists a number of illustrative examples of measures that would fall under the media's institutional responsibilities. National action plans could usefully supplement the listed examples with others, such as the appointment of in-house safety officers and the preparation of emergency protocols.

Key points in Recommendation	Key points for checklist
States are called upon to: • Take preventive operational measures, like providing police protection or voluntary evacuation to a safe place • Encourage the establishment of or support the operation of hotlines and 24-hour emergency contact points • Fully support the Council of Europe Platform to promote the protection of journalism and safety of journalists	• National Action Plan and steering committee with designated coordination responsibilities • List of action lines/points and responsible actors, with planning timeframes • Protocol for police protection and voluntary evacuation procedures

• Develop protocols and training programmes for all State authorities: ○ Judges, other legal professionals, law enforcement officers • Take into account the specific democratic role and value of journalism, especially in times of crisis, during election periods, at public demonstrations and in conflict zones • Publicly condemn all threats and violence against journalists and other media actors • Encourage media organisations to fulfil their institutional responsibilities towards journalists and freelancers in all aspects of safety	• Set up a (national) hotline and 24-hour emergency contact points • Set up a system of registration of threats and attacks against journalists and other media actors that is independent, accessible, transparent and reliable • Ensure the registration system serves broader monitoring purposes, with annual or half-yearly reporting (e.g. on 3 May and 2 November) and analysis of the results • Ensure the registration system enables the collection of disaggregated data, including on gender-specific issues • Open clear communication lines with one or more partner organisations of the Platform on protection of journalism and safety of journalists to facilitate the speedy registration of alerts, if and when the need arises • Develop operational protocols for all relevant branches of States authorities, for the safety of journalists generally, but also in the specific contexts of times of crisis, during election periods, at public demonstrations and in conflict or war zones • Establish dedicated journalist safety contact or liaison persons/points within all relevant State or public authorities • Develop tailored ongoing training programmes for all relevant authorities and sectors • Political lobbying strategy to achieve e.g. a condemnation of threats and attacks against journalists and other media actors in the programme of every new government; a cross-party political pledge to condemn threats and attacks against journalists and other media actors; a cross-party parliamentary working group on safety of journalists and other media actors
--	---

	• Develop dialogue and top-level commitments and action on the media's institutional responsibilities • Online safety advisers for media organisations/groups and journalist unions or associations • Freelancers' charter of rights and working conditions (e.g. a collective agreement) • Dedicated contact persons/teams at (very large) online platforms and action plans, including fast-track alert mechanisms and support and training measures, for expeditious action against threats or attacks against journalists or other media actors
--	--

III. Prosecution

(GENERAL REQUIREMENTS; IMPUNITY)

This Pillar (Guidelines 17 – 27) is firmly rooted in the case-law of the European Court of Human Rights. It repurposes several principles from the case-law, including how the Court has spelt out what the principles mean or how they should be applied in practice. This means that much of the guidance offered under this Pillar is detailed and legislative in nature.

Guideline 17 has an introductory and explanatory function: it makes clear that everyone involved in killings of, attacks on and ill-treatment of journalists and other media actors must be brought to justice. It announces that **investigations and prosecutions** must meet a number of **general requirements** and it points to the dangers for society arising from **impunity** for such crimes – when the perpetrators are not brought to justice. **General requirements** and **impunity** are the two main focuses under this Pillar.

General requirements

Under Articles 2 (Right to life) and 3 (Prohibition of torture) of the Convention, States have positive obligations that are substantive and procedural in nature. States' procedural obligations include ensuring that investigations into killings, attacks and ill-treatment must be effective. Guideline 18 reiterates this and then distils the essential requirements of effective investigations from the Court's case-law. Guidelines 19 and 20 then drill down into the details of those essential requirements, largely using the specific language of the European Court of Human Rights. The Court has itself been specific and detailed in setting out States' obligations in respect of the procedural limb of these articles.

The effectiveness and thoroughness of investigations are spelt out in Guideline 19. The authorities carrying out an investigation must make every reasonable effort to gather evidence, and be capable of establishing the facts, including the identification of those responsible and (where appropriate) their prosecution. Before the Recommendation was adopted, the Court had noted instances of States authorities not making inquiries into whether a journalist was targeted due to their position as a journalist for a particular newspaper. Guideline 19 seeks to frame this focus as a positive obligation for States, styling it as an explicit procedural requirement to investigate whether there is a connection between the threats and violence and the exercise of journalistic or other public-watchdog activities. In doing so, it leverages similar obligations already recognised by the Court, such as to investigate the possible link between racist attitudes and an act of violence. It also adds a requirement to investigate the relevance of "gender-related issues".

