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Ukraine (SFEM-UA)”**

**TECHNICAL PAPER:**

**Defining the Journalist: International Standards**

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**Disclaimer:**

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## 1 INTRODUCTION

The question of who is a journalist in the digital age is complex. While the numbers of journalists in traditional media, especially newspapers, continue to decline globally, a large number of persons publishing in various forms on digital platforms have emerged, to some extent replicating many of the same functions.

The question is not academic. Journalists are crucial for fulfilling the public right to know and have duties and privileges that flow from this including the protection of their confidential sources, facilitated access to information and public spaces, protections of their work products, and physical protections from threats.

Internationally, there is no clearly defined term explaining what a journalist is or a set of formal standards or qualifications such as educational criteria necessary to become one. The trend over the past decades has been to move from defining journalists as a class of persons based on their place of employment, for instance, for print, radio, or television, to a functional based definition which looks at their actions and intents. This approach provides more flexibility as the practice of journalism diversifies. It also addresses the problems with a class or registration-based system that potentially leaves out those who are not engaged in traditional journalism such as freelancers or investigative journalists currently writing in different forms such as books, as well being technology and medium neutral to apply to those working in the digital media sphere, both formally and otherwise.

While there is a practice in some countries to focus on only recognising journalists who are officially licensed or accredited, there is a general consensus across the United Nations (UN),<sup>1</sup> the Council of Europe, and OSCE<sup>2</sup>, as well as regional human rights bodies across the world<sup>3</sup> that the mandatory licensing of journalists is a violation of freedom of expression. It is generally agreed that accreditation is only acceptable as a means to allow access to areas when there is limited space or in special situations when extra security is required. This custom seems to be declining in recent years as these standards are adopted into revised national laws.

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<sup>1</sup> Human Rights Committee, General comment No. 34: Article 19: Freedoms of opinion and expression, CCPR/C/GC/34, 2011, at 44. Available at <https://www.ohchr.org/en/documents/general-comments-and-recommendations/general-comment-no34-article-19-freedoms-opinion-and>

<sup>2</sup> OSCE Freedom of Media Representative, Special Report: Accreditation of Journalists in the OSCE area Observations and Recommendations, 25 October 2006. Available at <https://www.osce.org/files/f/documents/0/b/22065.pdf>

<sup>3</sup> Inter-American Court of Human Rights, Advisory Opinion OC-5/85 of November 13, 1985, Compulsory Membership in an Association Prescribed by Law for the Practice of Journalism (Arts. 13 and 29 American Convention on Human Rights); African Commission on Human and Peoples' Rights, Declaration of Principles on Freedom of Expression and Access to Information in Africa 2019, 65th Ordinary Session, 10 November 2019; Joint Declaration by the UN Special Rapporteur on Freedom of Opinion and Expression, the OSCE Representative on Freedom of the Media and the OAS Special Rapporteur on Freedom of Expression, 18 December 2003.



## 2 INTERNATIONAL STANDARDS

### 2.1 United Nations

The UN takes a wide-reaching functional approach to defining who is a journalist. This applies in both human rights standards and in practical applications such as the protection of journalists' mechanisms operated by UNESCO. This means that those practicing journalism, no matter the medium or employment status are protected, including internet-based and individuals acting as informal journalists. The protections also apply to related media workers and support staff.<sup>4</sup>

The Human Rights Committee in the General Comment No. 34, which sets out the standards for Article 19 of the International Covenant on Civil and Political Rights on freedom of expression and opinion states:

*Journalism is a function shared by a wide range of actors, including professional full time reporters and analysts, as well as bloggers and others who engage in forms of self-publication in print, on the internet or elsewhere.*<sup>5</sup>

The High Commissioner for Human Rights has emphasised the function aspect of the definition: *"The work and functions of journalism, which consist in documenting events, analysing issues, gathering facts, and processing data, to inform society on matters of public interest, are ultimately the key to defining the term 'journalist', rather than simply the professional designation."*<sup>6</sup>

