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OSCE SAFETY OF JOURNALISTS GUIDEBOOK

Organization for Security and Co-operation in Europe

The Representative on Freedom of the Media

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Organization for Security and Co-operation in Europe

A-1010 Vienna, Austria
Phone number +43-1-514-36-68-00
Fax number +43-1-514-36-68-02
e-mail pm-fom@osce.org
http://www.osce.org/fom

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About the author of the Guidebook:

William Horsley is the International Director of the Centre for Freedom of the Media at the University of Sheffield in the United Kingdom and a consultant on issues of press freedom and democratic government. He worked for many years as a foreign correspondent for BBC News and now represents the Association of European Journalists at the Council of Europe and in other international bodies.

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Foreword

The true quality of a nation's democracy can be measured by the security and safety of its journalists.

When journalists can act without fear, secure in their person and in their profession, they are empowered to bring vital information to the people. They become agents of democracy and freedom. They serve as a watchdog over the institutions of society. They can convey accurately and objectively the actions and attitudes of the power brokers of society. In this way they are as vital as any other actor or institution in the democratic form of governance.

Without the free flow of knowledge and information, the people, on which our democracies are founded, will be rendered deaf, mute, and in the end, powerless. They become subject to control and victimization by any one of several groups or individuals. These include economic forces, ideological groupings, a single political party or leader or the machinery of the state.

We are all witness to the power of the freedom of speech we enjoy today. In 1975 the Helsinki Final Act affirmed the necessity for free speech thereby inspiring the whole of Eastern Europe. It is in the same vein the family of OSCE must face the present challenges for the freedom of the media and the safety of journalists across the Euro-Atlantic and Eurasian region.

This Guidebook, and the recommendations and guidelines it contains, was conceived by participants, with the invaluable help and support of the OSCE's Representative of the Freedom of the Media at the Conference on Safety of Journalists in the OSCE Region held in Vilnius, Lithuania in June

2011. I thank the author of this Guidebook, William Horsley, for his work. I commend it to every person, institution and government body concerned with the free expression of the media, and the freedom of citizens to have access to public information and knowledge, not just in the OSCE area, but throughout the world.

Audronius Ažubalis
Minister for Foreign Affairs of the Republic of Lithuania

Introduction

The issue of journalists' safety has catapulted to the forefront of international attention and for good reason. The number of media killed in the line of duty – murdered because they were reporting – during the last decade is staggering. International organizations advocating for media rights consistently put the number above 100 each year. Violent assaults continue to rise. In many parts of the world, including the OSCE region, it is simply unsafe to be a journalist.

The critical importance of journalists' safety compelled the OSCE Chairman-in-Office, Lithuania, and my Office to take practical steps to increase the visibility of the problem – and what it means to democratic societies.

The ability to receive and impart information is fundamental to the OSCE. Recognizing that fact, in 1997 the participating States created a unique institution, the Office of the Representative on Freedom of the Media. Tasked to observe the media-freedom climate in all 56 participating States, the Representative provides an early-warning function, informing the Permanent Council about violations of media-freedom commitments.

There is no greater violation of those commitments than the assaults – physical, emotional legal and administrative, practiced on journalists.

Recognizing the gravity of the issue, the Chairmanship hosted a two-day conference in June 2011 on Safety of Journalists. At the Vilnius conference, the Chairmanship, in co-operation with the Representative, promulgated the Vilnius Recommendations which emphasize the role of national governments and legislatures, law enforcement agencies and the media themselves in ensuring safe working conditions for journalists. The job to write this Guidebook was given to one of the most well-known international experts in the field, William Horsley.

The following publication sets forth the issues to be considered by participating States when evaluating what they can do to improve the climate

for journalists in their countries. It also provides a practical guide which presents the steps they can take to ensure a media-friendly environment.

I encourage all readers to consider the good-practice examples included in this guide so that the entire OSCE region can meet their admirable media-freedom commitments.

Dunja Mijatović
Representative on
Freedom of the Media

Vienna
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"The true quality of a nation's democracy can be measured by the security and safety of its journalists"

Audronius Ažubalis, Minister for Foreign Affairs of Lithuania and OSCE Chairperson-in-office, at the conference on Safety of Journalists, Vilnius, Lithuania, 7-8 June 2011

Part I. The safety of journalists: an urgent concern for OSCE participating States

The safety of journalists is an urgent issue for OSCE governments because the scale of violence against journalists, including murders and attacks leading to serious injuries, has grown significantly over recent years with far-reaching and damaging effects.

Other means of suppressing independent news media, for example through arbitrary arrests and prosecutions, oppressive political and commercial pressures, and stifling forms of official regulation, also have become commonplace for journalists working within the OSCE region. Those things also give rise to fear and uncertainty among journalists and other members of the media and so have a chilling effect on freedom of expression within whole societies.

The Internet has had a transforming effect on societies, giving new or enhanced voice to community media, citizen journalists, bloggers and other users, as well as professional journalists.

However, as the importance of those activities has grown and added greatly to the pluralism of reporting, online journalists, bloggers and Internet users have increasingly become targets of violence and of spurious allegations of criminal behaviour intended to silence them.

Freedom of expression applies on the Internet as it does to all means of communication.

Violence, harassment and intimidation directed against journalists represent an attack on democracy itself. They have the effect of stifling freedom of the media and freedom of expression, depriving populations of the ability to make informed decisions about their lives.

Without safe working conditions, journalists cannot write or report freely and independently; the safety of the media is a precondition for free media. In recognition of this, the OSCE's Representative on Freedom of the Media, Dunja Mijatović, gives paramount importance to stopping violence and intimidation toward journalists. She has called on governments and non-governmental organizations to combine their efforts to defend the rights of free media and free expression.

OSCE participating States, together with civil society and journalists' organizations, have expressed increasing concern, and many now call for determined action to protect the safety and security of journalists. The Lithuanian OSCE Chairmanship in 2011 made the safety of journalists one of its priorities, and the Republic of Ireland Chairmanship which will follow in 2012 has indicated that it will maintain that priority in 2012.

The OSCE, as the world's largest regional security organization, also has a special responsibility to uphold the standards and norms of international law with respect to all aspects of freedom of expression, as enshrined in the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights (ICCPR) and the European Convention on Human Rights.

In response to rising global concerns, a United Nations Inter-agency meeting involving all the relevant specialized agencies and programmes of the UN was held in Paris in September 2011 to draw up a Plan of Action to improve the safety of journalists and to counter impunity. Regional organizations, including the OSCE, were invited to contribute to drafting a Plan of Action and have a close interest in results that will affect UN policies and programmes in countries across the world.

Positive results based on OSCE principles

This Guidebook is intended to be of practical use to OSCE participating States. It describes the nature of the actual threats to journalists' safety, sets out the accepted norms and standards of the OSCE that are applicable, and describes the best practices which States are urged to adopt.

Those measures, implemented in good faith by participating States, can create a healthy climate for free media to flourish securely within a proper framework of laws.

OSCE participating States have publicly acknowledged the benefits of press freedom, diversity and vitality as fundamental elements of their democratic societies, and have committed themselves often to promoting free media through their laws and practices.

At the OSCE Astana Summit in 2010 they again recognised the important role played by civil society and free media in helping to ensure full respect for human rights, fundamental freedoms, democracy, including free and fair elections and the rule of law.

Having free, independent and diverse media is both a sign of a healthy democracy and an indispensible basis for achieving it. It is necessary to achieve accountability in public life and public trust in government and the rule of law.

