



United Nations
Educational, Scientific and
Cultural Organization



IAP

International Association of Prosecutors

Guidelines for Prosecutors on Cases of Crimes Against Journalists



HIGHLIGHTS

1

An integral part of the international community's efforts to end the impunity of those who attack journalists is bringing the perpetrators to justice and holding them accountable for their actions in accordance with the rule of law and human rights. These guidelines identify elements that should be analyzed in the decision-making process when an alleged crime is committed against a journalist and put into perspective the measures that may command the public interest, public order and the safeguard and confidence into the administration of justice.

2

When conducting, supervising or providing advisory assistance to an investigation in relation to an alleged crime committed against a journalist, prosecutors should initiate or recommend a contextual analysis of the nexus between the alleged crime and the media activities, past and present, of the victim. Depending on circumstantial considerations, occurrence of crimes against journalists, legal systems and national legislation prosecutors may need to conduct or consider a more thorough analysis.

3

All crimes against journalists should be prosecuted when both the sufficiency of the evidence and public interest standards are met. Prosecutors should bear in mind the possibility of enhanced or escalating offences. The public interest may render inappropriate the implementation of non-prosecution resolutions such as non-judicial treatment or civil diversion measures.

4

The confidentiality of journalists' sources must be protected in the exercise of the mission of informing the public. Consequently, journalistic sources are confidential and should be treated as such at every stage of the investigation and judicial proceedings. Prosecutors must ensure the protection of confidential data that may lead to the identification of a source in situations where journalistic sources could be revealed by means of investigation or during the proceedings.

5

Crimes against journalists often have a transnational dimension requiring the sharing of information between states, facilitated by international judicial co-operation based on multilateral conventions, regional treaties, bilateral mutual legal assistance (MLA) agreements or other arrangements between states. There are practical steps prosecutors can take to make international co-operation more effective.

FOREWORD

The active involvement of prosecutors is often the first step in identifying and bringing to justice perpetrators of crimes and attacks against journalists. Over the past decade, a journalist has been killed on average every four days. In addition, close to 9 out of 10 cases of killings of journalists remain judicially unresolved according to UNESCO data. When a journalist is attacked, society as a whole pays the price, as freedom of expression and access to information, which are bedrocks of modern societies, erode away.

It is therefore of paramount importance to enable journalists to keep the citizenry informed and hold public institutions and officials accountable. In order to foster a free and safe environment for media workers, UNESCO and the International Association of Prosecutors (IAP) have entered into cooperation to strengthen the role of prosecutors to fight against impunity for crimes and attacks against journalists.

In this regard, we are pleased to present these Guidelines for Prosecutors on Cases of Crimes Against Journalists. As those responsible for initiating prosecutions and, in some cases, supervising criminal investigations, independent public prosecutors have a crucial role to play in protecting journalists and in ensuring that crimes and attacks against them do not go unpunished. Along with the judiciary and security forces, they play an essential role in reinforcing the “three Ps” (Prevention, Protection, and Prosecution), to ensure journalists’ safety and thereby contribute to the building of just and peaceful societies, by reinforcing the rule of law and fundamental freedoms.

As such, these guidelines aim to enhance the knowledge and capacities of prosecutors by (1) providing insight on the conduct or supervision of investigations and advisory assistance to law enforcement agencies ; (2) identifying stages and determination for proceedings in cases of crimes against journalists and preserving the integrity of evidence ; (3) emphasizing the importance of protection of journalistic sources ; (4) discussing the protection of victims, witnesses, immunities, and advantages for collaborating witnesses ; (5) examining the issue of mutual legal assistance in criminal matter and extradition ; (6) recognizing the specificities of gender-based crimes and other forms of hate crimes on journalists ; and (7) analyzing post-conflict jurisdictions and transitional justice issues.

In doing so, these guidelines fall within the global strategy for the implementation of the UN Plan of Action on the Safety of Journalists and the Issue of Impunity, which aims to create a free and safe environment for journalists and media workers, with a view to strengthening peace, democracy, human rights and development worldwide. To that effect, since 2013, UNESCO and its partners have trained over 17,000 judicial actors from Latin America, Africa and the Arab region on international and regional standards on freedom of expression and safety of journalists.

By considering both civil law and common law systems, it is our hope that those using these guidelines will gain a deeper understanding of the theoretical frameworks underpinning the right to freedom of expression and the safety of journalists, as well as the additional skills to put this theory into practice.

