

HUMAN RIGHTS,  
DEMOCRACY  
AND THE RULE OF LAW

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

DROITS DE L'HOMME,  
DÉMOCRATIE  
ET ÉTAT DE DROIT

57<sup>th</sup> EPRA meeting

1 June 2023

CDM1SI

Update on the activities of the Council  
of Europe in the area of freedom of  
expression

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## Council of Europe Reykjavík Summit – political directions and priorities

- Agreement on the Register of Damages for Ukraine
- Support to Ukraine in ensuring the return of unlawfully transferred children
- Focus on environmental human rights and climate change
- Re-commitment to the principles of democracy, including freedom of expression
- Reaffirmation of the obligations under the ECHR including execution of ECtHR judgments
- Reinforced effort for the EU's accession to the ECHR
- Support to the future framework convention on AI
- Promotion of social rights
- Support to Russian and Belarussian human rights defenders



Excerpt from the Declaration:

...We welcome the Council of Europe's prominent role in international standard setting on freedom of expression and related issues such as media freedom, and access to information and combatting hate speech and disinformation, including the instrumentalisation of history, in particular in the light of the increasing impact of digital technologies on these issues. We will continue our collective efforts for the safety of journalists and other media actors.

(United to meet current and future challenges)



### Freedom of expression:

- continues to be **under threat** despite positive developments in some member states;
- **safety takes on a particular urgency**, with the war in Ukraine posing lethal challenges to journalists and violent attacks being on the rise also elsewhere;
- the upward trend in the number of **detentions and SLAPP lawsuits** threatens to undermine the investigative work of journalists and silence critical voices;
- the use of **surveillance measures to target journalists** is a strong issue of concern across Europe;
- media needs **further support to recover** from the impact of the pandemic and face the challenges of the digital age and regain public trust;
- the independence and funding of **public service media and media regulatory authorities** has been at risk in several member states;
- **online disinformation and hate speech** have continued to pose major problems, thus stronger governance and oversight of digital platforms is needed.



*Annual report  
of the Secretary General  
of the Council of Europe*

Steering Committee on  
Media and Information  
Society (CDMSI)

Committee of Experts  
on Increasing  
Resilience of Media  
(MSI-RES)

Committee of Experts  
on the Integrity of  
Online Information  
(MSI-INF)

Committee of Experts  
on Strategic Lawsuits  
against Public  
Participation (MSI-SLP)

## Key principles of the Guidance note

<b>Fact-checking</b>	<b>Platform-design solutions</b>	<b>User empowerment</b>
<p>Centrality of fact-checking as a key institution of public debate</p> <p>Independence of fact-checking organisations (from state and other stakeholders with potential interests)</p> <p>Transparency of the fact-checking process: in terms of funding, internal organisation, professional processes and standards, accountability mechanisms, etc.</p> <p>Platforms' responsibility for the integration of external fact-checking into their content curation systems</p> <p>Financial sustainability of fact-checking organisations: support needed by both States and platforms</p> <p>Importance of quality control</p>	<p>Human-rights-by-design in platform regulation and their co- and self-regulatory frameworks, human rights impact assessments</p> <p>Safety-by-design by prioritising the safety of platform users and creating a favourable environment for participation in public debate</p> <p>Proportionality in relation to the size and capacity of platforms / risk level of their functioning</p> <p>Focus on processes through which platforms rank, moderate and remove content, rather than on content</p> <p>Granular responses in terms of content moderation techniques (removal as a measure of last resort)</p> <p>Transparency and accountability of platforms' design of services, key policies, terms of service, etc.</p>	<p>Building resilience to disinformation through MIL</p> <p>Building community responses by enhancing capacity for collective action within communities</p> <p>Building a healthy media ecosystem</p> <p>Promotion of user rights by platforms + fast-tracked appeal mechanisms for vulnerable groups and individuals</p> <p>Collaboration between States, civil society, platforms, public service media, news organisations, fact-checkers, civil society organisations, user communities, etc. to maximise the impact of user empowerment initiatives</p> <p>Development of digital tools aiming to empower users against disinformation (plug-ins for browsers, AI-based verification tools, etc.)</p>

- Objective: provide guidance on how AI can help increase media resilience, in line with Article 10 ECHR and in collaboration with media practitioners
- Rationale: AI-driven tools are increasingly used across the entire journalistic production chain (newsgathering, research and data analysis, fact-checking, content production, distribution, engaging with the audiences) and can facilitate newsroom processes, but there are also risks involved in their use. The Guidelines aim to explain those risks and develop principles for using AI tools in a way that is compatible with human rights and professional ethics.
- Target groups: news media, particularly small- to medium-sized organisations; technology providers; platforms; member states, regulatory authorities and self-regulatory bodies

#### Key issues addressed:

- factors influencing the decision to use AI tools in newsrooms and determining which editorial processes are suitable for automation
- incorporating AI tools into editorial processes and reinterpreting journalistic values in light of AI applications – striking a balance between automation and human judgment
- editorial responsibilities attached to the implementation of AI systems in newsrooms and training to be provided to media practitioners
- special characteristics of journalistic production/distribution to be considered by technology developers and platforms (major distributors)
- ensuring oversight and control over the use of AI in journalism, including through appeal mechanisms for the audiences
- States' contribution and support for a responsible use of AI in journalism