Free and independent media also bring important economic benefits by encouraging transparency in business and economic affairs. They deliver opportunities for whole populations to reap the advantages of new information and communications technologies.

However, actions and laws which suppress or inhibit free and vigorous media undermine and jeopardize security and co-operation both within countries and across borders among the participating States.

To make real progress and to remedy serious shortcomings, governments should acknowledge the dangers faced by journalists because of their work and counteract them with determination. At the Vilnius conference on Safety

of Journalists in the OSCE Region on 7-8 June 2011, governments and experts re-affirmed their conviction that protecting the safety of journalists is essential to uphold the fundamental purposes of the OSCE for the benefit of all.

How violence against journalists can threaten the foundations of democracy

In the past six years more than thirty journalists have been killed because of their work in the OSCE region and many hundreds of violent assaults have also taken place which resulted in physical injury. In several cases journalists have been abducted and later found murdered; in others threats were made against the family members of journalists to silence them or force them to abandon their profession.

In a significant number of cases the pattern of these crimes points to contract killings or premeditated assaults involving attackers who are able to operate with little fear of detection and arrest. Among journalists a climate of fear has grown acute in some places because of a very low rate of arrest and conviction of the perpetrators and masterminds of these crimes.

Impunity has gradually been allowed to become commonplace, particularly with regard to killings and serious assaults against journalists within the OSCE region.

The situation has deteriorated drastically to the extent that the OSCE region, made up of 56 States, is assessed over recent years to have been among the regions of the world with the highest recorded number of physical attacks on journalists, including murders.

The ability of journalists and others to exercise their rights and perform the role of scrutinizing the conduct of public life has also been seriously constrained by laws and practices on the part of governments, such as defamation lawsuits and pressures to suppress critical media coverage, which impose new limits on freedom of expression and the free flow of information.

These have distorted the media landscape in parts of the OSCE area, and deprived parts of the population of their legitimate right to freely receive and disseminate information and opinions.

Journalists' organizations report that self-censorship has become widespread because journalists, and others who mainly express themselves through Internet sites or social networks, fear physical or legal reprisals for what they write or say or report.

Journalists and members of the media are exposed to intense pressures, and to the risk of suffering intimidation or violence, because their work of scrutinizing public life and investigating crime and corruption is resisted or opposed by powerful and sometimes violent forces in society.

Hundreds of journalists have been forced to quit journalism or leave their home countries. Some have been forced into hiding or obliged to accept the protection of police, when that possibility exists.

These developments are in contradiction with the OSCE's founding principle of respect for freedom of expression as a fundamental human right and a basic component of a democratic society. Freedom of the press is valued as "the mother of all liberties" because it is necessary for the exercise of other rights.

Many of the recorded cases of violence causing injury of harm to journalists have involved allegations of assaults and other abuses carried out by public officials, such as prison officers and police officers. In March 2011 the Committee of Ministers of the Council of Europe explicitly deplored such behaviour both within member states and in countries outside the Council of Europe.

To eradicate impunity, it is essential to ensure that the judicial system is independent of political or other pressures. The conduct of investigations into crimes of violence against journalists, as in the case of all crimes, must be conducted promptly, impartially, effectively and with professionalism.

On 30 March 2011 the Committee of Ministers of the Council of Europe approved its Guidelines on Eradicating Impunity for serious human rights violations. The Ministers noted;

Cases of impunity for violations of human rights are unfortunately not uncommon in Council of Europe member states, particularly as regards those committed by police and prison officers, or those directed against human rights defenders. Allowing such crimes to go unpunished demonstrates a lack of respect for human rights (often involving a human rights violation in its own right) and encourages repetition of those crimes, as perpetrators, and others, feel free to commit further offences, knowing they will be shielded from punishment.

Impunity erodes the rule of law. Furthermore, those who permit it are effectively condoning the crimes that are committed. It is therefore essential to eradicate impunity in the member states and encourage states outside Europe to do the same.

OSCE principles make clear that in democracies the State's monopoly on law making and law enforcement must not be abused to serve the interests of any persons or groups who exercise power. Governments should not tolerate abuses by any person in official authority, and should establish oversight and complaints structures to ensure that such behaviour is punished.

Many attacks against journalists, including murders, are also attributed to criminal organizations and other non-governmental actors. Strong and effective systems of protection need to be established for those who may become targets of such groups. Governments are responsible for preventing criminal gangs and any lawless elements from threatening or attacking journalists.

The situation in the OSCE region: an assessment delivered at the OSCE Conference on Safety of Journalists in Vilnius, June 7-8 2011

Over the past two years the United Nations Human Rights Committee, an authoritative body of independent legal experts, has reviewed reports submitted by 18 members of the OSCE. In 10 of those reviews – more than half – the Committee expressed serious concerns and issued specific

recommendations for changes to law, policy and practice. At the OSCE Conference on Safety of Journalists in Vilnius in June 2011, Professor Michael O'Flaherty, Vice Chairperson of the United Nations Human Rights Committee, described the Committee's general conclusion in these terms:-

"The violations of freedom of expression and forms of attacks on journalists in some OSCE States are among the worst in the world. The Committee has drawn attention to such abuses as the killing of journalists and the failure to investigate the murders or penalise the perpetrators; the enforcement of unacceptable laws that forbid comment on public affairs, criticism of the State or of its high officials; the imposition of suffocating regulatory frameworks and heavy handed and unacceptable efforts to censor the Internet."

With respect to OSCE participating States in particular, O'Flaherty said the findings of the UN Human Rights Committee made clear that to fulfil their obligations they should conduct a comprehensive review of law, policy and practice. He said of such a review:

"This needs to be across government – affecting ministries responsible for communications, justice, education, and so forth. Programmes need to be both preventive of restrictions and attacks on the media and they need to be protective and restorative for victims of such attacks. Invariably, the Committee emphasizes that protection of the media has to be a top priority for States."

Part II. Ending impunity: an imperative for the OSCE

All OSCE participating States are publicly committed to ensuring high standards of justice, and it is significant that in 1994, in the OSCE Budapest Summit Declaration, they condemned all attacks on journalists and pledged to hold those responsible for such attacks accountable.

As recently as in 2009, the OSCE Parliamentary Assembly, meeting in Vilnius, passed a Resolution urging participating States to investigate threats and acts of violence against journalists effectively, especially those aimed at intimidating journalists' independent reporting, and to prosecute those responsible.

However, the current situation gives no cause for satisfaction. Concerns about attacks on journalists and the media are aggravated by the reality that in some OSCE participating States a climate of impunity has developed concerning crimes of violence directed against journalists.

The proportion of investigations in such cases globally that result in the conviction and punishment of those responsible is – according to the International Freedom of Expression Exchange, IFEX – only about one in ten, a much lower rate than that recorded in other categories of murder cases. This amounts to a pattern of impunity which has a severe impact far beyond the particular cases.

Impunity represents a systemic failure of the functions of government and the rule of law, on which the safety and rights of everyone depends. Ending impunity is therefore an absolute imperative for the OSCE.
In every case impunity represents a double injustice to the victims of crimes of violence and undermines the rule of law in societies where it occurs. It leads to a loss of public confidence in the independence of law-enforcement agencies and judicial systems, and encourages more criminal acts because those who have an intention to commit assault or murder know that previous crimes have gone unpunished.

The European Court of Human Rights, which judges individual complaints brought under the European Convention on Human Rights, has ruled that States are obliged to protect freedom of expression and the rights of

journalists who face threats of violence or other reprisals because of their work.