Guideline 20 sets out a number of specific safeguards to ensure that those carrying out investigations are fully independent and impartial, on paper and in practice, and that they are specialised units with adequate training in human rights standards. It also underscores the importance of public oversight and a relevant level of involvement of the victim's next of kin in investigations.

Guideline 21 spells out that States have the obligation to bring the perpetrators of crimes against journalists and other media actors to justice – no matter who they are, State or private actors, and

whatever their level of complicity. Criminal liability arises from the various roles in such crimes: authors, instigators, perpetrators and accomplices.

While ensuring the integrity of court proceedings, States must also guarantee the independence and impartiality of the judiciary and the safety of all legal professionals involved, and the safety of witnesses. While not stipulated in Guideline 22, safety is – in accordance with the Protection Pillar – to be understood as not only physical, but also psychological/emotional. Mirroring Guideline 15, threats against, and verbal abuse of, the judiciary and legal professionals, should therefore be publicly condemned by States authorities, governmental leaders and figures, not least because judicial ethics may prevent judges from defending themselves or their judgments in public. States officials and public figures should similarly refrain from undermining or attacking the integrity of the judiciary, as this could jeopardise their safety as well as raising rule-of-law issues that damage the favourable environment for freedom of expression.

The focus of Guideline 23 is on States' obligation to ensure that a varied set of effective remedies are available to victims and (as relevant) their families, and that those remedies correspond to their needs and situations, taking gender-related, ethnic, cultural, religious and other specificities into account. A through line can be drawn from this Guideline to Section III 'Support for targets and victims of SLAPPs' of CM/Rec(2024)2 on countering the use of strategic lawsuits against public participation (SLAPPs). Paragraphs 50-56 of the Recommendation open up support into different branches: legal, financial, psychological, practical, private-sector and informational. Ongoing or pending criminal proceedings should not stand in the way of victims seeking civil remedies.

Impunity

Guideline 24 tries to strike a blow at the various tactics used to thwart the course of justice, leading to impunity for crimes against journalists and other media actors. Examples include refusing to initiate prosecutions, or to obstruct or delay prosecutions in different ways. It advocates that the law provide for additional or aggravated penalties to be applicable to public officials who engage in thwarting tactics, either by neglect, complicity or design. It warns sternly about the dangers of time-barred criminal proceedings and sentencing, as well as granting amnesties or pardons.

Guideline 25 countenances the possibility of setting up special judicial or non-judicial inquiries and/or independent specialised bodies to tackle (the risk of) impunity for crimes against journalists and other media actors when regular investigations and prosecutions fail to bring the perpetrators to justice. The needs for such anti-impunity mechanisms may not arise in all States. Where the need does arise, the design of the mechanisms would be shaped by national constitutional, legislative and political frameworks.

When crimes against journalists and other media actors have **cross-border or online dimensions**, States should, under Guideline 26, **cooperate closely with the relevant foreign or international authorities**. Such **cooperation**, including the **sharing of information, expertise and best practices**, can be facilitated by cultivating good relations, in particular when information- and intelligence-gathering reveals patterns of cross-border crimes concerning specific countries.

Under Guideline 27, States are urged to **proactively prioritise** the protection of journalists and other media actors and combating impunity in all relevant European and international intergovernmental forums and mechanisms, as well as in their foreign policy and relations. National Action Plans (NAPs) could usefully draw up a reporting master-planner, including a list of the various mechanisms, leads and strategies for reporting, a calendar of reporting deadlines, etc.

Key points in Recommendation	Key points for checklist
General requirements • Specific rules and procedures for the effective investigation and prosecution of crimes against journalists. The importance of involving victims and/or their families in the investigation process is underscored. Impunity • Specific provisions aimed at preventing and ending impunity for crimes against journalists. When investigations and prosecutions do not lead to the bringing to justice of the perpetrators of killings of journalists or other media actors, commissions of inquiry or other such bodies may be established. • Enhance cooperation and exchange of information, expertise and best practices with other States in cross-border or online cases. • Active engagement in European and international fora and cooperation with European and international human rights mechanisms and mandates.	• Protocol for investigations into crimes against journalists and other media actors which includes all of the specific requirements listed in Guidelines 18-21 • Specific agreements/procedures for dealing with crimes against journalists, e.g. expeditious processing of cases, aggravating penalties (as appropriate), etc. • Victim support scheme to ensure victims and their next-of-kin have access to justice, effective remedies and wider support structures • Information and awareness-raising strategy on victim support scheme(s) • Anti-impunity strategy • Anti-impunity mechanism or working group (if relevant) • Develop contact and cooperation structures with relevant authorities in other (neighbouring) countries for information-sharing purposes • Develop contact and cooperation structures with relevant law-enforcement and other authorities at the European and international levels • Structured ongoing dialogue with dedicated contact persons/teams at (very large) online platforms and direct ‘fast’ communication channels for ensuring expeditious action against threats or attacks against journalists or other media actors • Policy guidelines for embassies and the diplomatic corps on how they can support journalists abroad • Reporting master-calendar (European and international monitoring bodies) and engagement strategy

