

IN THE EUROPEAN COURT OF HUMAN RIGHTS

L'affaire Collectif Contre L'Islamophobie en France c. France
(Application no. 15745/22)

Written Submissions

on behalf of

AMNESTY INTERNATIONAL

Pursuant to the Section Registrar's notification dated 8 June 2023 that the Vice-President of the Section had granted permission under Rule 44 § 3 of the Rules of the European Court of Human Rights

28 JUNE 2023

A. INTRODUCTION

1. This written submission is provided by Amnesty International (hereinafter “Amnesty”) pursuant to the leave to intervene as a third party in the Court’s proceedings granted by the Vice-President of the Section under Rule 44 § 3 of the Court. With this brief, Amnesty will assist the Court by submitting an analysis of relevant international human rights law and standards focusing on the rights as guaranteed by Article 10 of the European Convention on Human Rights (ECHR) to freedom of expression, and Article 11 of the Convention which guarantees the rights to freedom of peaceful assembly and association, including their application to associations with anti-discrimination and anti-racism mandates, in particular when led by affected communities.
2. Amnesty International’s submission is motivated by a longstanding concern that freedom of association is subject to excessive restriction in many country contexts,¹ and that it is not adequately protected in France.² Our submission first documents, in Part B, the concerns raised by multiple international, regional, and domestic monitoring bodies about the existence of stigmatizing socio-political narratives and structural racism in France and the corresponding challenges facing particular groups in exercising their right to freedom of association. The submission then turns to address two inter-related issues raised by this case. In Part C, we urge the court to maintain the principle that dissolution of an association is an exceptional measure of last resort – a limitation that must not be imposed for minor infractions, that may only be considered when less intrusive measures have been exhausted, and which may only be imposed through a procedure that meets standards of foreseeability and which is overseen by a judicial authority. In Part D, we emphasize the imperative of a “differentiated and graduated approach” to assessing the matrix of factors relevant to attributing liability for “unlawful” comments posted by third parties on the social media accounts of an association.

B. THE PROTECTION OF FREEDOM OF ASSOCIATION WITHOUT DISCRIMINATION AMID CONCERNS OF SYSTEMIC RACISM

*The right to participate in public affairs cannot be considered in a vacuum. The effective exercise of this right requires an environment where all human rights, in particular the rights to equality and non-discrimination, to freedom of opinion and expression and to freedom of peaceful assembly and of association, are fully respected and enjoyed by all individuals.*³

3. At the heart of this submission lies a concern with the ability of individuals and groups to freely exercise their right to freedom of association without discrimination.⁴ States have an obligation to respect and fully protect the associational rights of “persons espousing minority or dissenting views or beliefs, human rights defenders, trade unionists and others, including migrants, seeking to exercise or to promote these rights.”⁵
4. This concern aligns with that expressed by the European Commission against Racism and Intolerance (ECRI) which has highlighted growing perceptions of Muslims as belonging to a “suspect community” – in other words, “suspected of involvement in violent activities simply because they are Muslims and on the sole basis of deep-rooted prejudices against them.”⁶ ECRI has further emphasized that:

¹ For example, Amnesty International, *Advancing accountability: Submission to Special Rapporteur on the rights to freedom of peaceful assembly and of association*, IOR 40/6544/2023, 22 March 2023 [amnesty.org/en/documents/ior40/6544/2023/en/](https://www.amnesty.org/en/documents/ior40/6544/2023/en/); Amnesty International, “Algeria: Reverse decision to dissolve leading human rights group”, 8 February 2023, [amnesty.org/en/latest/news/2023/02/algeria-reverse-decision-to-dissolve-leading-human-rights-group/](https://www.amnesty.org/en/latest/news/2023/02/algeria-reverse-decision-to-dissolve-leading-human-rights-group/); Amnesty International, “Cyprus: Halt the dissolution of leading anti-racism organisation”, 2 March 2021, [amnesty.org/en/documents/eur17/3763/2021/en/](https://www.amnesty.org/en/documents/eur17/3763/2021/en/).

² For example, Amnesty International, “France: Counter-terror measures following the murder of Samuel Paty raise human rights concerns”, 3 November 2020, [amnesty.org/en/documents/eur21/3281/2020/en/](https://www.amnesty.org/en/documents/eur21/3281/2020/en/); Amnesty International, “France: shutting down anti-racist organisation risks freedoms”, 20 November 2020, [amnesty.org/en/latest/press-release/2020/11/france-shutting-down-antiracist-organisation-risks-freedoms/](https://www.amnesty.org/en/latest/press-release/2020/11/france-shutting-down-antiracist-organisation-risks-freedoms/); Amnesty International, *France: Upturned lives: The disproportionate impact of France’s state of emergency*, (Index: EUR 21/3364/2016), 4 February 2016, [amnesty.org/en/documents/eur21/3364/2016/en/](https://www.amnesty.org/en/documents/eur21/3364/2016/en/).