In several cases States have been found in violation for failing to protect the life and the freedom of expression of journalists who have faced threats and become murder victims.

The Court has also found violations on grounds of the lack of an effective investigation in cases when journalists were killed.

The European Court of Human Rights sets global standards in human rights law, drawing closely as it does on the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights (ICCPR).

Forty-seven of the 56 OSCE participating States are members of the Council of Europe. All Council of Europe member states have ratified the European Convention on Human Rights and incorporated its provisions into their domestic laws.

The ICCPR has been signed and ratified by all OSCE participating States except one, the Vatican City.

Investigations of attacks on journalists require particular sensitivity and expertise to ensure that any possible link between the crime and the journalist's professional activities is uncovered and taken into account. A newspaper article, broadcast item, or any form of published material, may be a significant piece of evidence.

Timely and effective investigations are critical so that evidence is preserved and justice can be done.

Regrettably, in a number of cases within OSCE participating States, the authorities have been overly quick to dismiss the possibility of such a link, with the result that proper investigations were not carried out.

Appropriate training of police officers, prosecutors, lawyers and judges is therefore recommended to give them the necessary skills.

Police and governmental authorities should also be mindful of the fact that journalists may be especially vulnerable to malicious physical attacks on account of their work. They should be prepared to take steps to provide protection in cases when there is a substantial or imminent fear of assault or harm.

Other threats to journalists and free expression: deprivation of liberty, harassment and exclusion

Physical attacks and threats of violence or harm against journalists and members of their family represent an extreme form of censorship. Intimidation and harassment also take many other forms which deprive journalists of safety or security and may lead to habitual self-censorship of the media, which restricts freedom of expression in the society.

Unfortunately, in OSCE participating States the threat of criminal charges which may lead to a prison sentence has all too often been used to silence journalists, and has stopped them from doing their work.

Journalists have in many cases faced arbitrary arrest on what later were shown to be spurious charges; yet the criminal investigations and prosecutions against them have led to detention and or prison sentences on account of their work as journalists.

Special and growing concern is attached to the fact that in a number of participating States journalists have been charged and convicted of a criminal offence for defamation of a public figure or state institution, in contradiction to the norms established by the case law of the European Court of Human Rights in its judgments related to Article 10 of the European Convention on Human Rights, dealing with the right to freedom of expression.

More than 20 years ago the court established the principle that politicians must accept more criticism than private individuals. In a 1986 judgment in a criminal defamation case involving a critical press report about the then chancellor of Austria, Bruno Kreisky, the court ruled that a politician knowingly opens himself to close scrutiny, and must tolerate a higher level of criticism (Lingens v Austria, 1986 8 EHRR40).

Explaining its decision, the European Court of Human Rights noted that political debate rests “at the very core of the concept of a democratic society. Politicians should therefore accept that courts will seriously consider the value of political debate when ruling in a defamation suit.” That judgment has been reflected in subsequent rulings by the Strasbourg court.

Persistent threats of prosecution which contradict the accepted right to the protection of sources are also a persistent cause for concern. The press has been accorded the broadest scope of protection in the case law of the European Court of Human Rights, including with regard to confidentiality of journalistic sources.

In a landmark ruling in 1996 the Court ruled that the protection of sources is one of the basic conditions for press freedom. “Without such protection”, the Court said, “sources may be deterred from assisting the press in informing the public on matters of public interest,” and the vital public-watchdog role of the press may be undermined.

Journalists have also faced other seriously disruptive measures, such as unwarranted and vexatious tax investigations, the denial of travel permits or visas, denial of access to press events and the right to ask questions, and other administrative hindrances.

Government officials should not deny access to any journalist or media organization on a discriminatory basis, and should not demand or request favourable coverage, apply pressure, or threaten journalists with reprisals or exclusion because of the contents or manner of their reporting. Media employers should not order journalists to behave unethically or to report untruths.

Unfortunately, in a number of OSCE participating States journalists still lack proper legal protection from the threat of arbitrary loss of employment and with it the loss of livelihood for themselves and their family members. Governments are responsible for providing those basic protections in law.

Part III. The safety and security of journalists: the responsibility of OSCE participating States

Responsibility for upholding all OSCE commitments lies with the governments of the participating States. National governments are called on to take the necessary steps to protect the physical safety and security of journalists who face threats of violence.

That obligation calls for coordinated and consistent State policies and practices. It is necessary to ensure that national laws, administrative and judicial systems protect and promote freedom of expression and safeguard the lives and professional rights of journalists.

Elected politicians and all who hold high office are called on to demonstrate their unequivocal commitment to respecting press freedom and the safety of journalists. Politicians and officials should not abuse their status by speaking in a derogatory or insulting way about journalists or the media.

Such language, when used by leading public figures, can encourage extremists to view journalists as targets to be silenced or attacked. Senior political leaders therefore have a special responsibility not to use intemperate or inappropriate language.

A framework for journalists' safety in law and administration

The following 16 points cover matters of law, regulation and practice which, taken together, represent a framework for protecting the safety and legitimate professional rights of journalists in OSCE participating States:

- Basic provisions in national constitutions and laws that guarantee freedom of opinion, freedom of expression and media freedom; in particular, libel, defamation and insult should be decriminalized and treated as a civil offence, with the award only of proportionate penalties

- Guarantees of the free flow of information and freedom of expression regardless of frontiers, including international broadcasts and other forms of media

- The open nature of the Internet is to be ensured; Internet freedom should be promoted and maintained without mandatory blocking or filtering of content or websites

- Open and responsive government structures, with provisions for free, independent and enquiring media to perform their watchdog role in public life without harassment or hindrance from State authorities or others

- Robust and transparent guarantees of the independence of the judiciary, to protect the rights of free media and ensure that those responsible for attacks on journalists are brought to justice

- Abolition of laws giving special protections from criticism to officials or elected political representatives; public figures should accept higher level of criticism than ordinary citizens

- State authorities should respect the confidentiality of journalists' sources as a basic condition for press freedom; an order of source disclosure cannot be compatible with the media's right to report unless it is justified by an "overriding requirement" in the public interest

- Provision of a substantial public interest defence in law cases related to journalists' methods of gathering information and reasons for making information public

- Regulation and supervision of law-enforcement agencies, including police and the prison service, with effective oversight and complaints procedures

- State security and anti-terrorism laws to be carefully defined and limited in time and scope; their drafting and application should take due account of the fundamental right to freedom of opinion and expression

- Enacting laws guaranteeing the right to freedom of information and access to official records

- Allowing media access to officials, government spokespersons and to public and press events without discrimination or arbitrary exclusion

- Ensuring transparency of ownership of media outlets and proper competition rules to prevent over-concentration of ownership, market distortions and increased risks of undue pressures on editors and journalists

- Not seeking to license print media or to control the production and distribution of media

- Enacting and upholding journalists' employment rights, including the right to organize and join trade unions, which can protect them arbitrary dismissal and from undue pressures to act in unethical or unprofessional ways.

- Supporting mechanisms that provide for the protection of journalists from violence and intimidation, such as an Ombudsman or Human Rights Commissioner

The common responsibilities of OSCE participating States

In the Astana Commemorative Declaration in 2010, participating States reaffirmed that all OSCE principles and commitments are matters of immediate and legitimate concern to all participating States. The task of protecting the safety of journalists is one that must be shared.

In 1997 OSCE participating States established a mechanism to promote this principle, the Office of the Representative on Freedom of the Media.

