**Council of Europe Submission to the Report on Gender Justice and Freedom of Opinion and Expression**

**How is the Council of Europe addressing this issue?**

Equality between women and men is an important area of work for the Council of Europe, the basis being Article 14 of the European Convention on Human Rights. According to the Convention, human rights have to be safeguarded without any discrimination, including on grounds of sex. Freedom of expression is, likewise, enshrined in the Convention, whose Article 10 guarantees everyone the right to freedom of expression, including freedom to hold opinions and to receive and impart information and ideas, subject to duties and responsibilities set out in paragraph 2 of the provision.

Seeking to mutually reinforce these two rights, the Council of Europe has developed several instruments which directly address the topic of gender equality and media:

* The [*Council of Europe’s Gender Equality Strategy 2018-2023*](https://www.coe.int/en/web/genderequality/gender-equality-strategy)explicitly includes tackling sexism as a form of hate speech under its strategic objective 1 – combating gender stereotypes and sexism.
* The [*Recommendation CM/Rec(2019)1 of the Committee of Ministers to member states on preventing and combating sexism*](https://www.coe.int/en/web/genderequality/combating-and-preventing-sexism#{%2263531002%22:[]}) [[1]](#footnote-1) recommends that States implement legislative measures, applicable to all media, which define and criminalise incidents of sexist hate speech, and include reporting procedures and appropriate sanctions. States are also invited to develop information and campaigns to raise awareness about sexist misuse of social media, threats in the internet environment and the situations children and young people face, and to provide practical assistance about how to prevent and respond to such situations. One interesting recommendation involves setting up a system to allocate additional funding to media outlets to produce gender-sensitive content, thereby addressing the problem through positive encouragement towards a more balanced portrayal of women and men.
* The [*Recommendation CM/Rec(2013)1 of the Committee of Ministers to member States on gender equality and media*](https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=09000016805c7c7e)**:** The underlying idea of this recommendation is that inequalities in society are reproduced in the media. This applies for women’s underrepresentation in media organisations, especially in management posts and positions of ownership. But it is even more evident as regards women’s low visibility, both in terms of quality and quantity, in media content. It recommends *i.a.* that States adopt and implement appropriate legal frameworks to prohibit discrimination on grounds of sex, or any form of gender-based violence in the media and that media adopt measures for a more balanced representation of women and men in media work and develop standards in media coverage promoting a non-stereotyped image of women and men. In the past two years, the Council of Europe has analysed how member states and other stakeholders have been implementing the Recommendation and an [**Analytical Report on the progress made since the adoption of CM/Rec(2013)1**](https://rm.coe.int/prems-064620-gbr-2573-gender-equality-in-media/16809f0342) was adopted in 2020. According to it, most legal frameworks have included gender equality (GE) or non-discrimination provisions in either their GE laws or media laws. Most regulators (11 out of 17) reported that they oversee or implement gender equality-related regulations, including regarding combating gender stereotypes, and some provided concrete examples. Best practices are included in each chapter of the Analytical report.
* The Council of Europe's [**Study on media coverage of elections with a specific focus on gender equality**](https://rm.coe.int/gender-equality-and-elections-/16807c0e23)addressed the following issues:
* Do women and men candidates receive equal media coverage?
* Who reports on elections?
* What messages are conveyed to the voters?
* What, if any, impact do these messages have on election outcomes?
* What are the mechanisms in place to ensure equal representation of women and men candidates?
* Is there a need to adopt additional instruments to ensure equal representation of both genders in the pre-electoral media coverage?
* The [*Recommendation (2016)4 on the protection of journalism and safety of journalists and other media actors*](https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=09000016806415d9#_ftn1)includes an explicit acknowledgment of specific gender-related dangers faced by female journalists. This includes sexist and misogynist abuse, threats, and harassment, as well as sexual aggression and violence – both offline and increasingly online. It includes a requirement to guarantee effective protection of female journalists from gender-related dangers in the course of their work, in legislation as well as in practice.

However, the situation on the ground has been gradually worsening for female journalists. Women journalists are affected by online harassment far more than man. Results from an International Federation of Journalists study (2018) revealed that online harassment directed towards women journalists is mainly based on their gender, which include sexist insults, humiliation because of their physical appearance and rape threats among other gender-based attacks, while online abuse against male journalists is not. This is confirmed by numerous examples of alerts posted on the Council of Europe’s[**Platform to promote the protection of journalism and safety of journalists**](https://www.coe.int/en/web/media-freedom).