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INTRODUCTION AND GENERAL PRINCIPLES

An integral part of the international community's efforts to end the impunity of those who attack journalists is bringing the perpetrators to justice and holding them accountable for their actions in accordance with the rule of law and human rights.

Crimes committed against journalists not only have repercussions on the individuals who are the victims and their families, but they have important consequences on freedom of expression, freedom of the press, public access to information and other fundamental freedoms recognized in international standards, treaties and conventions.

Freedom of expression is a fundamental human right for every person enshrined and is globally recognized as such. All people have the right to their own opinions, and the right to seek, receive and share information and ideas. For journalists, this right is paramount to their essential professional duties to seek out and share the truth. Without this freedom, it is impossible to interview citizens or request information from public officials. This fundamental right empowers people to share their opinions and ideas publicly. Without this right, one cannot impart reliable, accurate information to people so they can make informed decisions about their lives. And ultimately, injustice and human rights abuses cannot be exposed.

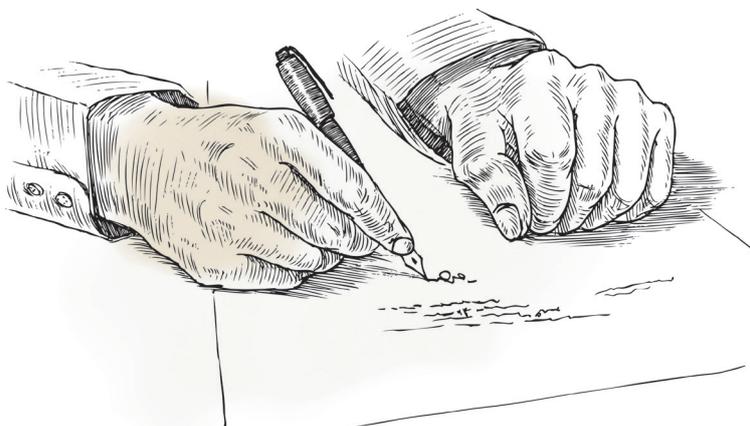
As stated in the Universal Declaration of Human Rights (UDHR) under Article 19:

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Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

The right is also expressed in the International Covenant on Civil and Political Rights (ICCPR) under the same broad terms as in the UDHR. They both include the right not only to impart opinions and ideas, but also to receive information.

Regional instruments also guarantee the right to freedom of thought and expression such as in the American Convention on Human Rights (ACHR), the European Convention on Human Rights (ECHR) or the African Charter on Human and Peoples Rights (ACHPR). They all reaffirm the principles of the UDHR and ICCPR.



Accordingly, these guidelines recognize the importance of freedom of expression and of free, independent, plural and diverse media, both online and offline. Prosecutors should consider this fundamental right as essential in building and supporting inclusive societies, an informed citizenry, the rule of law and participation in public affairs, and also in holding public institutions and officials accountable.

Globally, journalists' activities often put them at specific risk of human rights violations and abuses, including killing, torture, forced disappearance, arbitrary detention or arrest, arbitrary expulsion, physical and sexual violence, as well as intimidation, threats and harassment of all kinds, including by the targeting of their family members. These harmful and dangerous tactics often deter journalists from continuing their activities or encourage self-censorship, consequently, depriving society of important information.

Therefore, the United Nations calls upon States to bring their laws, policies, and practices into compliance with their obligations and commitments under international human rights law to:

- establish prevention mechanisms or effective protective measures,
- create special investigative units or appoint specialized prosecutors,
- adopt specific protocols and methods of investigation and prosecution,
- ensure accountability through the conduct of impartial, prompt, thorough, independent, and effective investigations into all alleged violence, threats and attacks against journalists falling within their jurisdiction,
- bring perpetrators, including those who command, conspire to commit, aid, and abet or cover up such crimes to justice, and
- ensure that victims and their families have access to appropriate restitution, compensation, and assistance¹.

States are urged to support capacity-building, training, and awareness-raising among prosecutors and law enforcement officers regarding international human rights obligations and commitments of States in relation to the safety of journalists.

The roles and functions of journalists, and the news media more generally, are crucial to the maintenance of a free and democratic society. Prosecutors should consider the context of the practice of the journalist activities and the impact on fundamental rights when an alleged crime is committed against an individual because of the performance of such activities and conduct, and support or give advisory assistance to a contextual analysis of the alleged crime before engaging proceedings.