The Representative on Freedom of the Media has worked since then with a mandate to concentrate on rapid response to serious non-compliance with OSCE principles and commitments by participating States in respect of freedom of expression and free media.

The Representative promotes compliance with OSCE commitments through early warnings and recommendations.

The work of the Representative's Office consists of a range of activities to assist with the resolution of issues that arise, including providing expert advice on the drafting of laws and regulations, technical assistance and

training, country visits and communications, regular reports to the Permanent Council and public appearances.

The work is of a non-judicial nature, but draws attention to problems, working in consultation with State authorities and with relevant non-governmental organizations to facilitate solutions.

The mandate of the Representative's Office is supported by all participating States, and its activities are conducted so that all States are treated equally.

OSCE participating States are also bound by their obligations under international law, including the International Covenant on Civil and Political Rights (ICCPR), which is binding on the States which have ratified it.

The growing concerns of OSCE participating States about the safety of journalists are matched by concerns among UN member States about the assassinations of journalists in countries in many regions. In 2011 alone a total of over 100 journalists have been killed in over 30 States, according to figures published by INSI, the International News Safety Institute.

Those positive duties of States have been clarified by the United Nations Human Rights Committee, which acts as the oversight body for the ICCPR.

In July 2011 the Committee published its considered interpretation of Article 19 of the International Covenant on Civil and Political Rights, on freedom of opinion and freedom of expression (General Comment No.34 on Article 19).

The General Comment stated that all States must put in place effective measures to protect against attacks aimed at silencing those exercising their right to freedom of expression, including journalists.

In its General Comment, the Human Rights Committee identified journalists as among the groups frequently subjected to threats, intimidation and attacks on account of their activities, together with persons who engage in gathering and analysis of information on the human rights situation and who publish human-rights related reports, including judges and lawyers.

The range of those threats and attacks are identified as “arbitrary arrest, torture, threats to life and killing”. The General Comment states that all such attacks “should be vigorously investigated in a timely fashion and the perpetrators prosecuted, and the victims or their representatives receive appropriate redress. From General Comment 34 on Article 19 of the International Covenant on Civil and Political Rights:

> *23. States parties should put in place effective measures to protect against attacks aimed at silencing those exercising their right to freedom of expression. Paragraph 3 [of Article 19] may never be invoked as a justification for the muzzling of any advocacy of multi-party democracy, democratic tenets and human rights. Nor, under any circumstance, can an attack on a person, because of the exercise of his or her freedom of opinion or expression, including such forms of attack as arbitrary arrest, torture, threats to life and killing, be compatible with Article 19. Journalists are frequently subjected to such threats, intimidation and attacks because of their activities. So too are persons who engage in the gathering and analysis of information on the human rights situation and who publish human rights-related reports, including judges and lawyers. All such attacks should be vigorously investigated in a timely fashion, and the perpetrators prosecuted, and the victims, or, in the case of killings, their representatives, be in receipt of appropriate forms of redress.*

Article 19 of the International Covenant on Civil and Political Rights

1. Everyone shall have the right to hold opinions without interference.
2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.
3. The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:

(a) For respect of the rights or reputations of others;
(b) For the protection of national security or of public order (ordre public), or of public health or morals.

Part IV. Journalists' safety and the role of civil society and non-governmental organizations

A fundamental characteristic of democratic governments and free societies is that they encourage and promote the expression of diverse views both through free media and through the activities of citizens in independent non-governmental organizations, which engage in vigorous open public debate.

Robust and independent non-governmental organizations play a vital role in sustaining open democracy. They provide independent information to the media and to the whole society on matters of public concern, and they are able to challenge governments and other vested interests over a wide variety of matters of legitimate concern.

Many national and international non-governmental organizations in the OSCE region also help to protect the safety and security of journalists by monitoring cases of violence against the media and other serious infringements of freedom of expression, protecting journalists against wrongful prosecutions, and seeking to ensure that crimes against journalists are properly investigated.

It is important that States ensure favourable conditions for civil society organizations of all kinds to flourish, refrain from placing onerous obligations or restrictions on them, and are receptive to the findings and concerns of those organizations, as they are to other representative groups in local communities, businesses, the professions and organized labour.

Part V. Media professional standards and self-regulation

Journalists, editors and media owners are responsible for taking all possible measures to safeguard the physical safety of members of the media operating in areas of conflict and on dangerous assignments, including providing personal insurance and support systems.

Those precautions and supporting measures on the part of media organizations and members of the media are necessary to minimize the dangers and risks. However, their effectiveness also depends critically on the fulfilment by States of their obligations to assist with protecting journalists and enabling them to carry out their work. All branches of government, including armed forces, should acknowledge and uphold the rights of journalists as civilians who report on conflict zones to keep the public informed.

Journalists and media organizations should at all times strive to maintain high professional standards. When mistakes are made by journalists, governments should not use them to impose controls or to seek to close down a media organization.

The State should not own or control media organizations itself, and should ensure that the rules governing public broadcasting, the granting of broadcasting licences, including during the digital switchover, and other matters are handled impartially.

Media self-regulation through independent press councils, media councils or similar bodies is recommended as the best way to maintain ethical and professional standards. These exist to administer an agreed code of practice, which generally contain ethical rules that go beyond statutory legal requirements. In some cases national press councils also investigate complaints from members of the public about editorial content.

Media self-regulation requires that news media organizations of all kinds draw up and adhere to a detailed code of practice. In the case of corporate codes such as the BBC's Editorial Guidelines in the UK, these are overseen by senior editors within the organization.

Most OSCE participating States also have some form of cross-media press or media council, which allows editors from many organizations to operate a code of journalistic practice. That task should be conducted independently of government and of any kind of political authority although in practice currently the degree of independence and effectiveness of such organizations varies considerably.

As an example of the issues and issues covered by such arrangements, the Editors Code of Practice of the UK's Press Complaints Commission requires that inaccuracies are acknowledged and corrected, sets out guidelines on matters of intrusion, harassment, discrimination and the use of pejorative language about particular groups in society, upholds the principle that journalists should protect the confidentiality of sources of information and provides guidelines on what constitutes the public interest in media terms – for example, to expose crime or serious impropriety and to prevent the public from being misled.

In addition, major journalists' organizations have developed their own codes of conduct, setting out professional principles by which their members agree to abide.

The International Federation of Journalists has a formal set of professional and ethical principles which journalists should respect. It covers matters of editorial independence and self-regulation and asserts the right of journalists not to be directed by an employer to behave in a way which would breach his or her professional ethics.

Furthermore, positive examples are found in some OSCE participating States of agreement being reached on guidelines aimed at building good relations between police and media reporters, photographers and other workers, especially concerning media coverage of demonstrations, crime and major events.

An example is the agreement in place between several journalists' unions in the UK and the country's various police forces on guidelines for the police to allow and assist the media to carry out their reporting responsibilities from the scene of incidents, provided that the media do not interfere with the responsibility of the police.

The guidelines set out the rights of members of the media in situations of potential friction, steps to promote practical co-operation and agree rules for the police on respecting press cards as forms of media identification.

These various forms of media self-regulation and professional codes of conduct serve to promote and maintain open and democratic societies by distancing the essential work of a free press from the possibility of interference by governments or by corporate or other powerful interests.

Part VI. OSCE principles and commitments as a framework for the safety of journalists

Successive CSCE and OSCE texts have set out provisions related to press freedom, freedom of expression and information and the safety of journalists. The importance of these issues has grown over time. The main stages of that development are summarised here.