- Objective: the report is focusing on the trends in the news media sector, highlighting the conditions that limit or boost the viability of the industry, and showcasing best practices in news media funding. The practices include examples of successful market-based strategies as well as regulatory initiatives in member states, for possible multiplication in other states.
- Structure: the core of the report consists of an analysis of different types of funding – private and public – with examples of good practices for sustainable market-based revenues and effective state support.
- Some preliminary findings:
  - a wide agreement in the sector that resilience and sustainability are generated through diversified and multidimensional revenue streams;
  - no single model has successfully replaced the advertising-based traditional model of funding; moreover, they must be analysed within the context of different political systems, regions, cultures, media market characteristics and sizes, and the levels of media independence and journalistic working conditions;
  - the increasingly complex business side of journalism requires news organisations to improve their business skills, which can be a challenge for smaller independent media;
  - direct revenue is still the dominant strategy, and while there is evidence of success in some countries, earnings are still decreasing;
  - crowdfunding requires a lot of effort for raising funds and has a low level of sustainability, but it seems to work in markets with a high level of political influence over the media;
  - philanthropy has had a slow uptake in Europe, contrary to the US, with concerns about transparency, fairness, and predictability, and appeals towards more sustainable and independent philanthropic programmes;
  - there are also some interesting funding initiatives introduced by states, such as partnership schemes for PSM to support local and public interest media.

- SLAPPs: lawsuits initiated or pursued as a means of harassing or intimidating their target, with the strategic aim of preventing or hindering public participation
- Objective: to protect public participation against SLAPPs and prevent the further use of SLAPPs in Council of Europe member states
- Rationale: using defamation laws to bring SLAPP lawsuits is a growing concern across Europe; in 2021-22 the Platform for the Safety of Journalists recorded alerts in 16 countries ranging from Croatia and Malta to the UK and Romania, some concerning dozens of cases simultaneously
- Indicators for qualifying SLAPPs: the claimant is exploiting their financial advantage and/or political influence to pressure the respondent; claimant's arguments are manifestly unfounded; remedies sought are aggressive or disproportionate; the claimant engages in procedural tactics to delay the proceedings, cause disproportionate costs to the respondent, pursue appeals with no prospect of success, or selects a forum allowing them to obtain a particularly favourable result; the lawsuit is accompanied by a public relations offensive to intimidate the respondent and other actors participating in public debate

Key issues addressed:

- Structural safeguards through legislative and/or other measures to prevent the frivolous, vexatious or malicious use of the law and legal process
- Procedural safeguards: early dismissal of SLAPPs, stay of proceedings, security for procedural costs, cost-shifting, automatic discontinuation of proceedings upon respondent's death
- Remedies: award of (procedural) costs, compensation of damages for the SLAPP victim, capping of damages for the claimant, dissuasive penalties
- Support for targets and victims of SLAPPs

## Objectives



- provide support to the development of appropriate legal and institutional frameworks at national level across a five-year period (2023-27)
- encourage member states to adopt national actions plans for the safety of journalists and set up protection mechanisms
- promote the setting up of campaigns at national level, with country-specific priorities and activities carried out in a multistakeholder setup
- lead to the improvement of the situation in practice

Campaign development

**Building on** the CoE standards and implementation guidance, as well as on the existing initiatives in countries where action plans are being implemented

Thematic focuses

**Four pillars:** “prevention”, “protection”, “prosecution” and “promotion of information, education and awareness raising”

CoE and nationally organised activities

**Dedicated to** the presentation of best practice examples, analysis of case studies and national mechanisms, discussing priority areas and identifying challenges and potential solutions

Other campaign-type activities

**Raising awareness** through various events, discussions with and testimonies of journalists, multistakeholder thematic exchanges, collaboration with journalists’ associations and partner organisations

Outcome

**In 2027** the main outcomes of the campaign will be presented: lessons learnt and best practices identified throughout the campaign will be shared with all interested partners and used in the planning of future projects

- **Immersive reality applications:** their impact on freedom of expression and human rights-compliant design, development and use
- **Disinformation:** a user-friendly compilation of standards and practical tools that can help counter the phenomenon – “10 steps to counter disinformation”
- **Online violence against journalists:** a standard-setting instrument recommending measures to counter such violence, potentially with a special focus on women journalists
- **Defamation:** an interpretative tool summarising the ECtHR case law and recommending proportionate responses in line with this case law
- **Revisiting media plurality:** a standard-setting instrument with updated principles for ensuring a diverse and competitive media environment, including guidance on online plurality
- **Media regulators:** the role and functions of media regulatory authorities in a platform-based media and communication environment
- **Hate speech:** a review of the implementation of Recommendation CM/Rec(2022)16 on combatting hate speech
- **Media and information literacy:** a compilation of principles and good practices for integrating MIL in national policies and strategies
- **Platforms:** their impact on self-determination, freedom of thought, choice and action

Thanks for your  
attention !



Further resources:

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