These guidelines do not aim to give a special status to journalists, all citizens being equal before the law. The objective is to guarantee a right to exercise the activities related to journalism under conditions which allow the realization of fundamental rights.

These guidelines identify elements that should be analyzed in the decision-making process when an alleged crime is committed against a journalist and puts into perspective the measures that may command the public interest, public order and the safeguard and confidence into the administration of justice. The application of these guidelines allows consistency and due process of the public action of prosecutors. In no way does it restrict the obligations related to the sufficiency of the evidence, the opportunity principle or more broadly, to the obligations associated with the discretionary power in prosecutorial decisions to initiate criminal proceedings according to national laws, practice and procedure.

Both civil law and common law systems were considered for these guidelines. Therefore, one may apply part of their content, as some elements fit domestic law and practice in accordance with fundamental human rights and international standards. In civil law jurisdictions, prosecutors conduct the investigations, whereas they do not in common law jurisdictions.

¹ UNHRC, October 1, 2020, A/HRC/45/L.42/Rev.1 <https://owncloud.unog.ch/s/joqD-QquOR2ZnDgA>

1 CONDUCT OR SUPERVISION OF INVESTIGATIONS AND ADVISORY ASSISTANCE TO LAW ENFORCEMENT AGENCIES



It is recommended that prosecutors receive specialized training on fundamental rights related to the exercise of the roles and functions of journalists and the protection of journalistic sources when:

- conducting investigations,
- supervising investigations,
- giving advisory assistance to the law enforcement agencies, as well as
- making decisions on whether to initiate criminal proceedings

which involves journalists in every way.

In relation to investigations, supervision of investigations or advisory assistance (formal or informal) given to law enforcement agencies that could lead to a direct or indirect identification of confidential journalistic sources, the prosecutor should identify specific measures for the protection of confidentiality of journalistic sources, including advice on the handling and management of journalistic material.

When conducting, supervising or providing advisory assistance to an investigation in relation to an alleged crime committed against a journalist, the prosecutor should initiate or recommend a contextual analysis of the nexus between the alleged crime and the media activities, past and present, of the victim. Depending on circumstantial considerations, occurrence of crimes against journalists, legal systems and national legislations a prosecutor may need to conduct or

consider a more thorough analysis. Investigations may then include the entire media environment, the links between different groups of persons related to the work of the victim and the potential beneficiaries of a crime.

This contextual analysis should be carried out early in the investigation process to help identify potential suspects and motives. All participants in the alleged crime must be identified, including those who order, aid, abet, counsel or procure the offence. When admissible, such evidence should be presented to the court in support of motive, sentencing purposes or for any other lawful purpose.

Critical situations such as assistance to a person in difficulty, enquiries, detention, or arrest of journalists, in the performance of their duties, should lead to the establishment of formal protection mechanisms related to fundamental rights. Journalistic material accessible during those situations could contain information leading to the identification of sources and should therefore be handled in accordance with these guidelines (see Chapter 3).

When involving the development of crowd control strategies, such as during demonstrations, rallies or political demonstrations, that may include for example, fishnet operations, the prosecutor must promote the establishment of mechanisms to protect the exercise of the roles and functions of journalists, without restriction to freedom of movement or any other fundamental rights when the roles and functions are exercised in an authorized area.

2 STAGES AND DETERMINATION FOR PROCEEDINGS IN CASES OF CRIMES AGAINST JOURNALISTS AND INTEGRITY OF EVIDENCE



When authorizing proceedings, the prosecutor must analyze both the sufficiency of the evidence and the public interest in initiating such proceedings. Decisions must be taken fairly, impartially and with integrity to secure justice for victims, witnesses, suspects, defendants, and the public. Transparency and accountability regarding the decision taken and the conduct of the proceedings are crucial to the values of justice and equity. The prosecutor should perform their duties with respect for such values. In pursuit of the truth, all perpetrators, including the planners, the financiers and the originators, should be prosecuted where there is sufficient legally admissible evidence to do so.

The prosecutor must be convinced of the sufficiency of the evidence on the basis of an objective analysis which satisfies the domestic threshold to conclude that a judge or a court could reasonably convict the suspect in respect of the offence revealed by the legally admissible evidence. The prosecutor must maintain this belief throughout the proceedings.