The Helsinki Final Act (1975)

In the Helsinki Final Act of 1975 the leaders of the then Soviet Union, the USA, Canada and the States of Eastern and Western Europe first jointly recognized the importance of freedom of expression, freedom of opinion and the role of journalists in fostering those things:

Section IV, Chapter II

Information:

The participating States,

- *Conscious of the need for an ever wider knowledge and understanding of the various aspects of life in other participating States,*

- *Acknowledging the contribution of this process to the growth of confidence between peoples,*

- *Desiring, with the development of mutual understanding between the participating States and with the further improvement of their relations, to continue further efforts towards progress in this field,*

- *Recognizing the importance of the dissemination of information from the other participating States and of a better acquaintance with such information,*

- *Emphasizing therefore the essential and influential role of the press, radio, television, cinema and news agencies and of the journalists working in these fields,*

- *Make it their aim to facilitate the freer and wider dissemination of information of all kinds, to encourage co-operation in the field of information and the exchange of information with other countries, and to improve the conditions under which journalists from one participating State exercise their profession in another participating State,*

The Charter of Paris for a new Europe, 1990

In 1990, in the midst of a major transformation of the political landscape of Europe, the Heads of State or Government of what were then the CSCE (Conference on Security and Co-operation in Europe) participating States signed the Paris Charter, which expressed the determination of all States to forge a new level of co-operation based on a common commitment to democratic values, with the free flow of information as an essential element:

We undertake to build, consolidate and strengthen democracy as the only system of government of our nations.

…Democracy is the best safeguard of freedom of expression, tolerance of all groups of society, and equality of opportunity for each person.

… In accordance with our CSCE commitments, we stress that free movement and contacts among our citizens as well as the free flow of information and ideas are crucial for the maintenance and development of free societies and flourishing cultures.

The Budapest CSCE Summit Declaration (1994)

By the time of the CSCE Summit in Budapest in 1994, the former Yugoslavia was breaking up. Media workers had in some cases become targets in the civil war and media had been exploited by rival warring parties as a propaganda tool. Concerns about those things were reflected in the Summit text on freedom of expression and free media:

(36) The Participating States reaffirm that freedom of expression is a fundamental human right and a basic component of a democratic society. In this respect, independent and pluralistic media are essential to a free and open society and accountable systems of government. They take as their guiding principles that they will safeguard this right.

(37) They condemn all attacks on and harassment of journalists and will endeavor to hold those directly responsible for such attacks and harassment accountable.

At the **Lisbon Summit in 1996** the participating States of what had by then become the OSCE resolved that the implementation of commitments in the field of the media needed to be strengthened. They decided to elaborate a mandate for the appointment of an OSCE Representative on Freedom of the Media.

The Office of the OSCE Representative on Freedom of the Media was duly established in 1997, with a mandate to

(3) concentrate on rapid response to serious non-compliance with OSCE principles and commitments by participating states in respect of freedom of expression and free media.

At the **Maastricht Ministerial Council in 2003** the participating States gave additional weight to the central role of free and pluralistic media in strengthening good governance, promoting transparency and combating corruption:

(2.2.5) we will make our governments more transparent by further developing processes and institutions for providing timely information, including reliable statistics, about issues of public interest in the economic and environmental fields to the media, the business community, civil society and citizens, with a view to promoting a well-informed and responsive dialogue. This is essential for decision-making which is responsive to changing conditions and to the needs and wishes of the population.

In the succeeding years, issues of media plurality, media freedom and the safety of journalists continued to occupy the attention of OSCE participating States.

In the **Astana Commemorative Declaration in 2010** the Heads of State or Government of the 56 participating States re-affirmed their commitments to OSCE principles and acknowledged the mutual concern of each in the fulfilment of those commitments in the other States:-

[we] reaffirm the relevance of, and our commitment to, the principles on which this Organization is based. While we have made much progress, we also acknowledge that more must be done to ensure full respect for, and implementation of, these core principles and commitments that we have undertaken in the politico-military dimension, the economic and environmental dimension, and the human dimension, notably in the areas of human rights and fundamental freedoms. …

…We regard these [OSCE] commitments as our common achievement, and therefore consider them to be matters of immediate and legitimate concern to all participating States.

…We reaffirm categorically and irrevocably that the commitments undertaken in the field of the human dimension are matters of legitimate concern to all participating States and do not belong exclusively to the internal affairs of the State concerned. We value the important role played by civil society and free media in helping us to ensure full respect for human rights, fundamental freedoms, democracy, including free and fair elections, and the rule of law.

Part VII. Other international obligations

UNESCO Resolution 29: Condemnation of violence against journalists

UNESCO is the United Nations agency with a specific mandate to promote freedom of expression and media freedom and to protect the safety of journalists, In 1997 UNESCO Member States passed Resolution 29 on "Condemnation of violence against journalists".

The Resolution was proposed and adopted by States in response to serious concerns about the killing of journalists in many countries and the evidence of the spread of impunity – that is, the persistent failure of the lawful authorities to bring those responsible to justice.

The Resolution identified the wider damage being done to societies by the assassination of many journalists, urged States to discharge their duty to investigate and punish such crimes, and called for the removal of the statute of limitations related to the killing of journalists.

It further urged the competent authorities of States to discharge their duty of preventing, investigating and punishing such crimes and remedying their consequences; and it urged them to refine their legislation to make it possible to prosecute and sentence those who instigate the assassination of persons exercising the right to freedom of expression.

The UNESCO Resolution also recommended that governments should remove any statute of limitations for crimes against the person when these are perpetrated to prevent the exercise of freedom of information and expression or when their purpose is the obstruction of justice.

UN Inter-agency meeting on Safety of Journalists and the issue of impunity

On 13-14 September 2011, UNESCO, hosted the first UN Inter-agency meeting on Safety of Journalists and the Issue of Impunity with the participation of all the relevant UN Agencies, Funds and Programmes, including the Office of the High Commissioner for Human Rights, the World Bank and the UN Development Programme.

Its aim was to establishing a coordinated, UN system-wide approach to preventing and combating violent crimes against journalists – including assaults, abductions, crimes of sexual violence, intimidation, harassment, arrests and illegal detentions.

The meeting was part of a process of consultation which is intended to lead to a UN Plan of Action, to include the establishment of a coordinated inter-agency mechanism to handle issues connected to the safety of journalists and impunity. It will involve monitoring of progress at both national and international levels.

Safety and impunity are also to be incorporated into UN contributions to national strategies, notably development assistance programmes and the possible inclusion of media stakeholders in some of the preparatory processes of the UN's development projects.

The draft also foresees the extension of work already conducted by UNESCO to prevent crimes against media workers. Notably, this includes assisting countries to develop legislation and mechanisms favourable to freedom of expression and information, and by supporting their efforts to implement existing international rules and principles, especially the 1997 UNESCO Resolution concerning violence against journalists.

To reinforce prevention, awareness raising campaigns will also be conducted with Member States, civil society, non-governmental organizations and concerned bodies about issues of freedom of expression, journalists' safety and the danger of impunity to democracy.

UNESCO, as the UN agency mandated to "promote the free flow of ideas by word and image", organized the September 13 and 14 meeting with the aim of establishing a coordinated, UN system-wide approach to preventing and combating these crimes.

The measures in the Draft Plan prepared by participants include the establishment of a coordinated inter-agency mechanism to handle issues connected to the safety of journalists and impunity. This will involve monitoring of progress at both national and international levels.

