Council of Europe issues toolkit for member states during COVID-19 crisis

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On 8 April 2020, the Secretary General of the Council of Europe (COE) issued an important Information Document (toolkit) for member states entitled "Respecting democracy, rule of law and human rights in the framework of the COVID-19 sanitary crisis." The purpose of the Information Document is to provide member states with a toolkit for dealing with the COVID-19 crisis in a way that respects the fundamental values of democracy, rule of law and human rights. Notably, the document contains important guidance relating to freedom of expression, media freedom, and public broadcasting. It follows previous guidance issued by both the COE Committee of Experts on Media Environment and Reform and the COE Commissioner for Human Rights (see IRIS 2020-5/17 and IRIS 2020-6/11).

The document first sets out the applicable rules under Article 15 of the European Convention on Human Rights (ECHR), which permit certain measures of an exceptional nature which require derogations from members states' obligations under the ECHR. It then explains the principles relating to states of emergency and emergency measures in light of European Court of Human Rights (ECtHR) case law. Furthermore, the document elaborates upon permissible restrictions on a number of rights and freedoms under the ECHR, including the right to life (Article 2), the right to liberty and security (Article 5), the right to a fair trial (Article 6), the right to private life (Article 8), freedom of conscience (Article 9), and freedom of association and assembly (Article 11).

Notably, in relation to freedom of expression and information, media freedom, and journalism, the document sets out some important principles. First, freedom of expression, including the free and timely flow of information, is a "critical factor for the ability of the media to report on issues related to the pandemic." Secondly, in relation to journalists, the document emphasises that media and professional journalists, in particular public broadcasters, have a "key role and special responsibility for providing timely, accurate and reliable information to the public, but also for preventing panic and fostering people's co-operation." Importantly, journalists should "adhere to the highest professional and ethical standards of responsible journalism, and thus convey authoritative messages regarding the crisis and refrain from publishing or amplifying unverified stories, let alone implausible or sensationalist materials."

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Thirdly, it is reiterated that journalists, media, medical professionals, civil society activists and the public "must be able to criticise the authorities and scrutinise their response to the crisis." Importantly, any (a) prior restrictions on certain topics, (b) closure of media outlets or (c) outright blocking of access to online communication platforms "call for the most careful scrutiny and are justified only in the most exceptional circumstances." Finally, in relation to disinformation, it is stated that "malicious spreading of disinformation may be tackled with ex post sanctions, and with governmental information campaigns." In this regard, states should work together with online platforms and the media to prevent the "manipulation of public opinion, as well as to give greater prominence to generally trusted sources of news and information, notably those communicated by public health authorities."

The Information Document was sent to all 47 COE member states on 7 April 2020.

Council of Europe, "Coronavirus: guidance to governments on respecting human rights, democracy and the rule of law", 8 April 2020

https://www.coe.int/en/web/portal/-/coronavirus-guidance-to-governments-on-respecting-human-rights-democracy-and-the-rule-of-law

Council of Europe, Respecting democracy, rule of law and human rights in the framework of the COVID-19 sanitary crisis: A toolkit for member states, SG/Inf(2020)11, 7 April 2020

https://rm.coe.int/sg-inf-2020-11-respecting-democracy-rule-of-law-and-human-rights-in-th/16809e1f40

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