As part of the opportunity principle analysis, the prosecutor must evaluate public interest, which includes, among other factors:

- maintaining public confidence in the administration of justice,
- weighing the effect of the decision on public order,
- considering fundamental rights that could be hampered or violated by the commission of the alleged crime against a journalist, and
- assessing whether a victim has been specifically targeted because they are a journalist or are undertaking journalistic activities.

In addition, the public interest may render inappropriate in these circumstances, the implementation of non-prosecution resolutions such as non-judicial treatment or civil diversion measures. All crimes against journalists should be prosecuted when both the sufficiency of the evidence and public interest standards are met. Prosecutors should bear in mind the possibility of enhanced or escalating offences.

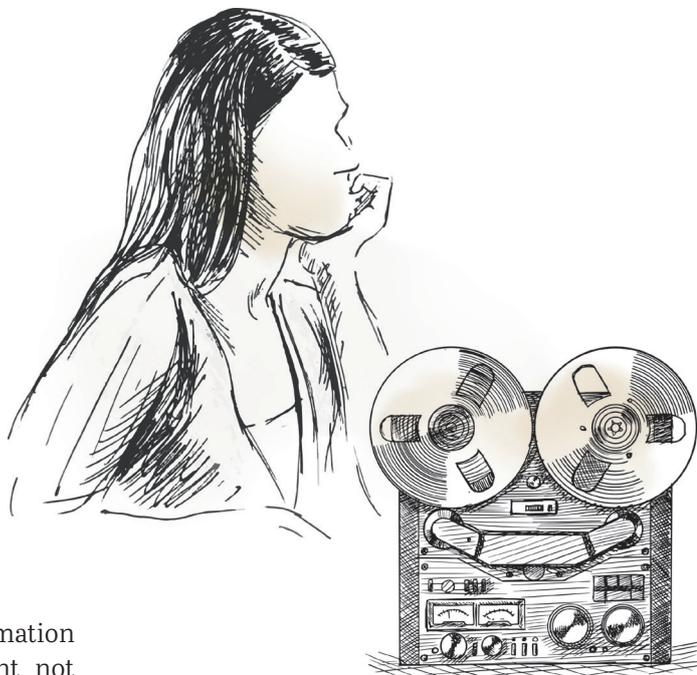
Before authorizing proceedings, the prosecutor must ensure that the investigation is complete and that it sets out how the evidence was obtained to review its legality. In certain circumstances, the prosecutor can proceed with charges, in the absence of a complete file, when the public interest justifies it, in particular, to:

- ensure the protection and the safety of the public, including the victims,
- prevent the escape of a suspect,
- put an end to the continuation of a serious offence, or
- prevent interference with witnesses or obstruction of justice.

In these circumstances, the file must be completed as soon as possible.

At each stage of the investigation, before authorizing proceedings and during the proceedings, the prosecutor must take steps to ensure the protection, preservation and integrity of the evidence relating to the case.

PROTECTION OF JOURNALISTIC SOURCES



A source, who confidentially transmits information to a journalist, with the latter's commitment not to disclose its identity and whose maintenance of anonymity is essential to the relationship between the journalist and the source, must be treated in accordance with the rules of confidentiality and public interest. The confidentiality of journalists' sources must be protected in the exercise of the mission of informing the public. Consequently, journalistic sources are confidential and should be treated as such at every stage of the investigation and judicial proceedings.

The prosecutor must ensure the protection of confidential data that may lead to the identification of a source in situations where journalistic sources could be revealed by means of investigation or during the proceedings.

Apart from highly exceptional circumstances, journalistic sources or information which could lead to the identification of a journalistic source, should not be consulted or made public without the journalist's express consent, in agreement with the source, or if this is not possible, by the media organization associated with the journalist, in agreement with the source.

In the highly exceptional circumstances where lifting the confidentiality of the journalistic source is the sole investigative element for the resolution of the case, all information or evidence that could lead to the identification of the source should be sealed and submitted to a competent judicial authority to determine the conditions of use and treatment. In the absence of such a judicial process, the prosecutor will have to determine whether an overriding and proportionate imperative of public interest justifies

the lifting of confidentiality. In its determination, it should be considered whether the public interest in the administration of justice outweighs the public interest in preserving the confidentiality of the journalistic source, considering in particular:

- after having exhausted all other investigative grounds, the lifting of confidentiality proves the only element of evidence available for the resolution of a case,
- the consequences of the disclosure on the journalistic source and the journalist, and
- the impact on the freedom of the press.