Safety and impunity are also to be incorporated into UN contributions to national strategies, notably development assistance programmes and the possible inclusion of media stakeholders in some of the preparatory processes of the UN's development projects.

The draft also foresees the extension of work already conducted by UNESCO to prevent crimes against members of the media. This notably includes assisting countries to develop legislation and mechanisms favourable to freedom of expression and information and by supporting their efforts to implement existing international rules and principles, especially the 1997 UNESCO General Conference Resolution concerning violence against journalists. This stipulates that there should be no statute of limitations on crimes against freedom of expression.

To further reinforce prevention, awareness raising campaigns will also be conducted with Member States, civil society, non-governmental organizations and concerned bodies about issues of freedom of expression, journalists' safety and the danger of impunity to democracy.

The Draft Plan of Action will be presented to UNESCO's International Programme for the Development of Communication (IPDC) at its next session in March 2012 and will then be submitted to the bodies in charge of UN-wide coordination.

UN Security Council Resolution 1738 (2006) condemns attacks against journalists in conflict situations

The Resolution, unanimously adopted in 2006, recalled that journalists engaged in dangerous professionals missions in areas of armed conflict shall be considered civilians, to be protected as such.

It emphasized that under international humanitarian law attacks intentionally directed against civilians constitute war crimes and all parties in situations of conflict were urged to respect the professional independence and rights of journalists, media professionals and associated personnel as civilians.

(1) Condemns intentional attacks against journalists, media professionals and associated personnel, as such, and calls upon all parties to put an end to such practices

(7) Emphasizes the responsibility of States to comply with relevant obligations under international law to end impunity and to prosecute those responsible for serious violations of international law

(9) Recalls that systematic, flagrant and widespread violations of international humanitarian and human rights law in situations of armed conflict may constitute a threat to international peace and security, and reaffirms in this regard its readiness to consider such situations and, where necessary, to adopt appropriate steps

The Resolution also requested the UN Secretary General to include the issue of the safety and security of journalists in his next Reports to the Security Council on the protection of civilians in armed conflict.

Part VIII. Key issues and recommendations for the safety of journalists

The media have an essential function as public watchdog and as part of the system of checks and balances in a democracy. Journalists are exposed to special risks of legal challenges, harassment and sometimes violent attacks on account of their work. The following is a list of the major issues that arise, together with Recommendations for responses that conform to good practice based on OSCE principles and commitments.

Examples of positive responses are mentioned as illustrations; the benefits of exemplary policies and actions are fulfilled when implementation is effective and sustained:

The legal framework

Issue: National constitutions and statutory laws require clear and effective safeguards for freedom of expression and safe working conditions for the media, in keeping with OSCE principles and commitments and with the international obligations of OSCE participating States

Good practice: Any restrictions to freedom of expression, including those on grounds of public security, must be provided by law, necessary to protect an interest recognized under international law, and proportionate. They should also be clear, easily accessible to the public and capable of being challenged.

States take necessary steps to bring their laws related to media freedom and freedom of expression into line with international standards, by enacting general measures as intended by the European Court of Human Rights, and by giving effect on domestic law to universal rights, in line with the expert interpretation of international law on freedom of expression given by the UN Human Rights Committee (General Comment 34 on Article 19 of the ICCPR).

The law recognises that the right to freedom of expression includes expressions of views and opinions that offend, shock and disturb.

The law does not give the State arbitrary or extraordinary powers to censor any media or close a media outlet.

The universal right of freedom of expression applies to materials on the Internet in the same way as to traditional media.

Freedom of expression and the free flow of information are guaranteed regardless of frontiers.

Judicial, law-enforcement and penal systems

Issue: The judiciary must be independent of governmental authority and of any political influence

Good practice: Police forces, other law-enforcement agencies and prison services are subject to independent systems of oversight, with transparent internal discipline and public complaints procedures.

Investigations of serious crimes against journalists are conducted promptly, independently and efficiently; the authorities take proper care to investigate and take due account of any evidence of a link with the journalist's professional activities.

Limitations on court reporting are applied only in exceptional circumstances, for example to protect minors.

No one is punished or imprisoned for expressing an opinion or disseminating information, unless they are found to have committed another serious offence (such as incitement to violence or terrorism).

Dealings between media and State authorities: regulation, openness and dialogue

Issue: National, regional and local government offices and agencies should be open and responsive, with provisions for free, independent and inquiring media to perform their role of scrutinizing and investigating matters of public interest and reporting in a free and unhindered way

Good practice: There are no undue requirements from the state before journalists can work.

Regulatory authorities for broadcasting operate in an unbiased way in the granting of licences and other matters.

Tax investigations and other special administrative demands are not directed at the media arbitrarily as a form of harassment or without due cause.

Media access to officials, government spokespersons and to public and press events is administered without discrimination or arbitrary exclusion of any media.

The State supports mechanisms which engage civil society to reinforce the protection of journalists' rights, such as an Ombudsman's Office or Human Rights Commissioner.

Recommendation: Government representatives, public officials and elected politicians do not manage or control any media organization while in office.

Elections

Issue: During election periods and times of social unrest and major events, journalists have been exposed to heightened risks of being detained, charged or prosecuted for alleged criminal offences, including libel and defamation; they may also be subject to undue pressures to produce partisan and biased coverage

Good practice: Especially at times of elections, laws and regulations must be upheld which guarantee the freedom of the media to scrutinize all aspects of the process.

Election laws, State election commissions and broadcasting guidelines oblige media to ensure equitable coverage of election campaigns by political parties and candidates, as well as voting procedures

Street demonstrations, protests and public events

Issue: Journalists and photographers covering public protests or gatherings have suffered arbitrary arrest and mistreatment at the hands of police and security forces; in some cases they suffered physical injury

and loss or damage to equipment while working or while in custody; police surveillance and monitoring of media workers at public protests may be intimidating and hinder their legitimate work

Good practice: Police do not detain, arrest or use violence against media that perform their proper role by covering protests or other events in public places.

Law-enforcement officials allow media coverage of street demonstrations and similar events, respect press identification such as press cards and armbands, and maintain channels of dialogue with media to reduce the risk of disputes.

Recommendation: Police forces and journalists' organizations conclude agreements on media guidelines for the police and give training to officers to ensure understanding and respect for the guidelines.

Police raids on media offices and journalists' homes

Issue: Police raids have been carried out on media offices and journalists' homes, involving physical detention, destruction of property, and seizure of equipment such as computers as well as recordings, files and notebooks

Good practice: Law-enforcement authorities respect the right of journalists to report on matters of public interest and refrain from arresting them or confiscating equipment of property without exceptionally strong evidence that such action is necessary in the public interest.

Imprisonment of journalists

Issue: Some journalists are unlawfully imprisoned on arbitrary and false charges; many more are detained, sometimes for long periods, in pre-charge or pre-trial detention.

Good practice: Cases in which journalists are falsely charged with common offences such as hooliganism and handling drugs are investigated and, if found to be unfounded, rejected by independent investigators, prosecutors and judges.

Law-enforcement officers who are found responsible for fabricating evidence or raising malicious charges are duly punished.

No one is charged or convicted of a criminal offence for what they write or report in the media, or for expressing an opinion through any media, unless one of the strictly defined conditions for restricting freedom of expression is met.

Threats and acts of violence against journalists

Issue: Threats and acts of violence against journalists have continued and in some parts even increased in the OSCE area in recent years. Threats made by telephone, fax, e-mail or letter etc have often been followed by physical assaults, including murders

Good practice: State authorities investigate reports of threats promptly and thoroughly, and take appropriate steps to protect the person or persons threatened.