The Organisation has also collected statistical data about the prevalence of gender based online harassment in a study conducted in 2016 and published in 2017: [**Journalists under pressure – unwarranted interference, fear and self-censorship in Europe**](https://book.coe.int/en/human-rights-and-democracy/7284-journalists-under-pressure-unwarranted-interference-fear-and-self-censorship-in-europe.html)**.** Of the 940 journalists who responded, 53% said they had been subjected to forms of online harassment.

Last year, the Council of Europe published a study “[**Mission to inform**](https://rm.coe.int/prems-021220-gbr-2018-a-mission-to-inform-journalists-at-risk-speak-ou/16809ff1e2)” recounting experiences of pressures and attacks of twenty journalists and practically all women mentioned – although to different degrees – gender-based inequalities, harassment, and attacks.

Women journalists have been disproportionately affected by the Covid-19 crisis. According to an International Federation of Journalists (IFJ) global survey, women journalists are suffering greater stress and anxiety than their male counterparts as a result of the Covid-19 pandemic.

Violence against journalists affects not only them as individuals but also democratic values, as it impacts on our level of information. Protecting and empowering women journalists entails enhancing press freedom and ensuring free and independent journalism. By contrast, a lack of awareness and response can result in women journalists leaving the profession and lead to a loss of diversity in the public debate. Ultimately, these threatening pressures exerted on journalists are aimed at silencing critical voices and free speech.

Freedom of expression cannot be used to silence women and girls. When looking at freedom of expression from a gender equality point of view, it is important to stress the fact women’s freedoms are undermined behind the pretense of upholding freedom of opinion and expression. Freedom of expression is often abused to excuse ordinarily unacceptable and offensive behaviour, such as sexist hate speech. Sexist hate speech relates to expressions which spread, incite, promote or justify hatred based on sex. It remains under-reported, but its impact on women, whether emotional, psychological and/or physical can be devasting, especially for young girls and women. The increasing availability and use of Internet and social platforms have contributed to growing occurrences of sexist hate speech (notably towards women who are young, in the media or politicians). Online attacks not only affect women’s dignity but may also prevent women, including in the workplace, from expressing opinions and result in pushing them out of online spaces, undermining the right to free speech and opinion in a democratic society, reinforcing the gendered democratic deficit. Violence against women taking place in the digital sphere has severe implications for women’s participatory rights online: individual acts of violence, even those not explicitly criminalised, may reach the threshold of psychological violence when combined with the mob mentality and repetition facilitated by the internet. For example, a teasing comment may ascend to cyberbullying when made repetitively or by a large number of people. Certain groups of women, including politicians, journalists as well as human rights defenders and activists are particularly exposed to such violent acts. As a consequence, online and technology facilitated forms of violence can and do cause women to withdraw from public and political life, as evidenced by many women politicians who decide to leave politics due to the amount of abuse suffered online. Digital forms of gender-based violence against women can also be particularly pronounced for women and girls at risk of or exposed to intersecting forms of discrimination, and may be exacerbated by factors such as disability, sexual orientation, political affiliation, religion, social origin, migration status or celebrity status, among others. Another group particularly affected by violence against women committed through the use of technology is young women between the ages of 15 and 25. Indeed, a survey conducted by Plan International, an NGO focusing on violence against girls, found that more than half of the interviewed 14 000 young women from 22 different countries within the abovementioned age bracket said they had been cyberstalked, sent explicit messages and images, or abused online.[[2]](#footnote-2) As a result online gender-based violence has a vast silencing effect on women and girls, driving them out of online spaces and social media platforms or leading them to self-censorship in order to avoid violence. In an era where a large proportion of social interaction and public debate takes place online or via digital means, the digital dimension of violence against women exacerbates the existing gender gap in internet access and usage[[3]](#footnote-3).

Since 2016, the Council of Europe Group of Experts on Action against Violence against Women and Domestic Violence ([GREVIO](https://www.coe.int/en/web/istanbul-convention/grevio)) has been monitoring the implementation of the [Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence](https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=090000168046031c) (Istanbul Convention) by States Parties. Through its baseline evaluation procedure, it assesses the implementation of the Convention in its entirety and offers suggestions and proposals regarding the remedial actions to take in relation to any identified shortcomings identified. Over the course of its work, GREVIO has gradually increased its attention to the digital dimension of women and girls’ experiences of gender-based violence against women. Thus far, GREVIO has tackled certain aspects of gender-based online violence, including cyberbullying and online sexual harassment, in its baseline evaluation reports and pointed towards the good practices of the state parties. Efforts have been made, for example, in the introduction of new criminal offences to capture specific harm perpetrated online such as the introduction of an offence relating to group cyberbullying under the French Law on sexual and gender-based violence. In Portugal GREVIO commended the adoption of a comprehensive set of Guides on Gender and Citizenship, which included guidelines on internet security, for all levels of education, from preschool to secondary education. Similarly, Monaco’s efforts to prevent cyber-bullying in all classes from year 6 to year 10 was praised during the country’s evaluation by GREVIO.