This determination should be made or approved by a senior managerial authority of the prosecution service.

In any case, the journalist or the press organ representing the journalist should be able to intervene in the determination to assert their point of view.

One should regard as an indirect breach of the confidentiality of sources, the fact of seeking to discover the sources of a journalist by means of investigations relating to any person who, by reason of their habitual relations with a journalist, may have information to identify these sources.

It is recommended that only prosecutors with specialized training on protection of journalistic sources should be part of the determination process.

4 PROTECTION OF VICTIMS, WITNESSES, IMMUNITIES, AND ADVANTAGES FOR COLLABORATING WITNESSES

a) Protection of Journalists in Investigative or Judicial Proceedings

In cases where the prosecutor's jurisdiction includes witness protection programmes or victims and their family's protection programmes, the following guidance should be applied. If the prosecutor has the ability to recommend such action to competent authorities in the matter, they should be guided by the same criteria for the purposes of their recommendations.

In the following situations, a protection programme should be considered for a journalist and their family members when:

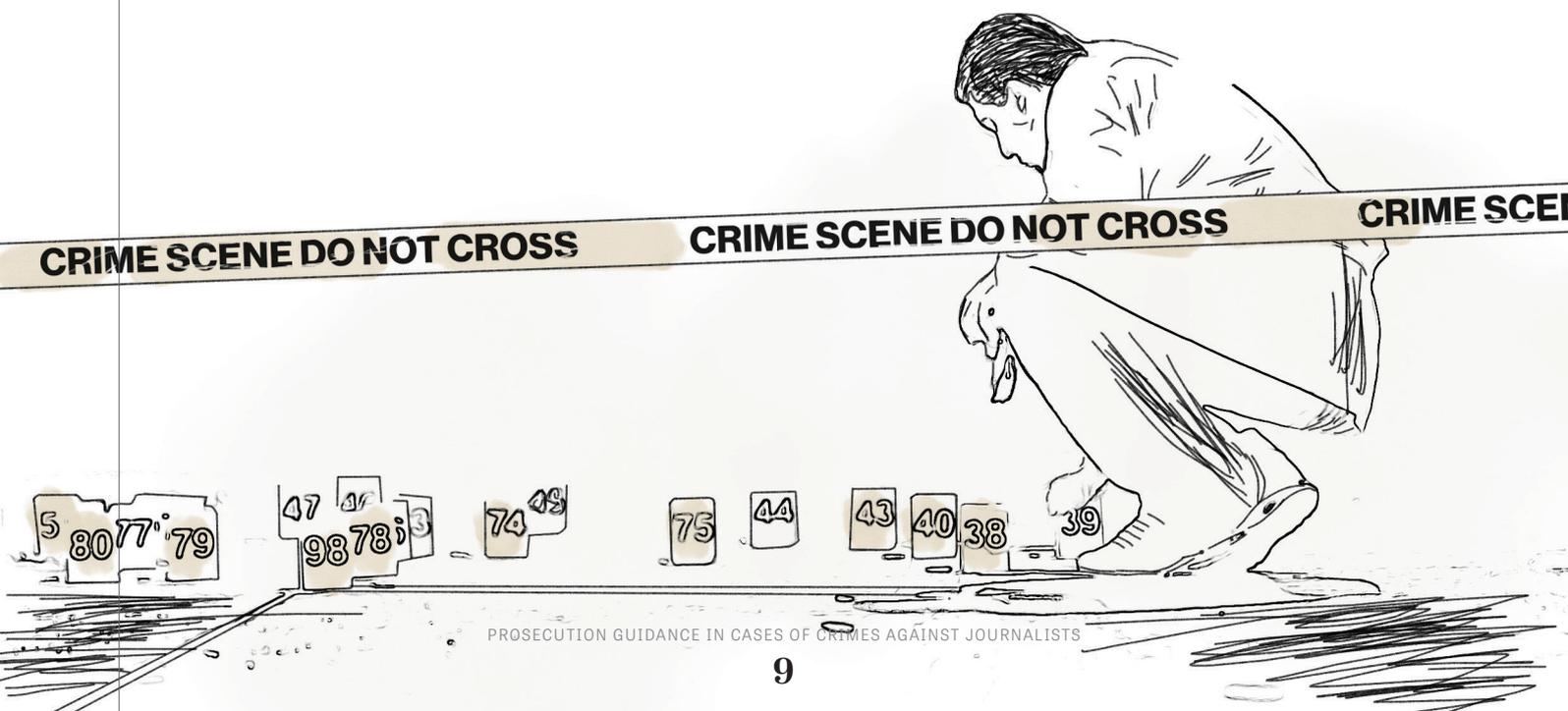
- the factual circumstances of a case suggest that the safety of a journalist or their family is compromised,
- violent individuals or groups are linked to the alleged commission of a crime against a journalist, or
- individuals associated with organized crime or terrorist organizations are linked to the alleged commission of a crime against a journalist.

