



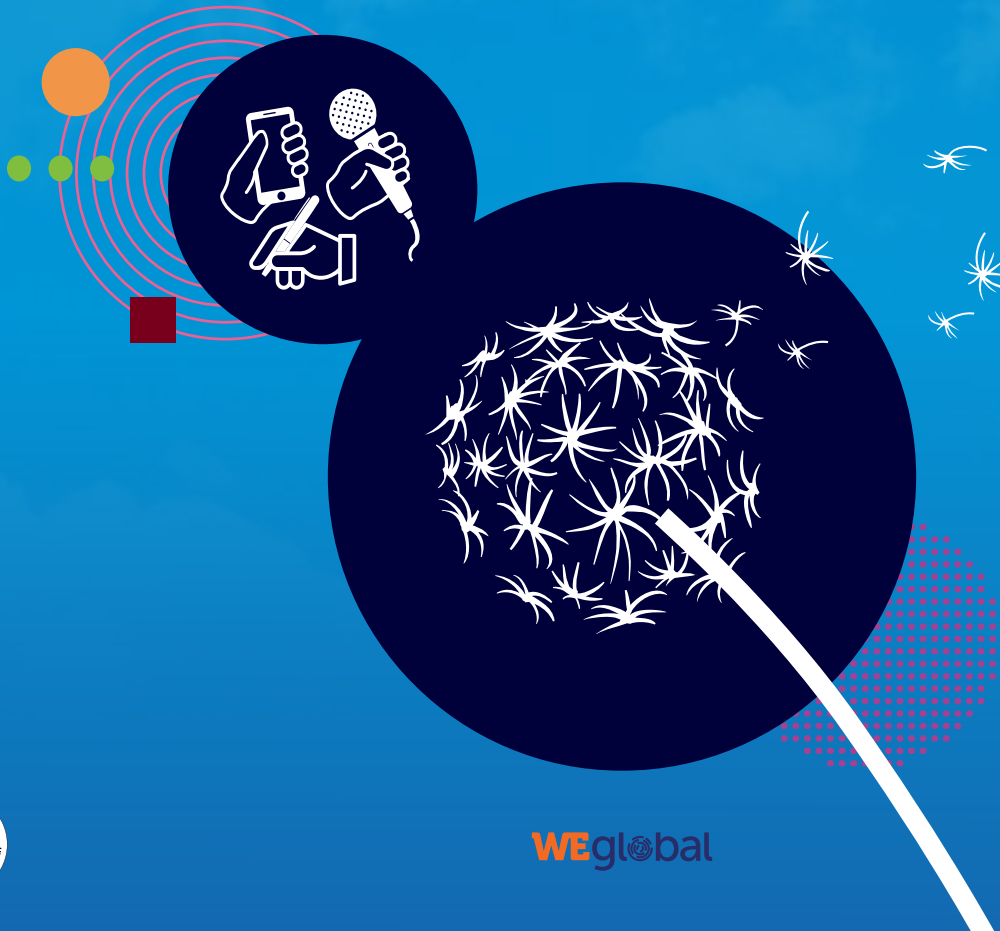
This project is funded by the European Union.



Technical Assistance for Strengthening
Fundamental Rights Sector Coordination Project

FREEDOM OF EXPRESSION

FACTSHEET



WEglobal





Introduction

Freedom of expression means that everyone can express their views in public and not be subject to any coercive interference or sanctions.

Freedom of expression is a right associated with fundamental human and political rights such as the freedom of assembly and association, and the right to vote and be elected. It forms the basis or minimum requirement in a modern society. Moreover, it is critical for the meaningful implementation of many requirements that are vital for democracy, such as pluralism, transparency, accountability and participation. Freedom of expression is also associated with many democratic or legal requirements such as the right to information, media freedom and pluralism, the right to assembly and demonstration, freedom of association, respect for private life, protection of personal rights, the fight against racism and xenophobia, and the fight against disinformation.

Thanks to all these qualities, freedom of expression is a fundamental right that ranks at the forefront of universal and regional international regulations. In addition, at the European Union (EU) level, freedom of expression is protected in many areas and addressed in terms of its relationship with other rights and freedoms as well as with Union policies, regulations and actions.



International Standards

United Nations

✓ Universal Declaration of Human Rights, Article 19

“

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.

”

✓ UN International Covenant on Civil and Political Rights, Article 19

“

1. Everyone shall have the right to hold opinions without interference.

2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.

3. The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:

- a. For respect of the rights or reputations of others;
- b. For the protection of national security or of public order (ordre public), or of public health or morals.

”



✓ General Comment No. 34, Article 19: Freedoms of opinion and expression, Human Rights Committee, CCPR/C/GC/34, 12.09.2011

✓ UN Convention on the Rights of the Child, Article 13

“

1. The child shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of the child's choice.

2. The exercise of this right may be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:

- a. For respect of the rights or reputations of others; or
- b. For the protection of national security or of public order (ordre public), or of public health or morals.

”

Council of Europe

✔ European Convention on Human Rights, Article 10

“ 1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This Article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.

2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.