In addition to highlighting good practices, GREVIO’s baseline evaluation reports highlight areas which require further attention by the member states. For instance, the baseline evaluation report on France identified the continuing need for awareness raising and advocacy efforts in relation to verbal and sexual cyberviolence against girls whereas the baseline evaluation report on the Netherlands points towards the lack of knowledge about the digital dimension of violence against women amongst professionals. Spanish authorities were encouraged to strengthen training efforts for professional groups such as law-enforcement officers, nurses and other medical professions, and teachers on different forms of violence against women, including their digital dimension.

Where legislation exists, GREVIO notes that the focus in recognising and sanctioning the abuse and harm done by violence perpetrated online or through technology is often placed on ensuring a person’s safety, reputation or property. Many domestic laws fail to reflect other important impacts of acts of such violence, including social, economic, psychological and participatory harms. Very few consider and specifically address the compound experiences of women and girls and do not place it in the context of a continuum of violence against women that women and girls are exposed to in all spheres of life, including in the digital sphere.

Considering the prevalence and severity of the issue, GREVIO decided during its 21st Plenary meeting to prepare its very first **General Recommendation on the digital dimension of violence against women.** With this General Recommendation GREVIO aims to offer current and future States Parties an interpretation of the Istanbul Convention in relation to the digital dimension of violence against women and domestic violence. This Recommendation will set out definitions of key terms and concepts regarding violence against women perpetrated in the digital sphere and will provide recommendations to prevent and combat this phenomenon by proposing specific action to take in relation to the four pillars (4Ps) of the Istanbul Convention: prevention of digital forms of violence, protection of the victims, prosecution of the perpetrators and co-ordinated policies between all relevant state actors and with civil society organisation and private sector actors, including all types of internet intermediaries. The General Recommendation will be adopted at the 25th meeting of GREVIO in autumn 2021 and will subsequently made public. It seeks to make the link between violence against women and girls in the digital sphere and their participation in democratic and other processes and hence will be of relevance to any discussion on their freedom of expression.

**How to better counter online harassment?**

1. ***Robust legal frameworks need to be put in place.***

In 2020 the European Court of Human Rights ruled in the case of Buturugâ v. Romania: in addition to physical threats and violence, the applicant’s former husband also hacked her email, Facebook account and made copies of her private conversations, documents and photos. Yet his behaviour was – at the domestic level – not considered serious enough to qualify as an offence, and other complaints were dismissed as out of time.

This judgment, in which the European Court found violations of Articles 3 of the Convention (prohibition of ill-treatment) and 8 (violation of private life and correspondence) of the Convention is important because it explicitly recognises that cyberviolence is an aspect of violence against women and can include cyber related violations of privacy, intrusion into the victim’s computer and the taking, sharing and manipulation of data and images, including intimate data.

With this in mind:

1. ***Criminal codes should be reviewed considering the various types of online harassment to future-proof the national legislation against legal gaps.***

Cyberstalking, for example, can extend to threats of physical harm to the targets. So can the phenomena of doxing (researching and maliciously leaking private or personally identifiable information) and trolling (amounting to a wide range of rumours, threats, sexual remarks, violent comments, even hate speech).

Legal frameworks need to be complemented by actions taken by online platforms: foreseeable and transparent principles for ensuring human rights-compliant content moderation, with decisive action against trolls and bots (as they can amplify online harassment to the level of “mob mentality”). However, in both public and private actions proper balance must be found, so as not to excessively interfere with freedom of expression.

But even where legal frameworks are up to date and sufficiently address these phenomena, it may be that in practice the legislation is not being applied. That can deter potential victims of gender-based attacks from making use of the available remedies.

In the 2017 study “Journalists under pressure”, 57% of respondents did not report that they had been the targets of online violence.

1. ***It is crucial to tackle the problem of underreporting.***

This presupposes two things: journalists’ trust in their domestic judicial systems and a functioning – meaning independent and impartial – judiciary with sufficient human and financial resources. It also requires law enforcement and judiciary to be sensitised to the issue of gender and aware of various gender-specific threats, but also risks related to secondary victimisation.