Following a threat assessment by competent authorities, specific measures should be put in place. These measures may include a financial assistance programme, relocation, housing, change of identity, psychological assistance, close security, passive or active security of the place of temporary or permanent residence, and/or a procedure resettlement when the threat is over.

Except when authorized by law or in pursuit of a legitimate aim, the communication:

- of information which reveals or would allow to discover the location of a protected person or the location of the facilities used to provide protection or their change of identity,
- of information concerning the means and methods of protecting protected persons, or
- the identity and role of a person providing protection or helping to provide it, knowing that communication could cause serious harm,

should be prohibited.



b) Justice's collaborator²

The participation of citizens in investigations and the legal proceedings which may result from them, including the giving of testimony, is essential to the proper functioning of the justice system. This moral and social duty of citizens also applies to a person suspected or accused of a crime who decides, freely and voluntarily, to testify against another person being investigated or accused.

In order to ensure the conduct of proceedings for certain serious offences against a journalist, it may be necessary to call in witnesses who are or have been involved in these same criminal activities and who request certain advantages in return for their testimony.

The decision to use collaborating witnesses must be supported by evidence and based on the law, rules, and procedure applicable to prosecutorial institutions and respect for the values of Justice. For transparency and in the interest of justice, the benefits or advantages granted to collaborating witnesses, with the exception for security measures, must be subject to the disclosure obligations of prosecutors.

To determine whether it is in the public interest to grant a benefit(s) to a collaborating witness, the following factors should be assessed:

- a full and total recognition of the facts and actions carried out by the collaborating witness regarding the alleged crime and all other crimes to cleanse the witness,
- a full commitment to collaborate in investigations where the testimony of the witness could be useful, and/or

- In accordance with domestic laws and practices, submit to a polygraph test when the collaborating witness has participated in a serious crime against a journalist with one or more accomplices or in connection with a criminal organization or a terrorist organization, and that it is envisaged that the witness testifies against accomplices or members of the organization to which the witness belongs or has belonged. This procedure should also apply to a collaborator of justice witness when they are qualified as an informant in custody (jail house informant).

Any question relating to a partial or complete immunity of the collaborating witness for a serious crime against a journalist in exchange for testimony against accomplices, a criminal organization or a terrorist organization involved in the serious crime against a journalist should be decided by the director of public prosecution or the correspondent authority of the prosecution service conducting the case.

All immunities and benefits, financial or otherwise, must be fully and transparently disclosed to parties and to the public with exception for security measures.

c) Protection of witnesses during court proceedings

During court proceedings, witnesses should have, upon request from the prosecutor and in accordance with domestic laws and practices, the opportunity to give testimony outside the courtroom or behind a screen or with other technological devices that would allow the witness not to see or be seen by the accused when the hearing is likely to seriously endanger the life or physical integrity of that witness, family members or relatives.

² Council of Europe, Committee of Ministers, Recommendation No. R (97) 13, September 10 1997

MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTER AND EXTRADITION

Crimes against journalists often have a transnational dimension requiring the sharing of information between states, facilitated by international judicial co-operation based on multilateral conventions, regional treaties, bilateral mutual legal assistance (MLA) agreements or other arrangements between states. In the absence of formal MLA arrangements, countries can rely on the principle of international and judicial comity to assist each other in criminal matters. There are practical steps prosecutors can take to make international co-operation more effective.

Mutual legal assistance does not replace other modes of cooperation. Collaboration between prosecutors or police remains an important means of mutual assistance, especially when the requested information can be provided without the need for coercive measures.