”

- ✔ Case-law of the European Court of Human Rights (ECtHR)
- ✔ Recommendation CM/Rec (2022)4 of the Committee of Ministers to Member States on promoting a favourable environment for quality journalism in the digital age, adopted on 17 March 2022
- ✔ Recommendation CM/Rec (2022)16 of the Committee of Ministers to Member States on combating hate speech, adopted on 20 May 2022
- ✔ Recommendation CM/Rec (2022)13 of the Committee of Ministers to Member States on the impacts of digital technologies on freedom of expression, adopted on 6 April 2022
- ✔ Recommendation CM/Rec (2016)4 of the Committee of Ministers to Member States on the protection of journalism and safety of journalists and other media actors, adopted on 13 April 2016
- ✔ ECRI General Policy Recommendation N°15 on Combating Hate Speech (CRI (2016)15), adopted on 8 December 2015

OSCE Framework and Fundamental Documents

- ✔ OSCE, Media Freedom on the Internet: An OSCE Guidebook, March 2016,
- ✔ OSCE, Representative on Freedom of the Media (RFM), Vilnius Recommendations on Safety of Journalists, 8 June 2011, CIO.GAL/111/11
- ✔ OSCE, Representative on Freedom of the Media (RFM), Spotlight on Artificial Intelligence and Freedom of Expression: A Policy Manual, 2021
- ✔ OSCE, Representative on Freedom of the Media (RFM), Safety of Journalists Guidebook, 3rd Edition, 2020
- ✔ Representative on Freedom of the Media (RFM): Established to monitor the status of media freedom in the OSCE region, to assist and cooperate in the development of free, independent and pluralistic media in participating countries, and to carry out an early warning mission when necessary.

EU and Freedom of Expression



Provisions of the Founding Treaties and EU Charter of Fundamental Rights: Binding Sources

Prior to the enactment of the EU Charter of Fundamental Rights, the EU lacked a specific provision pertaining to the protection of freedom of expression within its law. The Charter, which entered into force in December 2009 with the Treaty of Lisbon, has the same legally binding force as the Treaties in accordance with Article 6(1) of the Treaty on European Union.

Freedom of expression and information are included in Article 11 of the EU Charter of Fundamental Rights, which covers all acts and actions of EU institutions and bodies as well as the implementation of EU law by national authorities, as follows:

“ 1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers.

2. The freedom and pluralism of the media shall be respected.”

”

Article 11 aligns with the provisions of Article 10 of the European Convention on Human Rights (ECHR). In accordance with the provisions in Article 52(3) of the Charter, the interpretation and extent of this particular entitlement align with the rights safeguarded by the ECHR. The potential restrictions that can be imposed on it should not go beyond the limitations outlined in Article 10(2) of the ECHR.

The Charter does not provide the European Commission any general authority to act in matters pertaining to fundamental rights. The Commission is only able to step in when EU law comes into play (for instance, when EU legislation is adopted or when a national measure uses EU law in a manner that is incompatible with the Charter), at which point it has the authority to intervene. EU Member States have their own constitutional and judicial frameworks in place to safeguard rights and freedoms. Moreover, it is imperative for Member States to adhere to the principles of the ECHR and other international human rights documents. The Charter does not supersede these principles and documents. Accordingly, Member States bear the obligation of safeguarding the rights of their citizens to exercise freedom of expression.

Secondary Sources: Binding Regulations

- ✓ Audiovisual Media Services Directive (Directive 2010/13/EU of the European Parliament and of the Council of 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services)
- ✓ Digital Services Act (Regulation (EU) 2022/2065 of the European Parliament and of the Council of 19 October 2022 on a Single Market For Digital Services and amending Directive 2000/31/EC)
- ✓ European Media Freedom Act (Regulation (EU) 2024/1083 of the European Parliament and of the Council of 11 April 2024 establishing a common framework for media services in the internal market and amending Directive 2010/13/EU): The Act sets out common rules to ensure the proper functioning of the internal market for media services, and establishes the European Board for Media Services. The measures introduced by the Regulation will begin to be implemented on 8 August 2025.
- ✓ Regulation (EU) 2021/784 of the European Parliament and of the Council of 29 April 2021 on addressing the dissemination of terrorist content online
- ✓ Directive (EU) 2017/541 of the European Parliament and of the Council of 15 March 2017 on combating terrorism and replacing Council Framework Decision 2002/475/JHA and amending Council Decision 2005/671/JHA

Policy and Strategy Documents

- ✓ EU Human Rights Guidelines on Freedom of Expression Online and Offline, Council of the European Union, Brussels, 12 May 2014
- ✓ Strengthened Code of Practice on Disinformation, 2022
- ✓ EU Code of conduct on countering illegal hate speech online, 2016
- ✓ Commission Recommendation on ensuring the protection, safety and empowerment of journalists and other media professionals in the European Union, 16 September 2021
- ✓ Commission Recommendation on protecting journalists and human rights defenders who engage in public participation from manifestly unfounded or abusive court proceedings ('Strategic lawsuits against public participation'), 27 April 2022