³ UN Office of the High Commissioner for Human Rights, Draft Guidelines for States on the Effective Implementation of the Right to Participate in Public Affairs, 20 July 2018, para. 14.

⁴ Article 26 of the International Covenant on Civil and Political Rights guarantees to all individuals equal and effective protection against discrimination on the grounds identified in article 2(1). Numerous international and regional human rights instruments contain prohibitions of discrimination both generally and in relation to specific groups.

⁵ UN Human Rights Council (HRC), *Resolution 24/5, The Rights to freedom of peaceful assembly and of association*, adopted 8 October 2013, UN Doc. A/HRC/RES/24/5.

⁶ European Commission against Racism and Intolerance (ECRI), ECRI’s revised *General Policy Recommendation No. 5 on preventing and combating anti-Muslim racism and discrimination*, adopted on 8 December 2021, p.14, para. 17.

“... the “securitisation” of Muslim communities has impacted negatively upon their freedom of expression, freedom of association and political participation. Such practices have had a particularly chilling effect on the socio-political participation of young Muslims and Muslim civil society actors.”⁷

5. Specifically in relation to France, and since at least 2010, ECRI has warned of the “exploitation of racism in politics”, noting a shift in anti-immigrant and anti-Arab/North African racism towards racism directed at Muslims (though the population targeted by this racism remains substantially the same).⁸ ECRI has further noted that part of public opinion still sometimes draws inaccurate parallels between people responsible for terrorism-related acts, people labelled as ‘religious extremists’ and the Muslim population as a whole, and that “[i]ntolerance towards Muslims remains high and is amplified by the political discourse.”⁹ Moreover, the chilling effect on participation in public life has been compounded by measures aimed at strengthening the “republican principle of secularism”, including the extension of powers to dissolve associations deemed not to respect such values.¹⁰ France’s National Human Rights Institution, le Défenseur des Droits noted in 2020 “a trend that the term ‘Muslims’ is used to refer, *de facto*, to Arab immigrants or individuals perceived as such ... the religious marker tends to exacerbate the racial marker”.¹¹
6. The UN Human Rights Committee has also previously expressed concern “about the resurgence of racist and xenophobic discourse in both the public and political spheres, and fears that this may lead to the rise of intolerance and a feeling of rejection in some communities”, calling on France to “step up its efforts against racist, anti-Semitic and anti-Muslim violence.”¹²
7. In like manner, the UN Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism warned in May 2018, after a visit to France, that Arab/and or Muslim communities’ rights have been undermined within the context of counter-terrorism measures: “The Special Rapporteur is deeply conscious that the sometimes conflation of Islam with terrorism in Government anti-radicalization policy and in the implementation of administrative measures unduly singles out this community, alienates it from the State, and creates a form of political and social disenfranchisement that is inconsistent with the State’s own constitution and laws, let alone obligations under international human rights law”.¹³
8. More recently, the UN Committee on the Elimination of Racial Discrimination has noted concerns about “racist political discourse” in France,¹⁴ highlighting the fact that “systemic racial discrimination, as well as stigmatization and the use of negative stereotypes against certain minorities ... remain strongly rooted in French society.”¹⁵ Such racism, the Committee observed, is in turn reflected in social exclusion and limitations on the enjoyment of rights.¹⁶ The Committee recommended that the State party should broaden its dialogue with civil society organizations, especially those working in the fields of human rights and racial discrimination.¹⁷
9. Against the backdrop of such concerns, the effective protection of the right of association without discrimination has heightened significance. Measures that undermine or extinguish the right of association

⁷ ECRI, ECRI’s revised General Policy Recommendation No. 5 on preventing and combating anti-Muslim racism and discrimination, 8 December 2021 (previously cited) p.21, para. 37.

⁸ European Commission against Racism and Intolerance (ECRI), ECRI Report on France (fourth monitoring cycle), adopted 29 April 2010, published 15 June 2010. rm.coe.int/fourth-report-on-france/16808b572b, p. 28, para. 89.