The UN Special Rapporteur on the Protection and Promotion of Freedom of Opinion and Expression further elaborated the standard in his 2012 report to the Human Rights Council, stating:

*Journalists are individuals who observe and describe events, document and analyse events, statements, policies, and any propositions that can affect society, with the purpose of systematizing such information and gathering of facts and analyses to inform sectors of society or society as a whole. Such a definition of journalists includes all media workers and support staff, as well as community media workers and so-called "citizen journalists" when they momentarily play that role.*<sup>7</sup>

The Special Rapporteur emphasised that the definition of journalists also applies to individuals using online media who are operating as journalists:

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<sup>4</sup> See UNESCO, UN Plan of Action on the Safety of Journalists and the Issue of Impunity, CI-12/CONF.202/6 at 1.1. Available at [https://www.ohchr.org/sites/default/files/documents/issues/journalists/2023-01-31/un-plan-on-safety-journalists\\_en.pdf](https://www.ohchr.org/sites/default/files/documents/issues/journalists/2023-01-31/un-plan-on-safety-journalists_en.pdf)

<sup>5</sup> Human Rights Committee, General comment No. 34: Article 19: Freedoms of opinion and expression, CCPR/C/GC/34, 2011, at 44. Available at <https://www.ohchr.org/en/documents/general-comments-and-recommendations/general-comment-no34-article-19-freedoms-opinion-and>

<sup>6</sup> OHCHR, Self-protection measures to respond to threats to journalists, Available at [https://www.ohchr.org/sites/default/files/2023-04/Brief-Protection-mechanisms-available-for-journalists\\_0.pdf](https://www.ohchr.org/sites/default/files/2023-04/Brief-Protection-mechanisms-available-for-journalists_0.pdf)

<sup>7</sup> Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, A/HRC/20/17, 2012 at 4. Available at <https://www.undocs.org/Home/Mobile?FinalSymbol=A%2FHRC%2F20%2F17>



*The emergence of “online journalists” – both professionals and untrained so-called “citizen journalists” – play an increasingly important role in documenting and disseminating news in real time as they unfold on the ground. Journalists who publish their work online should be afforded the same protection under articles 19 of the Universal Declaration on Human Rights and of the International Covenant on Civil and Political Rights.<sup>8</sup>*

The UN General Assembly affirmed the flexible approach, noting in their 2014 Resolution on Safety of Journalists that *“that journalism is continuously evolving to include inputs from media institutions, private individuals and a range of organizations that seek, receive and impart information and ideas of all kinds, online as well as offline”*.<sup>9</sup>

The UN Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions also noted the protections applying to support staff and new media:

*Reporters and photographers and those who directly support their work—stringers and drivers—are potentially vulnerable, and because they fulfil a crucial social function they are deserving of special protection. This includes the —new media or —citizen and online journalists.<sup>10</sup>*

This functional approach of the Human Rights Committee and Special Rapporteur is the basis for the activities of UN bodies, in particular UNESCO.<sup>11</sup> In its journalist protection guidebook, UNESCO states that the protections apply to *“journalists, media workers and social media producers who are engaged in journalistic activities.”*<sup>12</sup> The UN Plan of Action on the Safety of Journalists and the Issue of Impunity states that *“protection of journalists should not be limited to those formally recognised as journalists, but should cover others, including community media workers and citizen journalists and others who may be using new media as a means of reaching their audiences.”*<sup>13</sup>

## 2.2 Council of Europe

The Council of Europe has long taken a broad view of journalism. This view has evolved as technology and forms of media have changed. Currently, the Council of Europe focuses its’ protections on “journalists and other media actors”. This includes both traditional journalists but also those engaged in media in less formal ways such as blogging or non-traditional actors including non-profit organisations.

In an early definition, Recommendation No. R (96) 4, the Committee of Ministers of the Council of Europe extends the definition of “journalists” to *“all representatives of the media,*

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<sup>8</sup> Ibid, SR Report 2012 at 61.