It is also possible to make requests for assistance when there is no treaty between two countries under the principle of international comity. These requests take the form of a letter of rogatory which does not derive its source from an agreement. The requested state will respond to these letters in accordance with its domestic law.

When the sufficiency assessment depends on evidence located abroad, the prosecutor shall ensure that he can obtain that evidence in a manner that ensures its admissibility.

a) Request for mutual assistance

In general, mutual legal assistance treaties provide for five main mandatory mechanisms for mutual assistance:

- the gathering of evidence, including documents, affidavits, and testimony,
- the loan of evidence,



- the transfer of detainees willing to testify or to assist in an investigation or pending proceedings,
- search and seizure, and/or
- the payment of criminal fines and the enforcement of confiscation orders.

When the prosecutor prepares a request for mutual assistance based on a bilateral, multilateral treaty or an international convention, they must pay particular attention to the burden of proof required in the jurisdiction receiving the request. At this stage, having a proficient understanding of the distinctions between civil law and common law countries is essential when co-operation involves jurisdictions with different systems. To complete a request, a prosecutor may have recourse to the assistance of a prosecutor in the jurisdiction where the required evidence is found, through the database available via the International Association of Prosecutors (IAP) www.iap-association.org. This may include police-to-police assistance or aid through the central authority of its jurisdiction which finalizes and officially transmits the request to the central authority of the jurisdiction where the required evidence is found when coercive measures are required.

Legal requirements for satisfying foreign requests in obtaining evidence vary in different countries. The more intrusive the coercive measures, the higher the evidentiary threshold will be to satisfying legal requirements of the request. Some elements that need to be addressed are:

- the need for confidentiality,
- the need for urgency,
- if the evidence needs to be certified, and/or
- the translation of the request.

It is proposed that the prosecutor maintain communication with a counterpart in the requested country, providing contact details for both informal and formal communication. The request must be specific and proportionate. Sending a draft request before sending it via official channels is a best practice, as it offers opportunities to establish the viability of requests, resolve issues and speed up their execution.

b) Electronic Evidence

The use of electronic evidence is becoming increasingly important in the prosecution of all crime types, including crimes committed against journalists. Electronic evidence is volatile, easily altered, time sensitive and not bound by territorial jurisdictions which can lead to loss of location. Investigators and prosecutors must act swiftly to identify, locate and preserve electronic evidence.

Prior to sending any request to a foreign country, the prosecutor should exhaust all national avenues when attempting to obtain the required electronic evidence. A prosecutor must take steps to initiate preservation orders to the communications service provider, in advance of a subsequent request to produce the data via mutual legal assistance or a production order. Some communications service providers accept requests for data preservation directly from foreign law enforcement agencies or from prosecutorial authorities. A prosecutor should verify with the requested authority or communications service providers whether an account holder may learn about the preservation request and consider their investigative strategy accordingly. A preservative order should contain the following elements:

- requested records with particularity, including the specific data categories requested and date limitations for the request,
- name of the issuing authority and agent, email address from a law-enforcement domain, and direct contact phone number, and
- email address, phone number, user ID number or username of the requested records holder.

The preservative order should be sent to the Law Enforcement Response Team of the requested communications service provider. Prosecutors should ask for a confirmation.

c) Request for Extradition

Extradition is the formal procedure by which a state requests the forcible return of a person accused or convicted of a crime to stand trial or serve a sentence in the requesting state.

For urgent cases, most extradition treaties provide for the provisional arrest of a person pending an extradition hearing. The prosecutor must act swiftly and in the public interest to prevent a suspect from escaping and defeating the extradition process.

When the location of the suspect is undetermined, the prosecutor may request assistance from law enforcement in preparing a Red Notice which requests law enforcement agencies around the world to locate, arrest and provisionally detain a person pending extradition, surrender or other legal proceedings.

The Red Notice essentially contains two types of information: information on the identity of the wanted person and information on the offence for which that person is wanted. Red Notices are issued by INTERPOL.

When a prosecutor prepares a request for extradition, they should pay particular attention to the burden of proof required, the principle of specialty and the principle of dual criminality that may apply. The prosecutor must present their request to the central authority in their country, which forwards it to the requested country.