⁹ European Commission against Racism and Intolerance (ECRI), Report on France (sixth monitoring cycle), adopted 28 June 2022, published 21 September 2022, p.17, para 43. coe.int/en/web/european-commission-against-racism-and-intolerance/france

¹⁰ European Commission against Racism and Intolerance (ECRI), Report on France (sixth monitoring cycle), 21 September 2022 (previously cited) p.26, para 90.

¹¹ French Defender of Rights, *Discrimination and Origins: The Urgent Need for Action*, 2020, p.29.

¹² UN Human Rights Committee (HRC), *Concluding Observations on the fifth periodic report of France*, 17 August 2015, UN Doc. CCPR/C/FRA/CO/5, para. 23.

¹³ The UN Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, preliminary report following her country visit in France, 8 May 2019, UN Doc. A/HRC/40/52/Add.4, para 50.

¹⁴ UN Committee on the Elimination of Racial Discrimination (CERD), *Concluding observations on the combined twenty-second and twenty-third periodic reports of France*, 14 December 2022, UN Doc. [CERD/C/FRA/CO/22-23](https://www.unhcr.org/refugees/pdf/cerd-c-fra-co-22-23), para. 11 [in translation].

¹⁵ UN Committee on the Elimination of Racial Discrimination (CERD), *Concluding observations on the combined twenty-second and twenty-third periodic reports of France*, 14 December 2022, UN Doc. [CERD/C/FRA/CO/22-23](https://www.unhcr.org/refugees/pdf/cerd-c-fra-co-22-23), para. 9 [in translation].

¹⁶ CERD, “*Concluding observations on the combined twenty-second and twenty-third periodic reports of France*”, 14 December 2022 (previously cited) para. 9 [in translation].

¹⁷ CERD, “*Concluding observations on the combined twenty-second and twenty-third periodic reports of France*”, 14 December 2022 (previously cited) para. 38 [in translation].

impact directly and indirectly on the pursuit of anti-racism and anti-discrimination objectives. They impact not only the members of associations working to address the impacts of racism and discrimination on affected communities, but also – in multiple, compound and intersecting ways – on those who rely upon and stand to benefit from the support provided by these associations.¹⁸

C. DISSOLUTION OF AN ASSOCIATION AS AN EXCEPTIONAL MEASURE OF LAST RESORT

The value of freedom of association

10. The right to freedom of association¹⁹ is a right enjoyed by both individuals and groups – specifically, it protects the right of individuals to group together and to act collectively.²⁰ It includes the right to form civil society organizations²¹ and is an indispensable predicate for the effective exercise of other rights, including the rights to freedom of opinion and expression and of peaceful assembly. Moreover, “[f]reedom of association ... also informs the right of individuals to participate in decision-making within their ... communities in order to achieve the protection of their interests”.²²
11. Restrictions on the right to freedom of association thus often impact on related rights such as the right of political participation under Article 25 ICCPR.²³ As ECRI has observed in relation to the effect of closure orders (or the threat of closure) imposed on Muslim civil society actors, these restrictions risk “unduly restricting freedom of association among Muslim communities and their ability to engage in civic participation.”²⁴
12. The *UN Declaration on Human Rights Defenders*²⁵ further underscores the rights of civil society organizations, amongst other activities, to form and participate in associations; to participate in the conduct of public affairs; to develop and hold opinions about the protection of human rights (in law and practice) and to critique any aspect of the work of governmental bodies that may hinder or impede the promotion, protection and realization of human rights; to draw these matters to public attention and to advocate for human rights. Similarly, the *Guidelines on Freedom of Association and Assembly in Africa* state that the right to freedom of association protects “... expression; criticism of state action; advancement of the rights of discriminated-against, marginalized and socially vulnerable communities ...”²⁶
13. This court has recognised that associations have the right to freedom of expression and opinion through their objectives and activities (in addition to the individual rights to freedom of expression of members).²⁷ Indeed, “the implementation of the principle of pluralism is impossible without an association being able to express freely its ideas and opinions.”²⁸ Accordingly, associations must be able to “criticize or openly

¹⁸ By way of example, in 2016, the Conseil D’ État, France’ s highest administrative court overturned a discriminatory ban on full-body swimsuits, often described as “burkinis” and worn by Muslim women who choose to wear head scarves. Amnesty International, France: Reaction to court decision to overturn burkini ban, 26 August 2016, [amnesty.org/en/latest/news/2016/08/france-reaction-to-court-decision-to-overturn-burkini-ban/](https://www.amnesty.org/en/latest/news/2016/08/france-reaction-to-court-decision-to-overturn-burkini-ban/). See further legifrance.gouv.fr/ceta/id/CETATEXT000033163065/.

