

COUNCIL OF EUROPE
COMMITTEE OF MINISTERS

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 by the Committee of Ministers on 3 May 1996
at its 98th Session)*

The Committee of Ministers of the Council of Europe, under the terms of Article 15.b of the Statute of the Council of Europe,

Emphasising that the freedom of the media and the free and unhindered exercise of journalism are essential in a democratic society, in particular for informing the public, for the free formation and expression of opinions and ideas, and for scrutinising the activities of public authorities;

Affirming that the freedom of the media and the free and unhindered exercise of journalism must be respected in situations of conflict and tension, since the right of individuals and the general public to be informed about all matters of public interest and to be able to evaluate the actions of public authorities and other parties involved is especially important in such situations;

Emphasising the importance of the role of journalists and the media in informing the public about violations of national and international law and human suffering in situations of conflict and tension, and the fact that they thereby can help to prevent further violations and suffering;

Noting that, in such situations, the freedom of the media and the free and unhindered exercise of journalism can be seriously threatened, and journalists often find their lives and physical integrity at risk and encounter restrictions on their right to free and independent reporting;

Noting that attacks on the physical safety of journalists and restrictions on reporting may assume a variety of forms, ranging from seizure of their means of communication to harassment, detention and assassination;

Reaffirming the importance of international human rights instruments at both world and European levels for the protection of journalists working in situations of conflict

and tension, especially the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the European Convention on Human Rights;

Reaffirming also the importance of Article 79 of the First Additional Protocol to the Geneva Conventions of 12 August 1949, adopted on 8 June 1977, which provides that journalists shall be considered as civilians and shall be protected as such;

Considering that this obligation also applies with respect to non-international armed conflicts;

Convinced that it is necessary to reaffirm these existing guarantees, to make them better known and to ensure that they are fully respected with a view to strengthening the protection of journalists in situations of conflict and tension;

Stressing that any interference with the work of journalists in such situations must be exceptional, be kept to a minimum and be strictly in line with the conditions set out in relevant international human rights instruments;

Noting that media organisations, professional organisations and journalists themselves can also contribute to enhancing the physical safety of journalists, notably by taking and encouraging practical prevention and self-protection measures;

Considering that, for the purposes of this recommendation, the term "journalist" must be understood as covering all representatives of the media, 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,

Recommends that the governments of member states:

1. be guided in their actions and policies by the basic principles concerning the protection of journalists working in situations of conflict and tension set out in the appendix to this recommendation, and apply them without distinction to foreign correspondents and local journalists and without discrimination on any ground;
2. disseminate widely this recommendation and in particular bring it to the attention of media organisations, journalists and professional organisations, as well as public authorities and their officials, both civilian and military.

Appendix to Recommendation No. R (96) 4

Basic principles concerning the protection of journalists

in situations of conflict and tension

Chapter A: Protection of the physical safety of journalists

Principle 1

Prevention

1. Media organisations, journalists and professional organisations can take important preventive measures contributing to the protection of the physical safety of journalists. Consideration should be given to the following measures with a view to adequate preparation for dangerous missions in situations of conflict and tension:

a. the provision of practical information and training to all journalists, whether staff or freelance, with the assistance of experienced journalists and competent specialised authorities and organisations such as the police or the armed forces;

b. wide dissemination among the profession of existing “survival guides”;

c. wide dissemination among the profession of information on the availability of appropriate protection equipment.

2. While these measures are first and foremost the responsibility of media organisations, journalists and professional organisations, the authorities and competent specialised organisations of the member states should be co-operative when approached with requests for the provision of information or training.

Principle 2

Insurance

1. Journalists working in situations of conflict and tension should have adequate insurance cover for illness, injury, repatriation and death. Media organisations should ensure that this is the case before sending journalists employed by them on dangerous missions. Self-employed journalists should make their own insurance arrangements.

2. Member states and media organisations should examine ways of promoting the provision of insurance cover for all journalists embarking on dangerous missions as a standard feature of contracts and collective agreements.

3. Media organisations and professional organisations in member states should give consideration to setting up a solidarity fund to indemnify journalists or their families

for damage suffered in cases where insurance is insufficient or non-existent.

Principle 3

"Hotlines"

1. The emergency hotline operated by the International Committee of the Red Cross (ICRC) has proved invaluable for tracing missing journalists. Other organisations such as the International Federation of Journalists (IFJ) and the International Freedom of Expression Exchange (IFEX) operate effective hotlines which draw attention to cases of attacks on the physical safety of journalists and their journalistic freedoms. Media organisations and professional organisations are encouraged to take steps to make these hotlines better known among those in the profession. Member states should support such initiatives.

