Committee of Ministers: Guidelines on Protecting Freedom of Expression and Information in Times of Crisis

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At its 1005th meeting (26 September 2007), the Committee of Ministers of the Council of Europe adopted Guidelines on protecting freedom of expression and information in times of crisis. The guidelines reflect the concern of the Committee that crisis situations, such as wars and terrorist attacks, may tempt governments to unduly restrict this right. The text is an extension and complement to the Guidelines on human rights and the fight against terrorism adopted by the Committee of Ministers on 11 July 2002.

The guidelines emerged from the work of a Group of specialists on freedom of expression and information in times of crisis (MC-S-IC) set up by the Steering Committee on the Media and New Communication Services (CDMC). Following the Political Declaration and the Resolution on freedom of expression and information in times of crisis adopted at the7th European Ministerial Conference on Mass Media Policy (Kiev, March 2005), the MC-S-IC was asked to examine whether additional European standards should be set out in order to guarantee this freedom.

The specialists concluded that, in broad terms, Article 10 of the European Convention on Human Rights, the relevant case-law of the European Court of Human Rights, and other Council of Europe texts based on these, are sufficient to safeguard freedom of expression and information in times of crisis. There is no obvious and pressing need to significantly amend these standards or to elaborate major new ones. The emphasis needs to be placed on the practical problems linked to their implementation. The guidelines propose concrete steps in this direction.

As used in the guidelines, the term “crisis” includes, but is not limited to, wars, terrorist attacks, natural and man-made disasters, i.e. situations in which freedom of expression and information is threatened (for example, by limiting it for security reasons). The term “times of crisis”, however, is not the equivalent to “time of war or other public emergency threatening the life of the nation” as formulated in Article 15 of the European Convention on Human Rights. While a declared national state of emergency might justify some temporary restrictions of certain rights and liberties, a crisis situation should not serve as an excuse for

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imposing limitations on freedom of expression and information beyond those prescribed by Article 10, paragraph 2, of the European Convention on Human Rights.

In the guidelines, member states are asked to assure, to the maximum possible extent, the safety of media professionals. On the other hand, the need to guarantee safety should not be used by states to limit unnecessarily the rights of media professionals, their freedom of movement or access to information. The guidelines also recommend that the authorities investigate promptly and thoroughly any killings or attacks on journalists and that they bring the perpetrators to justice.

The guidelines reiterate that member states should protect the right of journalists not to disclose their sources of information - in practice and by including it in national law - and should not oblige media professionals to hand over information or material, such as notes, photographs and video recordings.

Two other provisions are also notable. One asks that member states not use vague terms when imposing restrictions of freedom of expression and information in times of crisis. Incitement to violence and public disorder should be adequately and clearly defined. The other requests that the states consider criminal or administrative liability for public officials who try to manipulate, including through the media, public opinion, hence exploiting its special vulnerability in times of crisis.

The guidelines also address media professionals, inviting them to adhere to the highest professional and ethical standards, keeping in mind their responsibility in crisis situations to make available to the public timely, accurate, factual and comprehensive information. The Committee of Ministers supports self-regulation as the most appropriate and effective mechanism for ensuring that the media act in a responsible way in times of crisis.

Guidelines of the Committee of Ministers of the Council of Europe on protecting freedom of expression and information in times of crisis (Adopted by the Committee of Ministers on 26 September 2007 at the 1005th meeting of the Ministers' Deputies)

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