<sup>9</sup> UNGA Res 68/163. The safety of journalists and the issue of impunity, A/Res/68/163, 21 February 2014. Available at <https://undocs.org/Home/Mobile?FinalSymbol=A%2FRES%2F68%2F163&Language=E>

<sup>10</sup> Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, A/HRC/20/22, 2012 at 26. Available at [https://www.ohchr.org/sites/default/files/Documents/HRBodies/HRCouncil/RegularSession/Session20/A-HRC-20-22\\_en.pdf](https://www.ohchr.org/sites/default/files/Documents/HRBodies/HRCouncil/RegularSession/Session20/A-HRC-20-22_en.pdf)

<sup>11</sup> See e.g., UNESCO, Global Toolkit for Law Enforcement Agents, Module 2 (2022) at 57.

<sup>12</sup> UNESCO, Applying UNESCO’s Journalists’ Safety Indicators (JSIs) A Practical Guidebook to Assist Researchers, 2015, Available at <https://unesdoc.unesco.org/ark:/48223/pf0000260894>

<sup>13</sup> See 4, the Plan of Action at 1.6.



*namely all those engaged in the collection, processing and dissemination of news and information including cameramen and photographers, as well as support staff such as drivers and interpreters.”*<sup>14</sup>

In Recommendation No. R (2000)7, the Committee of Ministers widened the term, declaring that: *“the term “journalist” means any natural or legal person who is regularly or professionally engaged in the collection and dissemination of information to the public via any means of mass communication.”*<sup>15</sup> In Recommendation CM/Rec(2016)4, on the safety of journalists, the Ministers further expanded that definition, stating *“the definition of media actors has expanded as a result of new forms of media in the digital age. It therefore includes others who contribute to public debate and who perform journalistic activities or fulfil public watchdog functions.”*<sup>16</sup>

The Council of Europe has gone further in defining the concept of media, which impacts on context of journalism. Recommendation CM/Rec(2011)7 on a new notion of media sets out a wider concept of media, saying, *“[a]ll actors – whether new or traditional – who operate within the media ecosystem should be offered a policy framework which guarantees an appropriate level of protection and provides a clear indication of their duties and responsibilities in line with Council of Europe standards. The response should be graduated and differentiated according to the part that media services play in content production and dissemination processes.”*

The Recommendation sets out six criteria which can be used to determine if the entity is acting as media under Council of Europe standards. As was recently reiterated by the Committee of Ministers in Recommendation CM/Rec(2022)11:

*“the media” includes those providers of services that meet the following criteria, or a combination thereof, as proposed by Recommendation CM/Rec(2011)7 on a new notion of media: they have the intention to act as a media outlet, they act with the purpose of producing and disseminating content, they have editorial control over content, they follow professional standards, they seek outreach and are subject to the expectations of the public. This definition encompasses print, broadcast and online media, including audio and video-streaming services.*<sup>17</sup>

The European Court of Human Rights has not set out a specific definition of journalists but has numerous times recognised them as having a “vital role” as “public watchdogs” with a duty to *“to impart – in a manner consistent with its obligations and responsibilities – information and ideas on all matters of public interest.”*<sup>18</sup> It has noted that that watchdog function is not limited to professional journalists but also includes NGOs and political commentators,<sup>19</sup> as well as

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<sup>14</sup> Recommendation No. R (96)4 of the Committee of Ministers to Member States on the protection of journalists in situations of conflict and tension, adopted on 3 May 1996.

<sup>15</sup> Recommendation No. R (2000)7 of the Committee of Ministers to Member States on the right of journalists not to disclose their sources of information, adopted 8 March 2000.

<sup>16</sup> Recommendation CM/Rec(2016)4 of the Committee of Ministers to member states on the protection of journalism and the safety of journalists and other media actors, at 4.

<sup>17</sup> Recommendation CM/Rec(2022)11 of the Committee of Ministers to member States on principles for media and communication governance.

<sup>18</sup> *Bladet Tromsø and Stensaas v. Norway* [GC], no. [21980/93](#), §§ 59 and 62, ECHR 1999-III.

