

COUNCIL OF EUROPE

COMMITTEE OF MINISTERS

Declaration on freedom of expression and information in the media in the context of the fight against terrorism

*(Adopted by the Committee of Ministers on 2 March 2005
at the 917th meeting of the Ministers' Deputies)*

The Committee of Ministers of the Council of Europe,

Considering that the aim of the Council of Europe is to achieve a greater unity between its members for the purpose of safeguarding and promoting the ideals and principles which are their common heritage;

Considering the dramatic effect of terrorism on the full enjoyment of human rights, in particular the right to life, its threat to democracy, its aim notably to destabilise legitimately constituted governments and to undermine pluralistic civil society and its challenge to the ideals of everyone to live free from fear;

Unequivocally condemning all acts of terrorism as criminal and unjustifiable, wherever and by whomever committed;

Noting that every state has the duty to protect human rights and fundamental freedoms of all persons;

Recalling its firm attachment to the principles of freedom of expression and information as a basic element of democratic and pluralist society and a prerequisite for the progress of society and for the development of human beings, as underlined in the case-law of the European Court of Human Rights under Article 10 of the European Convention on Human Rights as well as in the Committee of Ministers' Declaration on the freedom of expression and information of 1982;

Considering that the free and unhindered dissemination of information and ideas is one of the most effective means of promoting understanding and tolerance, which can help prevent or combat terrorism;

Recalling that states cannot adopt measures which would impose restrictions on freedom of expression and information going beyond what is permitted by Article 10 of the European Convention on Human Rights, unless under the strict conditions laid down in Article 15 of the Convention;

Recalling furthermore that in their fight against terrorism, states must take care not to adopt measures that are contrary to human rights and fundamental freedoms, including the freedom of expression, which is one of the very pillars of the democratic societies that terrorists seek to destroy;

Noting the value which self-regulatory measures taken by the media may have in the particular context of the fight against terrorism;

Recalling Article 10 of the European Convention on Human Rights, the Committee of Ministers' Declarations on the freedom of expression and information adopted on 29 April 1982, on the protection of journalists in situations of conflict and tension adopted on 3 May 1996, and its Recommendations No. R (97) 20 on hate speech, No. R (97) 21 on the media and the promotion of a culture of tolerance, No. R (2000) 7 on the right of journalists not to disclose their sources of information and Rec(2003)13 on the provision of information through the media in relation to criminal proceedings;

Bearing in mind the Resolutions and Recommendations of the Parliamentary Assembly on terrorism;

Recalling the Guidelines on Human Rights and the Fight against Terrorism which it adopted on 11 July 2002,

Calls on public authorities in member states:

- not to introduce any new restrictions on freedom of expression and information in the media unless strictly necessary and proportionate in a democratic society and after examining carefully whether existing laws or other measures are not already sufficient;

- to refrain from adopting measures equating media reporting on terrorism with support for terrorism;
- to ensure access by journalists to information regularly updated, in particular by appointing spokespersons and organising press conferences, in accordance with national legislation;
- to provide appropriate information to the media with due respect for the principle of the presumption of innocence and the right to respect for private life;
- to refrain from creating obstacles for media professionals in having access to scenes of terrorist acts that are not imposed by the need to protect the safety of victims of terrorism or of law enforcement forces involved in an ongoing anti-terrorist operation, of the investigation or the effectiveness of safety or security measures; in all cases where the authorities decide to restrict such access, they should explain the reasons for the restriction and its duration should be proportionate to the circumstances and a person authorised by the authorities should provide information to journalists until the restriction has been lifted;
- to guarantee the right of the media to know the charges brought by the judicial authorities against persons who are the subject of anti-terrorist judicial proceedings, as well as the right to follow these proceedings and to report on them, in accordance with national legislation and with due respect for the presumption of innocence and for private life; these rights may only be restricted when prescribed by law where their exercise is likely to prejudice the secrecy of investigations and police inquiries or to delay or impede the outcome of the proceedings and without prejudice to the exceptions mentioned in Article 6 paragraph 1 of the European Convention on Human Rights;
- to guarantee the right of the media to report on the enforcement of sentences, without prejudice to the right to respect for private life;
- to respect, in accordance with Article 10 of the European Convention on Human Rights and with Recommendation No. R (2000) 7, the right of journalists not to disclose their sources of information; the fight against terrorism does not allow the authorities to circumvent this right by going beyond what is permitted by these texts;
- to respect strictly the editorial independence of the media, and accordingly, to refrain from any kind of pressure on them;
- to encourage the training of journalists and other media professionals regarding their protection and safety and to take, where appropriate and, if circumstances permit, with their agreement, measures to protect journalists or other media professionals who are threatened by terrorists;

Invites the media and journalists to consider the following suggestions:

- to bear in mind their particular responsibilities in the context of terrorism in order not to contribute to the aims of terrorists; they should, in particular, take care not to add to the feeling of fear that terrorist acts can create, and not to offer a platform to terrorists by giving them disproportionate attention;
- to adopt self-regulatory measures, where they do not exist, or adapt existing measures so that they can effectively respond to ethical issues raised by media reporting on terrorism, and implement them;
- to refrain from any self-censorship, the effect of which would be to deprive the public of information necessary for the formation of its opinion;
- to bear in mind the significant role which they can play in preventing “hate speech” and incitement to violence, as well as in promoting mutual understanding;
- to be aware of the risk that the media and journalists can unintentionally serve as a vehicle for the expression of racist or xenophobic feelings or hatred;
- to refrain from jeopardising the safety of persons and the conduct of antiterrorist operations or judicial investigations of terrorism through the information they disseminate;
- to respect the dignity, the safety and the anonymity of victims of terrorist acts and of their families, as well as their right to respect for private life, as guaranteed by Article 8 of the European Convention on Human Rights;

- to respect the right to the presumption of innocence of persons who are prosecuted in the context of the fight against terrorism;
- to bear in mind the importance of distinguishing between suspected or convicted terrorists and the group (national, ethnic, religious or ideological) to which they belong or to which they claim to subscribe;
- to assess the way in which they inform the public of questions concerning terrorism, in particular by consulting the public, by analytical broadcasts, articles and colloquies, and to inform the public of the results of this assessment;
- to set up training courses, in collaboration with their professional organisations, for journalists and other media professionals who report on terrorism, on their safety and the historical, cultural, religious and geopolitical context of the scenes they cover, and to invite journalists to follow these courses.

The Committee of Ministers agrees to monitor, within the framework of the existing procedures, the initiatives taken by governments of member states aiming at reinforcing measures, in particular in the legal field, to fight terrorism as far as they could affect the freedom of the media, and invites the Parliamentary Assembly to do alike.