IV. Promotion of information, education and awareness raising

The Guidelines set out in this Pillar (Guidelines 28 – 30) aim to ensure the Recommendation will not become a paper tiger or fade into oblivion. They aim to publicise and disseminate information about the content of the Recommendation and raise awareness about its importance, both for the wider public and for various target groups.

Guideline 28 recommends that States translate the Recommendation into the national and minority languages of the country and to disseminate the Recommendation and information about it as widely as possible. In the spirit of this information-spreading and awareness-raising, suitable educational and informational materials about the Recommendation should be produced in multi-media formats, translated and disseminated.

This guideline also draws attention to the opportunity to capitalise on the **publicity opportunities** afforded by **designated international days**, such as World Press Freedom Day (3 May), International Right to Know Day (28 September) and International Day to End Impunity for Crimes against Journalists (2 November). World Press Freedom Day could, for instance, be designated as a fixed calendar moment to present annual reviews of the state of freedom of expression and safety of journalists in Member States, coupled with activities like publication and discussion of annual reports, roundtable discussions involving key stakeholders and public-facing events.

Guideline 29 dovetails with Guideline 28 in that it calls on Member States to **encourage relevant bodies** to give prominence to the recommendation and the issues it addresses in **journalists' education** and in **media and information literacy** initiatives.

The final guideline, Guideline 30, urges Member States to **develop partnerships** with **civil society and the media** for the **promotion of best practices** on protection and on combating impunity. This should be done anyway, but it could also be done under the banner of the Journalists Matter Campaign. The (co-)hosting or (co-)organisation of an event could be a concrete deliverable.

Key points in Recommendation	Key points for checklist
States should: • promote the translation of the Recommendation into domestic languages, its dissemination and awareness-raising about its content. • capitalise on the publicity opportunities afforded by designated international days, such as World Press Freedom Day (3 May), International Right to Know Day (28 September) and International Day to End Impunity for Crimes against Journalists (2 November). • encourage relevant bodies to give prominence to the recommendation and the issues it addresses in journalists' education and in media and information literacy initiatives.	• Translation strategy (for national and minority languages) • Education and information strategy (for national and minority languages) • Establish central information/contact person and online portal • Multi-media dissemination strategy • Awareness-raising campaign (with different focuses, including gender-related and digital-security issues) • Inventory of journalism and other educational curricula with focuses on safety of journalists and CM/Rec(2016)4

• develop partnerships with civil society and the media for the promotion of best practices on protection and on combating impunity.	• Half-yearly programmes of events and activities (e.g. around 3 May and 2 November) • Database of past, present and projected collaborations with journalists associations, civil society organisations • consider providing (additional) financial support to the ‘Journalists Matter’ Campaign.
---	--

Conclusions

The Committee of Ministers' Recommendation CM/Rec(2016)4 to member States on the protection of journalism and the safety of journalists and other media actors – like other Committee of Ministers' recommendations – is not self-executing. It requires operationalisation at the national level. Given the breadth and detailed nature of the Recommendation, an array of measures are needed to implement it effectively. Various Council of Europe texts and initiatives have been developed to steer the Recommendation towards effective implementation by member States. Increasingly, dedicated NAPs are being seen as strategic documents for galvanising efforts to implement the Recommendation at the national level. At the 2021 Council of Europe Conference of Ministers responsible for Media and Information Society, the participating Ministers committed to develop dedicated NAPs in an inclusive manner and with strong political leadership.

This paper has sought to show how NAPs can provide detailed roadmaps for collaborative endeavours to enhance the safety of journalists and other media actors at the national level. They can set out well-defined goals, delineated roles for different actors and stakeholders, *modi operandi*, provisions for incorporating gender- and minority-specific perspectives, and strategies for digital safety.

The detailed checklist, developed per pillar above and set out more succinctly below, is a detailed roadmap. As with most roadmaps, many roads can lead to the intended destination, crossing different types of landscapes along the way. The checklist aims to offer helpful guidance rather than prescriptive instructions. It has been written in a way that anticipates and encourages further development and refinement.