<sup>19</sup> *Falzon v. Malta*, no. [45791/13](#), no. 45791/13, 2018.



finding that “bloggers and popular users of the social media may be also assimilated to that of “public watchdogs” in so far as the protection afforded by Article 10 is concerned.”<sup>20</sup>

### 2.3 European Union

The European Union (EU) has traditionally taken a narrow approach to journalism due to many areas are subject to member state jurisdiction. Thus, there is no single definition of journalism in the EU law with the focus in most being on services rather than journalism. For instance, the EU Audiovisual Media Services Directive only defines media related to audiovisual content.<sup>21</sup>

Even the pending European Media Freedom Act takes a limited “service-based” definition, and does not fully include journalists.<sup>22</sup> However, the recent proposed amendments by the European Council take a broader view of who should be included in source protection:

*persons who because of their regular private or professional relationship with media service providers or members of their editorial staff may have information that could identify journalistic sources. This should include persons living in a close relationship in a joint household and on a stable and continuous basis, who are only targeted due to their close links with media service providers, journalists or other members of the editorial staff. The protection of journalistic sources should also benefit employees of media service providers, such as the technical staff including cybersecurity experts, who could be targeted given their important support role to journalists in their daily work which requires solutions to ensure the confidentiality of journalists’ work and the resulting likelihood that they have access to information concerning journalistic sources.*<sup>23</sup>

The High Level Group on Media Freedom and Pluralism established by European Commission Vice-President Neelie Kroes in October 2011 noted the difficulties of trying to come up with a definition and problems with different approaches including accreditation and self-identification and finally declined to do so, stating:

*Within the shifting sands of the current media environment, the HLG [High-Level Group] regrets to refrain from offering any firm and consensual definition of either journalism or journalists. What it does recommend is continued debate among all stakeholders on the question, so as to reach at least temporary and pragmatic formulations that may serve as guidance to courts.*<sup>24</sup>

<sup>20</sup> Magyar Helsinki Bizottság v. Hungary [GC], no. 18030/11, §§166-168, 2016.

<sup>21</sup> Directive 2010/13/EU of the European Parliament and of the Council of 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive), § 1 (definitions).

<sup>22</sup> See Theresa Seipp, Ronan Ó Fathaigh & Max van Drunen (2023) Defining the ‘media’ in Europe: pitfalls of the proposed European Media Freedom Act, *Journal of Media Law*, 15:1, 39-51, DOI: 10.1080/17577632.2023.2240998.

<sup>23</sup> Memo from the General Secretariat of the Council of the European Union, Proposal for a Regulation of the European Parliament and of the Council Establishing a Common Framework for Media Services in the Internal Market (European Media Freedom Act) and amending Directive 2010/13/EU, 10954/23, 21 June 2023.

<sup>24</sup> High Level Group on Media Freedom and Pluralism, A free and pluralistic media to sustain European democracy, January 2013. Available at: [https://ec.europa.eu/information\\_society/media\\_taskforce/doc/pluralism/hlg/hlg\\_final\\_report.pdf](https://ec.europa.eu/information_society/media_taskforce/doc/pluralism/hlg/hlg_final_report.pdf)





The EU Guidelines on Protection state that “[e]fforts to protect journalists should not be limited to those formally recognised as such, but should also cover support staff and others, such as “citizen journalists”, bloggers, social media activists and human rights defenders, who use new media to reach a mass audience.”<sup>25</sup>

The EU law in many cases does recognise the importance of journalism and provides for exemptions in a variety of acts including copyright<sup>26</sup>, data protection<sup>27</sup> and trade secrets,<sup>28</sup> as well as ensuring protections of the media in laws including the 2022 Digital Services Act.<sup>29</sup>

The Court of the Justice of the EU in the context of data protection ruled that journalism must be interpreted “broadly” regardless of the medium and said that the publication of personal information could be exempt from data protection laws “if their object is the disclosure to the public of information, opinions or ideas, irrespective of the medium which is used to transmit them.”<sup>30</sup> It also found that individuals posting videos on YouTube could be considered protected as journalistic activities.<sup>31</sup> However, it also clarified that “the view cannot be taken that all information published on the internet, involving personal data, comes under the concept of ‘journalistic activities’”.