2. Journalists working in situations of conflict and tension should consider the advisability of keeping the local field offices of the ICRC informed, on a confidential basis, of their whereabouts, so enhancing the effectiveness of the hotline in tracing journalists and in taking steps to improve their safety.

Chapter B: Rights and working conditions of journalists working in situations of conflict and tension

Principle 4

Information, movement and correspondence

Member states recognise that journalists are fully entitled to the free exercise of human rights and fundamental freedoms as guaranteed by the European Convention on Human Rights (ECHR), and by protocols thereto and international instruments to which they are a party, including the following rights:

- a. the right of everyone to seek, impart and receive information and ideas regardless of frontiers;
- b. the right of everyone lawfully within the territory of a state to liberty of movement and freedom to choose their residence within that territory as well as the right of everyone to leave any country;
- c. the right of everyone to respect for their correspondence in its various forms.

Principle 5

Confidentiality of sources

Having regard to the importance of the confidentiality of sources used by journalists in situations of conflict and tension, member states shall ensure that this confidentiality is respected.

Principle 6

Means of communication

Member states shall not restrict the use by journalists of means of communication for the international or national transmission of news, opinions, ideas and comments. They shall not delay or otherwise interfere with such transmissions.

Principle 7

Checks on limitations

1. No interference with the exercise of the rights and freedoms covered by Principles 4 to 6 is permitted except in accordance with the conditions laid down in relevant provisions of human rights instruments, as interpreted by their supervisory bodies. Any such interference must therefore:

- be prescribed by law and formulated in clear and precise terms;
- pursue a legitimate aim as indicated in relevant provisions of human rights instruments; in accordance with the case-law of the European Court of Human Rights, the protection of national security within the meaning of the ECHR, while constituting such a legitimate aim, cannot be understood or used as a blanket ground for restricting fundamental rights and freedoms; and
- be necessary in a democratic society, that is: correspond to a pressing social need, be based on reasons which are relevant and sufficient and be proportionate to the legitimate aim pursued.

2. In situations of war or other public emergency threatening the life of the nation and the existence of which is officially proclaimed, measures derogating from the state's obligation to secure these rights and freedoms are allowed to the extent that these measures are strictly required by the exigencies of the situation, provided that they are not inconsistent with other obligations under international law and do not involve discrimination solely on the ground of race, colour, sex, language, religion or social origin.

3. Member states should refrain from taking any restrictive measures against

journalists such as withdrawal of accreditation or expulsion on account of the exercise of their professional activities or the content of reports and information carried by their media.

Principle 8

Protection and assistance

1. Member states should instruct their military and police forces to give necessary and reasonable protection and assistance to journalists when they so request, and treat them as civilians.
2. Member states shall not use the protection of journalists as a pretext for restricting their rights.

Principle 9

Non-discrimination

Member states shall ensure that, in their dealings with journalists, whether foreign or local, public authorities shall act in a non-discriminatory and non-arbitrary manner.

Principle 10

Access to the territory of a state

1. Member states should facilitate the access of journalists to the territory of destination by promptly issuing visas and other necessary documents.
2. Member states should likewise facilitate the importation and exportation of professional equipment.

Principle 11

Use of accreditation systems

Systems for the accreditation of journalists should be introduced only to the extent necessary in particular situations. When accreditation systems are in place, accreditation should normally be granted. Member states shall ensure that:

- a. accreditation operates to facilitate the exercise of journalism in situations of conflict and tension;

b. the exercise of journalism and journalistic freedoms is not made dependent on accreditation;

c. accreditation is not used for the purpose of restricting the journalist's liberty of movement or access to information; to the extent that refusal of accreditation may have the effect of restricting these rights, such restrictions must be strictly in accordance with the conditions set out in Principle 7 above;

d. the granting of accreditation is not made dependent on concessions on the part of journalists which would limit their rights and freedoms to a greater extent than is provided for in Principle 7 above;

e. any refusal of accreditation having the effect of restricting a journalist's liberty of movement or access to information is reasoned.

Chapter C: Investigation

Principle 12

1. In situations of conflict and tension, member states shall investigate instances of attacks on the physical safety of journalists occurring within their jurisdiction. They shall give due consideration to reports of journalists, media organisations and professional organisations which draw attention to such attacks and shall, where necessary, take all appropriate follow-up action.

2. Member states should use all appropriate means to bring to justice those responsible for such attacks, irrespective of whether these are planned, encouraged or committed by persons belonging to terrorist or other organisations, persons working for the government or other public authorities, or persons acting in an individual capacity.

3. Member states shall provide the necessary mutual assistance in criminal matters in accordance with relevant applicable Council of Europe and other European and international instruments.