As of this writing, 11 Council of Europe member States have adopted NAPs or strategy documents with equivalent objectives or status: Croatia, Denmark, Lithuania, Luxembourg, Montenegro, the Netherlands, Portugal, Sweden, Switzerland, Ukraine and the United Kingdom.¹³ Those NAPs reveal quite a lot of variety in terms of approach, format, length, substantive focuses, etc. Member States that are still developing their NAPs could usefully explore existing good or promising practices in addition to the guidance offered by the checklist.

¹³ Council of Europe Campaign for the Safety of Journalists, Repository of National Action plans for the safety of journalists, available at: <https://www.coe.int/en/web/freedom-expression/repository-of-national-action-plans-for-the-safety-of-journalists>.

Checklist for National Action Plans (NAPs)

I. PREVENTION
• Designation of independent body for the review of national legislative and policy frameworks and their implementation • Formal mandate for independent review body • Description of goals, working methods, deliverables and planning of independent review body • Adequate resources for independent review body • Government declaration of support for independent review procedure and commitment to respond to/follow up on main findings and recommendations • Detailed template and focuses for the review (see the list in the <i>Pocket Guide</i>) • Road-map for multi-actor discussion, dissemination and follow-up on main findings and recommendations of review reports
II. PROTECTION
• National Action Plan and steering committee with designated coordination responsibilities • List of action lines/points and responsible actors, with planning timeframes • Protocol for police protection and voluntary evacuation procedures • Set up a (national) hotline and 24-hour emergency contact points • Set up a system of registration of threats and attacks against journalists and other media actors that is independent, accessible, transparent and reliable • Ensure the registration system serves broader monitoring purposes, with annual or half-yearly reporting (e.g. on 3 May and 2 November) and analysis of the results • Ensure the registration system enables the collection of disaggregated data, including on gender-specific issues • Open clear communication lines with one or more partner organisations of the Platform on protection of journalism and safety of journalists to facilitate the speedy registration of alerts, if and when the need arises • Develop operational protocols for all relevant branches of States authorities, for the safety of journalists generally, but also in the specific contexts of times of crisis, during election periods, at public demonstrations and in conflict or war zones • Establish dedicated journalist safety contact or liaison persons/points within all relevant State or public authorities • Develop tailored ongoing training programmes for all relevant authorities and sectors • Political lobbying strategy to achieve e.g. a condemnation of threats and attacks against journalists and other media actors in the programme of every new government; a cross-party political pledge to condemn threats and attacks against journalists and other media actors; a cross-party parliamentary working group on safety of journalists and other media actors • Develop dialogue and top-level commitments and action on the media's institutional responsibilities • Online safety advisers for media organisations/groups and journalist unions or associations

- Freelancers' charter of rights and working conditions (e.g. a collective agreement)
- Dedicated contact persons/teams at (very large) online platforms and action plans, including fast-track alert mechanisms and support and training measures, for expeditious action against threats or attacks against journalists or other media actors

III. PROSECUTION

- Protocol for investigations into crimes against journalists and other media actors which includes all of the specific requirements listed in Guidelines 18-21
- Specific agreements/procedures for dealing with crimes against journalists, e.g. expeditious processing of cases, aggravating penalties (as appropriate), etc.
- Victim support scheme to ensure victims and their next-of-kin have access to justice, effective remedies and wider support structures
- Information and awareness-raising strategy on victim support scheme(s)
- Anti-impunity strategy
- Anti-impunity mechanism or working group (if relevant)
- Develop contact and cooperation structures with relevant authorities in other (neighbouring) countries for information-sharing purposes
- Develop contact and cooperation structures with relevant law-enforcement and other authorities at the European and international levels
- Structured ongoing dialogue with dedicated contact persons/teams at (very large) online platforms and direct 'fast' communication channels for ensuring expeditious action against threats or attacks against journalists or other media actors
- Policy guidelines for embassies and the diplomatic corps on how they can support journalists abroad
- Reporting master-calendar (European and international monitoring bodies) and engagement strategy

IV. PROMOTION OF INFORMATION, EDUCATION AND AWARENESS RAISING

- Translation strategy (for national and minority languages)
- Education and information strategy (for national and minority languages)
- Establish central information/contact person and online portal
- Multi-media dissemination strategy
- Awareness-raising campaign (with different focuses, including gender-related and digital-security issues)
- Inventory of journalism and other educational curricula with focuses on safety of journalists and CM/Rec(2016)4
- Half-yearly programmes of events and activities (e.g. around 3 May and 2 November)
- Database of past, present and projected collaborations with journalists associations, civil society organisations
- consider providing (additional) financial support to the 'Journalists Matter' Campaign.