### 3 NATIONAL STANDARDS

This section reviews laws in European countries and selected other countries which provide for good practices related to definition of journalists. There is a wide variation in country practices on the definition of journalists.<sup>32</sup>

Many countries, like the United States of America (USA), refuse to set a specific definition, stating the constitutional protections on freedom of expression apply equally to all persons, not just journalists and the media.<sup>33</sup> This has the effect of limiting specific protections such as related to confidential sources or receiving recognition in other circumstances. Others like Poland still retain archaic laws which do not recognise the developments in media and

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<sup>25</sup> EU Guidelines on Freedom of Expression Online and Offline, 2014. Available at [https://www.eeas.europa.eu/sites/default/files/09\\_hr\\_guidelines\\_expression\\_en.pdf](https://www.eeas.europa.eu/sites/default/files/09_hr_guidelines_expression_en.pdf)

<sup>26</sup> Directive (EU) 2019/790 of the European Parliament and of the Council of 17 April 2019 on copyright and related rights in the Digital Single Market.

<sup>27</sup> Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data, Article 9; Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (GDPR), Article 85.

<sup>28</sup> Directive (EU) 2016/943 of the European Parliament and of the Council of 8 June 2016 on the protection of undisclosed know-how and business information (trade secrets) against their unlawful acquisition, use and disclosure, Article 5(a).

<sup>29</sup> Regulation (EU) 2022/2065 of the European Parliament and of the Council of 19 October 2022 on a Single Market for Digital Services and amending Directive 2000/31/EC (Digital Services Act), §14.

<sup>30</sup> Case C-73/07, Tietosuojavaltuutettu v. Satakunnan Markkinapörssi Oy and Satamedia Oy, 2008 at 56; 61.

<sup>31</sup> Case C-345/17, Buivids v Datu valsts inspekcija, 2019, at 55.

<sup>32</sup> See Council of Europe Parliamentary Assembly, Committee on Culture, Science, Education and Media, The status of journalists in Europe, Report, Doc. 14505, 26 February 2018. Available at <https://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=24287&lang=en>

<sup>33</sup> See e.g. Citizens United v. FEC, 558 U.S. 310 (2010).



journalism in the digital sphere. In general, as new media laws are adopted across Europe, countries are adopting definitions of media rather than journalists.<sup>34</sup>

The examples come from a variety of different laws including media and journalist acts, data protection and privacy laws and protection of journalists' sources.

### 3.1 Belgium

The Belgium protection of journalists' sources law has a broad definition of journalists and other staff which need protection.<sup>35</sup> Following its adoption, the Court of Arbitration ruled that some of the clauses in the adopted law which limited application to internet media and others were unconstitutional.<sup>36</sup> The revised law (unofficial translated) now states:

*1° any person who contributes directly to the collection, writing, production or dissemination of information, through a media, for the benefit of the public;*

*2° editorial staff, i.e. any person who, through the exercise of his function, is required to become aware of information that identifies a source, through the collection, editorial processing, production or dissemination of this same information.*

### 3.2 Croatia

The Media Act, Article 2:

*Journalist means a natural person who is involved in collecting, processing, designing or classifying information for publishing through the media and is employed with the media publisher on the basis of a work contract, or performs journalist activities as an independent profession, in accordance with law.<sup>37</sup>*

### 3.3 Kosovo<sup>\*38</sup>

The Protection of Journalists Sources Law defines a journalist as:

*each natural or legal person, who is engaged regularly or professionally to contribute directly for gathering, editing, production and dissemination of information to the public through the media.<sup>39</sup>*

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<sup>34</sup> See e.g. Hungary, Act CIV of 2010 on the freedom of the press and the fundamental rules on media content; Slovak Republic, Law of June 22, 2022 265/2022 Coll. on publishers of publications and on the register in the field of media and audio-visual and on amendments and additions to certain laws (Publications Act).

<sup>35</sup> Loi du 07/04/2005 relative a la protection des sources journalistes, Article 2.