Governments have an obligation to protect the physical safety of those who are threatened. They take account of the fact that journalists, bloggers and human-rights defenders are among the groups in society who are exposed to the risk of attacks because of their activities.

Law-enforcement agencies take determined and vigorous steps to eliminate threats from members of organized crime groups.

Examples: In Italy and Serbia, police have provided effective protection to threatened journalists.

Investigating assaults against journalists and killings of journalists, ensuring that those responsible are brought to justice, and eradicating impunity

Issue: The high number of attacks and killings of journalists has made parts of the OSCE region among the most dangerous in the world for journalists to work; the rule of law and the integrity of systems of law enforcement and justice have been placed in doubt; a climate of impunity has grown

Good practice: No statute of limitations applies to such crimes.

Prompt and effective criminal investigations are conducted to arrest those responsible and bring them to justice.

Police and prosecutors develop and use specialized protocols and methods to ensure that the investigation of crimes against journalists includes thorough checks to search for links with the journalist's work.

Governments comply with the 2011 Guidelines on eradicating impunity issued by the Committee of Ministers of the Council of Europe they set out norms and standards for effective, timely and independent investigations, protection of witnesses, access for family members of the victim, etc.

Police, prosecutors, lawyers and judges receive appropriate training to implement the above.

Court proceedings are normally open to public, with strict exceptions and procedures for a decision in favour of closed hearings to be challenged.

Serbia: The government acted promptly, opening an investigation into the attacks in August 2010 on Teofil Pancic, a columnist for the weekly Vreme and on Brakica Stankovic of the radio station B92.

Example: In Russia, investigations have been reopened into several cases involving the murder of journalists; in May 2011 two defendants were convicted and sentenced for the double murder of the human rights lawyer Stanislav Markelov and the Novaya Gazeta journalist Anastasia Baburova in Moscow in 2009.

Until then, the only convictions since 2000 in cases involving murdered journalists was that in 2007 of five members of a criminal gang for the 2000 murder of Novaya Gazeta journalist Igor Domnikov. Investigators have not been able to identify those who ordered the killing of Domnikov.

Russia: a database developed by the International Federation of Journalists on the deaths of journalists www.journalists-in-russia.org and another http://mediaconflictsinrussia.org which records cases of threats and assaults against journalists in Russia provide a high level of verified information which can assist all concerned parties including the country's investigating authorities. The information for both websites is gathered by monitors of the Glasnost Defence Foundation and the Centre for Journalism in Extreme Situations.

Russia: preliminary contacts have taken place locally between prosecutors and journalists' and human rights organizations to discuss ways of improving the process of gathering evidence about attacks on journalists, including information disclosed through journalistic enquiries or published in the media and on the databases mentioned.

Example: Croatia: on 3 November 2010 a court convicted and sentenced six men for the murder of Ivo Pukavic, the director of the weekly Nacional and its marketing director Niko Franjic. Both men were killed by a car bomb in 2008; it is hoped that those responsible for ordering the killings will also be brought to justice.

Armed conflict

Issue: Journalists continue to be exposed to severe risks of injury or death in times of armed conflict, violent political instability and the breakdown of the rule of law

Good practice: In areas of armed conflict civilians including journalists are effectively protected by international humanitarian laws in addition to universal human rights law.

UNSC Resolution 1738 of 2006 is fully observed; it restates that attacks intentionally directed against members of the media constitute war crimes,

and sets out the obligations of all States with respect to the protection of all media personnel and to ensure that those responsible for violations are prosecuted.

Recommendation: Governments and media organizations should be familiar with humanitarian law provisions, and with formal and informal procedures designed to minimize the dangers to journalists in areas of conflict, including the following:

Reporters Without Borders' Charter for Safety of Journalists Working in War Zones or Dangerous Areas; it urges media, journalists and public authorities to consult in order to reduce the risks in war zones or dangerous areas.

The International News Safety Institute (INSI) Safety Code, which sets out the duties of media organizations to provide safeguards and protections; it also calls on governments and armed forces to respect the safety of journalists, whether accompanying their forces or not, and to refrain from unnecessarily restricting their freedom of movement or reporting, or harassing, intimidating or physically attacking journalists as they conduct their lawful business.

The International Federation of Journalists' Survival Guide for Journalists entitled "Live News" 2003; it specifies the responsibilities of governments, including that of protecting journalists from any compulsion to testify in war crimes trial, to protect their physical safety and to protect them from any perception of partisanship.

The International Committee of the Red Cross (ICRC)'s 24-hour hotline for Assistance for journalists on dangerous assignments; the number is +41792173285. It is provided specifically for the use of journalists' families and professional associations.

The ICRC responds to humanitarian issues arising in cases of the disappearance or captivity of journalists and other civilians in wartime or detention in situations of internal disturbances and tensions.

State security and Anti-terrorism laws

Issue: Anti-terrorism, extremism and national security laws have frequently been used to prosecute and imprison journalists and to place them under special surveillance

Good practice: Anti-terrorism laws are not used to prosecute journalists or others unless the expression is intended and is likely to incite violence, as provided by international law; factual reporting and comment on terrorism-related issues is not to be equated with support for terrorism.

When sensitive information is leaked, the journalist or media outlet which receives and publishes it is not to be held liable for any criminal offence.

Anti-terrorism laws are not too broad in scope; they define clear limits to authorities' interference, and contain sufficient procedural guarantees to prevent abuse (Ref. the Council of Europe Ministerial Conference Resolution, Reykjavik, May 2009; Document number: MCM (2009)011.

Recommendation: States should conduct regular reviews of national anti-terrorism laws and practices to ascertain if they infringe the right to freedom of expression (Article 10 of the European Convention on Human Rights). Ref: MCM (2009)011 (as above).

Libel and defamation

Issue: Libel, defamation and insult laws have been widely used in some OSCE participating States to prosecute and imprison journalists or force them to pay punitive fines; this has had a disruptive and chilling effect on the work of hundreds of journalists

Good practice: Libel and defamation laws are decriminalized, and fines for those convicted are proportionate and not on a scale which may affect the viability of the media concern or force its closure.

Thirteen OSCE participating States have so far decriminalized libel and defamation, including six in the past three years alone. Montenegro and Kyrgyzstan did so in 2011 and Armenia in 2010; in 2009 Ireland, Romania and

the UK became the first of the European Union member states to do so. The others are Bosnia and Herzegovina, Cyprus, Estonia (with the exception of defamation of state authorities), Georgia, Moldova (with certain exceptions including insult of investigators and judges), Ukraine and the United States (except 19 states and two territories).

Example: In Russia in June 11, 2011 a Moscow court cleared Oleg Orlov of criminal defamation charges brought by Ramzan Kadyrov, the head of the Chechen Republic.

Example: The UK is currently preparing a bill to reform the libel law, establishing a new "substantial harm" test and a more robust public interest defence.

Protection of journalists' sources

Issue: Journalists have been arrested and threatened with prosecution, and their workplace and home or their personal data records have been searched to discover the source of sensitive information which has been or may be made public

Good practice: The confidentiality of journalists' sources is protected, in accordance with the case law of the European Court of Human Rights.

Example: In Albania a parliamentary committee decided to refrain from requesting phone logs of journalists covering violent demonstrations in January 2011, respecting the journalists' rights to keep their sources confidential.

