Report on freedom of expression in 2018

IRIS 2019-6:1/3

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On 2 May 2019 - the eve of World Press Freedom Day - the Information Society department of the Council of Europe (COE) published a report on Freedom of Expression in 2018. The 22-page report assesses the state of freedom of expression in the COE member states on the basis of the findings of the Council of Europe's monitoring mechanisms and bodies, which include the COE's Platform for the Promotion of Journalism and the Safety of Journalists. The Platform compiles a record of alerts regarding serious concerns about media freedom and the safety of journalists in COE member states issued by certain partner organisations (see, for example, IRIS 2018-3/6).

The report examines five distinct issues, namely, legal guarantees of freedom of expression; the safety of journalists and other media actors; media independence; media pluralism and diversity; and freedom of expression on the Internet. It details a number of findings from 2018, and notes that consecutive assessments of the state of the freedom of expression in Europe over the past five years have shown that threats to this anchor of democratic societies are growing across the continent. In 2018, there were at least two assassinations of journalists in Europe for reasons related to their work. Furthermore, smear campaigns and inflammatory rhetoric on the part of senior politicians are also on the rise - such phenomena undermine the ability of journalists and other media actors and whistle-blowers to fulfil their function of keeping power holders accountable. Notably, long-standing threats to media freedom and independence persisted in 2018, with shutdowns of media outlets and criminal prosecutions of journalists - often under the guise of anti-terrorism operations. Crucially, oversight by the European Court of Human Rights (ECtHR) remains a critical tool for ensuring that national laws and practices are consistent with the standards set out in the European Convention on Human Rights. The Court issued more than 70 judgments in Article 10-related cases in the course of 2018, finding violations in about two thirds of them (see, for example, IRIS 2019-5/2).

The report also includes a number of proposals for action by COE member states. Firstly, Recommendation CM/Rec(2016)4 on the protection of journalism and safety of journalists and other media actors should be rigorously implemented (see IRIS 2016-5/3). Secondly, counter-terrorism measures should be adopted only following scrupulous human rights impact assessments, as they may be counter-productive if poorly implemented or overly draconian. Anti-terror and security laws should not unduly interfere with the right of the media to impart

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information of public interest and the right of people to receive it. Thirdly, enhanced efforts are required to develop a clear framework with respect to the growing responsibilities and duties of intermediaries related to content moderation. Guidance should be developed on how effectively to counter offensive and undesirable speech that is not criminally punishable - including through effective self-regulatory and co-regulatory measures as a means of balancing rights and responsibilities. Fourthly, public-service media must be effectively shielded from the growing pressure being exerted by political and economic interests. Enhanced efforts are required (including on the part of member states) to increase the sustainability of the media and to support a high standard of independent and investigative journalism, while fully respecting the editorial and operational autonomy of the media. Lastly, the extensive jurisprudence of the ECtHR relating to Article 10 ought to be consistently integrated into national judicial and regulatory systems.

Information Society Department of the Council of Europe, Freedom of Expression in 2018, DGI(2019)3, 2 May 2019

https://rm.coe.int/freedom-of-expression-2018-/1680943557

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