<sup>36</sup> Cour d'arbitrage, Arrêt n° 91/2006 du 7 juin 2006 Numéros du rôle : 3694, 3789 et 3796 En cause : les recours en annulation de la loi du 7 avril 2005 « relative à la protection des sources journalistes ».

<sup>37</sup> The Media Act (Consolidated version, Official Gazette of the Republic of Croatia 59/04, 84/11, 81/13). Available at [https://web.dzs.hr/eng/important/presscorner/Zakon%20o%20medijima\\_EN.pdf](https://web.dzs.hr/eng/important/presscorner/Zakon%20o%20medijima_EN.pdf)

<sup>38</sup> All reference to Kosovo, whether to the territory, institutions or population, in this text shall be understood in full compliance with United Nations Security Council Resolution 1244 and without prejudice to the status of Kosovo.

<sup>39</sup> Law No. 04/L-137 on the Protection of Journalism Sources.



### 3.4 Poland

The Communist-era Press Act 1984 takes a limited, archaic view of journalism

*a journalist shall be a person engaged in editing, creating or preparing press materials, that is employed by the editorial office or conducting such activities on behalf of and to the benefit of the editorial office.*<sup>40</sup>

### 3.5 Australia

There are numerous different variations of the definition in Australian law.<sup>41</sup> In the 1988 Privacy Act, acts done by media organisations are exempt from some provisions of the law. Media organisations are defined as those “whose activities consist of or include the collection, preparation for dissemination or dissemination of the following material for the purpose of making it available to the public:

(a) material having the character of news, current affairs, information or a documentary;

(b) material consisting of commentary or opinion on, or analysis of, news, current affairs, information or a documentary.

### 3.6 Canada

Under the Journalistic Sources Protection Act, a journalist is somewhat narrowly defined as “a person whose main occupation is to contribute directly, either regularly or occasionally, for consideration, to the collection, writing or production of information for dissemination by the media, or anyone who assists such a person. (journaliste)”.<sup>42</sup>

The Personal Information Protection and Electronic Documents Act<sup>43</sup> exempts journalistic activities from many of the provisions of the law without defining what it is. Recently, the Federal Court of Appeal ruled that Google search engine was not exempt since it was used for commercial purposes, not solely for journalism.<sup>44</sup>

## 4 DEFINITIONS PROPOSED BY INTERNATIONAL CIVIL SOCIETY ORGANISATIONS

Most free expression, media and journalists organisations who work in the field of journalist protection do not formally define who are journalists, and provide support to a variety of persons including tradition, freelance and bloggers among others. The following are some examples found.

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<sup>40</sup> Translation of Polish Press Law Act 1984, Law and Administration in Post-Soviet Europe, Volume 4 (2017) - Issue 1 (September 2017). Available at: <https://doi.org/10.1515/lape-2017-0002>

<sup>41</sup> See Ananian-Welsh, R. (2022). Who is a Journalist? A Critical Analysis of Australian Statutory Definitions. Federal Law Review, 50(4), 449-478. Available at: <https://doi.org/10.1177/0067205X221126583>

<sup>42</sup> Journalistic Sources Protection Act, S.C. 2017, c. 22.

<sup>43</sup> The Personal Information Protection and Electronic Documents Act, S.C. 2000, c. 5.

<sup>44</sup> Google LLC v Canada (Privacy Commissioner), 2023 FCA 200.



#### 4.1 Committee for the Project of Journalists

The Committee for the Protection of Journalists (CPJ) defines journalists as people who cover news or comment on public affairs through any media — including in print, in photographs, on radio, on television, and online. We take up cases involving staff journalists, freelancers, stringers, bloggers, and citizen journalists.<sup>45</sup>

#### 4.2 International Federation of Journalists

The Constitution 2022-2026 of the International Federation of Journalists (IFJ) in the connect of a journalists' trade union describes a journalist as "one who devotes the greater part of his/her working time to the profession of journalism and who derives from it most of his/her income being employed or working as a freelance."<sup>46</sup>