GENDER-BASED CRIMES AND OTHER FORM OF HATE CRIMES ON JOURNALISTS

The issue of crimes against journalists is raised globally, where the investigation and prosecution of these crimes calls also for combating violence against women journalists. Men and women journalists are both exposed to violence and threats to their safety during the performance of their duties. However, women journalists are exposed to specific forms of gender-based violence, including rape and sexual harassment, and other forms of intimidation, including threats. These guidelines provide the framework in which a public interest decision should be made in the context of gender-based crimes against journalists or any other form of hate crimes.

When exercising their duties to charge a crime against a female journalist, a prosecutor may proceed with conducting a gender analysis by examining the underlying power relationships and other dynamics that determine whether discrimination was a factor or motive in the commission of the crime. Such analysis requires an understanding of differences in status, power, roles, and the impact of hatred when weighing the evidence and examining the motive in the commission of a crime.

When determining an appropriate sentence, the prosecutor must consider factors such as the motive on the grounds of gender, which constitutes an aggravating circumstance. Where permitted by national law, the prosecutor will adduce evidence to propose appropriate sentences for gender-based crimes, and for related harm, including physical, psychological, and social damage to victims, their families, and communities. Sentence recommendations should reflect the situation of female journalists and gender dimensions of the crimes charged as an aggravating factor.



The International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) expresses the right to freedom of expression as the rights to freedom of thought, conscience and religion and the freedom of opinion and expression. The States Parties undertake to prohibit and to eliminate racial discrimination as well, in all its forms, and to guarantee the right of everyone to equality before the law, without distinction to gender, sexual orientation, race, colour, religious beliefs, or national or ethnic origin. The prosecutor should also adduce evidence to propose appropriate sentences for hate-based crimes for related harm, including physical, and psychological damage to the victim. Sentence recommendations should reflect the situation of hatred or gender as an aggravating factor.

7 POST-CONFLICT JURISDICTIONS AND TRANSITIONAL JUSTICE ISSUES

In the aftermath of a conflict or authoritarian rule, transitional justice offers a range of processes and mechanisms associated with a society's attempt to come to terms with a legacy of large-scale past abuses, in order to ensure accountability, serve justice and achieve reconciliation. Transitional justice consists of both judicial and non-judicial processes and mechanisms, including prosecution initiatives or truth-seeking.

Protection of civilians in armed conflict 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 and domestic laws, including crimes against journalists during conflict and in transition toward a state of law. Prosecutors in post-conflict jurisdictions should take appropriate steps to ensure accountability for crimes committed against journalists in situations of armed conflict to bring perpetrators of such crimes to justice.



CONCLUSION

Combatting impunity surrounding attacks against journalists is achieved when the mechanisms and principles referred to in these guidelines and cooperative efforts with other prosecution services or law enforcement agencies are paramount and central as implementation strategies. These mechanisms are a means to achieve the search for truth and justice, realizing that a prosecutor has an obligation to seek justice while simultaneously protecting society and defending journalists' rights using an effective and efficient approach.

Raising awareness through prosecutorial training will build capacity and facilitate an important step towards fighting against impunity. Prosecution services should develop or offer curricula which include material relevant to the safety of journalists, protection of journalistic sources and fundamental rights.

Dissemination of best practices including contextual analysis, protection of journalists' sources, witness protections, collaborator of justice and gender analysis are critical to maintain confidence in the administration of justice. Prosecution services should adopt all legally available provisions and mechanisms to help prosecutors determine which offences to charge and devote particular attention to identifying discrimination and gender-based crimes against journalists.

The Rule of Law and the primacy of fundamental rights are at the heart of prosecutorial functions. Conducting, supervising, or advising an impartial, effective and independent investigation into crimes against journalists is crucial to safeguard freedom of opinion and expression. When prosecutors make fair decisions, impartially and with integrity to secure justice to victims and the public, they help maintain a free and democratic society. The values of Justice and equity include transparency and accountability regarding decisions made while proceedings are conducted. All the above are part of the general commitment of prosecutors to protect justice, equity, the public interest and the common good.



ABOUT THESE GUIDELINES

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The International Association of Prosecutors (IAP) is the only worldwide organization of prosecutors. It has more than 183 organizational members from over 177 different countries. The Association, whose headquarters is based in The Hague (Netherlands) is committed to setting and raising standards of professional conduct and ethics for prosecutors worldwide; promoting the rule of law, respect for human rights and improving international cooperation between prosecutors' office.

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