This means that there need to be continuous trainings in place, but what can also help are working groups of law enforcement authorities and journalists. Also very important is psychological support for victims.

**Ongoing activities of the Council of Europe**

* The recent Conference of Ministers responsible for Media and Information Society (10-11 June 2021) brought a renewed political commitment of member states’ relevant ministers to reinforce national activities in the area of safety of journalists, also through dedicated national action plans adapted to specific circumstances of individual States. The ministers also resolved to We resolve, in the context of the national action plans, to promptly and decisively address the specific risks, challenges and threats that women journalists and other media actors face on account of their gender, also in the online sphere.
* The Council of Europe is currently preparing a draft Recommendation on a comprehensive approach to addressing hate speech which will also address hate speech targeted against women journalists.

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**Annex**

This contribution from the Secretariat of the Parliamentary Assembly of the Council of Europe contains excerpts from relevant PACE Resolutions:

**The status of journalists in Europe**

Resolution 2213 (2018)

**5** In addition, the Assembly observes unacceptable inequality between women and men in the profession: women’s careers are shorter than men’s; it is considerably more difficult for them to reach managerial level; female journalists are the main victims of cyberbullying and sexist violence. In this connection, the Assembly reminds the member States of Committee of Ministers [Recommendation CM/Rec(2013)1](https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=09000016805c7c7e) on gender equality and media, and the need to implement it.

**6** Consequently, the Assembly recommends that member States:

**6.5** support action plans to tackle the problem of gender inequality on the labour market in the media sector…

**7** The Assembly calls on trade unions and journalists' organisations to:

**7.2** promote membership, particularly among young people and women, but also among providers and managers of content, currently excluded from many trade unions, while ensuring that all members have the requisite professional expertise;

**7.3** promote the practice of mentoring for young journalists in general, enabling them to benefit from the professional experience of their more experienced colleagues, and for young female journalists in particular, to better equip them to combat discriminatory attitudes, harassment and sexist violence;

**Internet governance and human rights**

Resolution 2256 (2019)

**5** The Assembly underlines the need to guarantee the effective protection of the right to freedom of expression and freedom of information, online and offline, and the obligation incumbent on Council of Europe member States to ensure that this right, which is a pillar of any democratic society, is not threatened either by public authorities or private-sector or non-governmental operators. At the same time, more must be done to counteract the dangers brought about by abuses of the right to freedom of expression and information on the internet, such as incitement to discrimination, hatred and violence, aimed at women or ethnic, religious, sexual or other minorities in particular; child sexual abuse content; online bullying; the manipulation of information and propaganda; and incitement to terrorism.

**Media education in the new media environment**

Resolution 2314 (2019)

**14** The Assembly calls on internet intermediaries to:

**14.1** actively co-operate with public, social and private entities to promote and support media literacy, notably to counter disinformation; hate speech including sexist hate speech targeting women and online misbehaviour;

**Threats to media freedom and journalists’ security in Europe**

Resolution 2317 (2020)

**6** The Assembly calls on member States to create an enabling and favourable media environment and review to this end their legislation, seeking to prevent any misuse of different laws or provisions which may impact on media freedom – such as those on defamation, anti-terrorism, national security, public order, hate speech, blasphemy or memory laws – which are too often applied to intimidate and silence journalists. In this connection, they must, in particular:

…

**6.7** develop constructive, non-discriminatory mechanisms of dialogue with media and journalists’ standing or *ad hoc* committees, bringing together politicians, judges, public prosecutors, police officers, journalists and editors, to discuss problems concerning journalists’ security, and look for solutions in a collaborative framework, also paying specific attention to the need to ensure effective protection for investigative journalists, as well as to the higher vulnerability of women journalists and the particular vulnerability of freelance journalists.

1. The Recommendation addresses the following areas:

   • Internet, social media and online sexist hate speech

   • Media, advertising and other communication products and services

   • Workplace

   • Public sector

   • Justice sector

   • Education institutions

   • Culture and sport

   • Private sphere [↑](#footnote-ref-1)
2. . Plan International (2020), “Free to be online? A report on girls’ and young women’s experiences of online harassment”, available at https://plan-international.org/publications/freetobeonline. [↑](#footnote-ref-2)
3. According to the OECD’s 2020 [report](https://www.oecd.org/digital/bridging-the-digital-gender-divide.pdf) entitled “Bridging the digital gender divide”, in the case of women, the global Internet penetration rate is about 45%, as compared to about 51% for men – this corresponds to having 250 million fewer women than men online. [↑](#footnote-ref-3)