#### 4.3 ARTICLE 19

ARTICLE 19 believes that the fundamental issue is ensuring that information of public interest is widely available. Thus, the definition of who is a journalist needs to be considered in this context. The organisation believes that in the modern world, defining journalism in the context of protecting sources must include the broad array of individuals and organisations who are providing information to the public.<sup>47</sup>

It also mentions that the definition of what constitutes is a journalist is not a new issue. In the past, laws on protection of journalists' sources were drafted so that they only protected journalists in contemporary media forms, and did not apply to journalists using media which emerged later. In the USA, over the past 100 years, at the state level, wire reporters were not considered press and protected in the same way as newspaper reporters; later, television journalists did not receive protections given to radio reporters. This problem continues to the current day where digital media is currently not protected by laws in many jurisdictions. The courts in many of these jurisdictions have either found that the protections do not apply or have been forced to read beyond the text of legislation or constitutional provisions to find the protections.

Relating to bloggers, ARTICLE 19 argues that it is no longer appropriate to define journalism and journalists by reference to some recognised body of training, or affiliation with a news entity or professional body. On the contrary, ARTICLE 19 believes that the definition of journalism should be functional, i.e. journalism is an activity that can be exercised by anyone. Accordingly, it argues that international human rights law must protect bloggers just as it protects journalists.<sup>48</sup> In ARTICLE 19's view, requiring social media to adhere to professional standards criteria to a sufficient degree is both unhelpful and unnecessary: while professed adherence to a set of professional standards may be a helpful indicator of whether an individual is engaged in media activity, it should not be regarded as a necessary condition.

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<sup>45</sup> CPJ, Our Research. Available at: <https://cpj.org/about/research/>

<sup>46</sup> IFJ Constitution 2022, Article 4(a). Available at <https://www.ifj.org/who/rules-and-policy/constitution>

<sup>47</sup> ARTICLE 19 Response to the Special Rapporteur Consultation on Protection of Journalists' Sources and Whistleblowers, July 2015. Available at <https://www.ohchr.org/sites/default/files/Documents/Issues/Opinion/Protection/Article19.pdf>

<sup>48</sup> ARTICLE 19, The Right to Blog Policy Brief, 2013. Available at <https://www.article19.org/resources/the-right-to-blog/>



Disseminating information in the public interest is not something that should require membership of a professional body, or adherence to an established code of conduct. In the organisation's opinion, the protections should also extend to non-traditional organisations such as civil society organisations. Often, they produce material, which is in some form journalistic, without being explicitly described as such.

## 5 KEY ELEMENTS TO CONSIDER

The definition of journalist should include the following elements:

- Be a natural or legal person;
- Carry out activities regularly or professionally. This should include just starting, part time and irregular activities and those also working for non-traditional media, including news-oriented social media channels, bloggers, citizen journalists, and CSOs;
- Engaged in the collection and dissemination of information for the public's use including news, commentary, educational, and entertainment;
- Information may be disseminated by any form of communications including broadcasting, print, and digital;
- The person should aim to meet generally accepted media professional and ethical standards for accuracy and commitment to attain the highest quality of content;

In addition, the legal safeguards and protection mechanisms should also cover a wide range of those providing support and assistance in the media context including:

- Professional staff including editorial, stringers, researchers, investigators, cameramen and photographers;
- Administrative staff and support staff including fixers, drivers and interpreters;
- Publishing and dissemination staff including those engaged in the processing and dissemination of news and information, printing, delivery, and retailing;
- Technical staff and external communications providers;

Protection should also extend to family members and others in close personal relationships with the journalists and other media actors if they are targeted based on that relationship and in connection with journalistic activities.

Finally, there should not be any established criteria that would exclude oneself for being considered as a journalist as journalism is an exercise of freedom of expression. This includes:

- No requirement of education/training;
- No requirement of membership in the professional association or holding a press card;
- No connection with the employment status (full/partial/freelance);
- No requirement of remuneration for activities (e.g. community media);
- No limits on sources of funding, including "foreign funding".