Example: In France in 2011 a Bordeaux court reconfirmed the right of journalists not to reveal their sources, ruling that police had acted unlawfully by examining the phone records of two journalists of Le Monde newspaper who revealed aspects of a case involving allegations of unlawful funding of a political party.

Data retention laws

Issue: Laws which oblige service providers to retain data records related to personal communications for prolonged periods (of six months or more) have been widely used by State investigatory agencies under anti-terrorism laws; they have exposed journalists to clandestine State surveillance and made them more vulnerable to attempts to discover their confidential sources of information

Good practice: Data protection laws conform with norms related to personal privacy, stipulate who is allowed access to personal data, and are used in ways that do not infringe journalists' right to protect the confidentiality of their sources.

Freedom of Information laws

Issue: The absence of freedom of information laws, and restrictive application of those laws, leads to denial of the public right to information about the workings of the State

Good practice: Freedom of information laws are enacted with limited restrictions, according to principles of open government.

The administration of freedom of information laws are independent, transparent and avoid unreasonable delays and costs.

Example: Ukraine in 2011 adopted an access to information law for the first time; it is hoped that the implementation of the new law will help to improve government transparency.

Recommendation: States consider acceding to the 2009 Council of Europe Convention on Access to Official Documents, which establishes a right to request information held by public authorities in any form.

Labour and employment rights

Issue: Journalists' employment rights should include the right to organise themselves in labour unions for the purposes of collective bargaining on wages and conditions; journalists are not be punished or dismissed for refusing to behave in an unethical way

Good practice: Enacting and upholding journalists' employment rights, including the right to organize and join trade unions, which can protect them from arbitrary dismissal and from undue pressures to act in unethical or unprofessional ways.

Journalists have the opportunity to sign up to a "conscience clause" which protects them from any sanction or loss of employment as a result of their refusal to contradict the journalists' code of ethics.

Recommendation: Editors and publishers establish and subscribe to a voluntary code in which they undertake not to order or coerce journalists to practise any unethical behaviour or to report any untruth.

Online journalism and social media

Issue: Blocking and filtering of websites has increased in scope and the variety of methods used.

Good practice: Freedom of expression applies on the Internet as it does in all means of communication

Governments refrain from mandatory blocking or filtering of content or websites which may amount to prior censorship, such as filters excluding pages containing keywords; any take-down order is limited to an offending item or page and does not apply to an entire website.

Cutting off access to the Internet for whole populations or segments of the public, or stopping access to social networking media, is not justifiable.

States promote universal access to the Internet.
Example: In 2000, Estonia declared Internet access to be a fundamental right.

Media ownership rules

Issue: Over-concentration of media ownership gives excessive power to owners; it prevents media plurality and restricts the freedom of expression of sections of society; opaqueness or secrecy with regard to ownership of media outlets makes it hard to determine whether plurality rules are being infringed

Good practice: Plurality and competition rules exist to prevent over-concentration of media ownership.

Media ownership and control by any state or government body or dominant State influence through proxy or State-friendly owners is discouraged; such media are transformed into public service media with independent management structures or privatized.

"Private" media should not be run or owned by state or state-controlled companies.
Rules exist to ensure transparency of ownership of all media outlets through registration and publication of company accounts.

Example, In April 2011, Georgia amended the law on broadcasting to make media ownership transparent.

Public Service Broadcasting: TV and Radio

Issue: Public Service Television and Radio remain an influential or dominant source of news for the population in many places; political control, interference or dominant influence over PSB undermine the independence of editorial practices and of the work of journalists

Good practice: Public Service Broadcasting is operated with guaranteed independence, impartiality and editorial integrity and without influence or direction from any political or outside group; PSB governance and editorial appointments are organized according to that principle; senior managers and journalists do not owe their jobs to an affiliation with a political party.

Self-regulation of the media

Issue: State controls, ownership and regulation of the media are incompatible with freedom of journalistic inquiry and media independence; they place the security of journalists at risk by making their employment directly or indirectly dependent on the State

Good practice: Self-regulation of the media and the work of journalists, by means of press councils, press complaints commissions and the like, give security to journalists and makes them responsible for maintaining professional standards without the danger of State censorship or control.

Media self-regulation is an achievement of a society where government is conducted with the consent of the people in a plural democracy where people enjoy freedom of expression and a free, unhindered and uncensored press.

ANNEX: THE VILNIUS RECOMMENDATIONS

In June 2011, acting in its capacity of chair-in office of the OSCE, Lithuania convened a conference, which issued a set of recommendations on the safety of journalists in the OSCE region. This document, drafted in co-operation with the Office of the RFOM, emphasizes the role of national governments and legislatures, law enforcement agencies and the media themselves in ensuring safe working conditions for journalists.

Through the **Vilnius Recommendations on Safety of Journalists**, the OSCE Chairmanship and the Representative:

- Strongly encourage governments of OSCE participating States to treat violence against journalists as a direct attack on freedom of expression, and publicly refute any attempt to silence critical or differing voices in the society;

- Recommend that governments give their full political support to the strengthening of media freedom by promoting safe and unimpeded conditions for journalists to perform their professional duties;

- Encourage legislators to increase safe working conditions for journalists by creating legislation that fosters media freedoms, including guarantees of free access to information, protection of confidential sources, and decriminalising journalistic activities, including defamation and libel;

- Advocate that the authorities make it their priority to carry out swift and effective investigations, sending a message to society that perpetrators and masterminds of violence against journalists will be efficiently brought to justice;

- Urge that law enforcement agencies be given sufficient resources and expertise to carry out effective investigations in the particular field of the media and to develop practices that respect the legal rights of members of the media, including their unhindered access to information during public protests or in cases of civil and public unrest;

- Call for due weight to be given to the public interest in judicial procedures initiated against journalists as a result of their professional duties, and to ensure that such cases are handled without delay and in a transparent manner;

- Call upon law enforcement agencies and media to jointly establish good practices that can increase the safety of members of the media and to engage in joint training activities to promote these practices;

- Support the work of the OSCE field operations in their important role in assisting participating States in this regard and encourage field operations to undertake further projects aimed at capacity building and training for the media, including the promotion of dialogue between the media and law enforcement agencies.

The full text of the document is accessible here: http://www.osce.org/cio/78522

About the Office of the OSCE Representative on Freedom of the Media

During the height of the Cold War, the countries of the Northern Hemisphere recognized the crucial importance of the free flow of information in reducing tensions and maintaining peace and stability. In 1975 they resolved, in the Helsinki Final Act, to act in conformity with the Universal Declaration of Human Rights and, in particular, to increase co-operation in the field of information and improve access to information and the working conditions of journalists.

The Organization for Security and Co-operation in Europe, which evolved out of the Helsinki Process, established the Office of the OSCE Representative on Freedom of the Media 1997 to strengthen implementation of the Organization's principles and commitments regarding freedom of expression and free media.

The Office remains the world's only inter-governmental institution mandated to protect and promote media freedom.

The Office is based in Vienna and works closely with two other independent institutions established by the OSCE, the Office for Democratic Institutions and Human Rights, located in Warsaw, and the High Commissioner on National Minorities, based in The Hague.

Other partners are national, regional and global organizations working in the field of human rights, as well as media associations and journalists in the OSCE region.

For further information, please visit the Office's website at www.osce.org/fom, where you can find a downloadable version of reports, declarations, reviews and press releases. The Office also can be contacted by e-mail at pm-fom@osce.org.

Additional information also can be obtained in person from the Office at the OSCE Secretariat, Wallnerstrasse 6, A-1010 Vienna, Austria.