¹⁹ The right to freedom of association is protected by article 22 of the International Covenant on Civil and Political Rights (ICCPR) and, amongst other regional instruments, article 11 of the European Convention of Human Rights (ECHR) and article 12 of the EU Charter of Fundamental Rights. See also the *UN Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (Declaration on Human Rights Defenders)*, especially articles 5, 6, 7, 8, 9, 12, 13 and 16.

²⁰ UN Human Rights Committee, General Comment 37, para. 100.

²¹ *Monim Elgak, Osman Hummeida & Amir Suliman (represented by International Federation for Human Rights & World Organisation Against Torture) v. Sudan*, Comm. No. 379/09 (2014), para. 118 (cited in ACHPR, *Guidelines on Freedom of Association and Assembly in Africa* (2017), para 8).

²² Joint statement by the Committee on Economic, Social and Cultural Rights and the Human Rights Committee on freedom of association, including the right to form and join trade unions, UN Doc. E/C.12/66/5-CCPR/C/127/4, 6 December 2019. [ohchr.org/en/statements/2021/12/ec12665-joint-statement-freedom-association-including-right-form-and-join-trade](https://www.ohchr.org/en/statements/2021/12/ec12665-joint-statement-freedom-association-including-right-form-and-join-trade)

²³ UN Human Rights Committee, General Comment 37, para. 100. See also, UN Office of the High Commissioner for Human Rights, *Guidelines for States on the Effective Implementation of the Right to Participate in Public Affairs*, (2018), para. 14.

²⁴ European Commission against Racism and Intolerance (ECRI), ECRI’s revised *General Policy Recommendation No. 5 on preventing and combating anti-Muslim racism and discrimination*, adopted on 8 December 2021, p.18, para. 29.

²⁵ Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, 09 December 1998, [ohchr.org/en/instruments-mechanisms/instruments/declaration-right-and-responsibility-individuals-groups-and](https://www.ohchr.org/en/instruments-mechanisms/instruments/declaration-right-and-responsibility-individuals-groups-and)

²⁶ African Commission on Human and Peoples’ Rights (ACHPR), *Guidelines on Freedom of Association and Assembly in Africa*, 2017, para. 28.

²⁷ For example, ECtHR, *Gorzelik and Others v. Poland*, App. 44158/98, Grand Chamber judgment, 17 February 2004, para. 91. Similarly, OSCE-Venice Commission, *Guidelines on Freedom of Association*, 2015, para. 31.

²⁸ ECtHR, *Gorzelik and Others v. Poland*, App. 44158/98, Grand Chamber judgment, 17 February 2004, para. 91.

and publicly evaluate their Governments without fear of interference or punishment”.²⁹ Moreover, “[a]ssociations shall have the right to participate in matters of political and public debate, regardless of whether the position taken is in accord with government policy or advocates a change in the law.”³⁰ Equally, associations have the right to express, in a lawful manner, beliefs about ethnic identity and to promote minority cultures – such expression must not presumptively be regarded as a threat to national security or territorial integrity.³¹

The exceptional nature of dissolution

14. The dissolution of an association is one of the severest restrictions of the right to freedom of association, a draconian measure that wholly prevents any associative activity. This court has recognized that “the outright dissolution of an association constitutes an extremely severe measure ... with significant consequences for its members.”³² As such, dissolution “can only be tolerated in very serious circumstances” and “Article 11 imposes on the State a high burden of justification for such a measure.”³³

15. The UN Special Rapporteur on the rights to freedom of peaceful assembly and of association has similarly emphasized that:

*“The suspension and the involuntary dissolution of an association are the severest types of restrictions on freedom of association. As a result, it should only be possible when there is a clear and imminent danger resulting in a flagrant violation of national law, in compliance with international human rights law. It should be strictly proportional to the legitimate aim pursued and used only when softer measures would be insufficient.”*³⁴

16. The Special Rapporteur has further stressed that the dissolution of an association is a measure of last resort and constitutes a proportionate restriction of the right to freedom of association only in extreme cases, such as those in which an organization promotes racial hatred and engages in harassment and intimidation of minorities.³⁵

17. Relevant standard-setting texts published by other regional and inter-governmental bodies – namely, the African Commission on Human and Peoples’ Rights (ACHPR) and the Organization for Security and Co-Operation in Europe (OSCE) together with the European Commission for Democracy through Law of the Council of Europe (the Venice Commission) – have adopted an equally high threshold for the justification of dissolution. In this regard, the ACHPR *Guidelines on Freedom of Association and Assembly* state:

*“Suspension or dissolution of an association by the state may only be applied where there has been a serious violation of national law, in compliance with regional and international human rights law and as a matter of last resort.”*³⁶

18. The ACHPR *Guidelines* further stipulate that:

*“The requisite level of gravity is only reached in cases involving the pursuit of illegitimate purposes, such as for example where the association in question aims at large-scale, coordinated intimidation of members of the general population, for instance on the basis of a racially-motivated position.”*³⁷

19. The elimination of racism is today a major goal in the member states of the Council of Europe. The Council’s Parliamentary Assembly in 2022 adopted a resolution which expressed its “deep concern at the constant increase in signs of Islamophobia in Europe”, calling on member States to adopt action plans on preventing

²⁹ E.g. HRC, *Views: Communication No 1128/2002* (29 March 2005) UN Doc CCPR/C/83/D/1128/2002 (*de Morais v Angola*), para. 6.8.

³⁰ OSCE-Venice Commission, *Guidelines on Freedom of Association*, 2015, para 31.

³¹ ECtHR, *Tourkiki Enosi Xanthis and Others v. Greece*, App 26698/05, judgment, 27 March 2008, para. 51, hudoc.echr.coe.int/eng?i=001-85589.

³² ECtHR, *Adana Tayad v. Turkey*, App 59835/10, judgment, 21 July 2020, para 35 (and authorities cited therein) hudoc.echr.coe.int/eng?i=001-204123.

³³ ECtHR, *Adana Tayad v. Turkey*, 21 July 2020 (previously cited) para. 35.

³⁴ UN Special Rapporteur on the rights to freedom of peaceful assembly and association, Report, 21 May 2012, UN Doc. [A/HRC/20/27](https://www.unhcr.org/refugees/pdf/A/HRC/20/27), para. 75.

³⁵ Special Rapporteur on the rights to freedom of peaceful assembly and of association, Annual Report, 14 April 2014, UN Doc. [A/HRC/26/29](https://www.unhcr.org/refugees/pdf/A/HRC/26/29), para. 51.

³⁶ African Commission on Human and Peoples’ Rights (African Commission), *Guidelines on Freedom of Association and Assembly in Africa*, 2017, p.21, para. 58.

³⁷ African Commission, *Guidelines on Freedom of Association and Assembly in Africa*, 2017 (previously cited) p.21, fn.44.

and combating Islamophobia.³⁸ . Indeed, this court’s judgment in the case of *Vona v Hungary* (finding that dissolution in pursuit of this same goal did not violate Article 11 ECHR),³⁹ was welcomed by UN experts.⁴⁰ In that case, members of the association concerned (the *Magyar Gárda Egyesület*) had sought to demonstrate their “intention and ... capacity to have recourse to a paramilitary organisation to achieve their aims.⁴¹ The specific circumstances of *Vona*, and the high threshold adopted, must not be interpreted as lending support to arguments favouring the censure of dissenting voices or of drawing false equivalence between racist organizations and associations that work precisely to challenge the consequences of racism. This distinction was made clear by the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association:

“The attacks of such racist groups ... deserve particular and constant attention, as they are a far cry from situations where States put undue limitations on freedom of association with a view to muzzling voices of dissent.”⁴²

20. Emphasizing that restrictions must never entirely extinguish the right nor deprive it of its essence, and that the least intrusive means should be applied, the OSCE-Venice Commission *Guidelines* note that “[t]he principle of proportionality is of the utmost importance in the assessment of whether an association may be prohibited or dissolved as these actions shall always be measures of last resort.”⁴³ In explaining how the principle of proportionality should apply to any restrictions on freedom of association, the joint *Guidelines* further emphasize that:

“The need for restrictions shall be carefully weighed ... and shall be based on compelling evidence. The least intrusive option shall always be chosen. A restriction shall always be narrowly construed and applied and shall never completely extinguish the right nor encroach on its essence. In particular, any prohibition or dissolution of an association shall always be a measure of last resort, such as when an association has engaged in conduct that creates an imminent threat of violence or other grave violation of the law, and shall never be used to address minor infractions.”⁴⁴

Legal safeguards and procedural requirements in relation to dissolution

21. To guard against arbitrary interferences, the requirement in Article 10 ECHR that restrictions on the right of association be ‘prescribed by law’, or in Article 19 ICCPR that they be ‘provided by law’, requires that the restriction be (i) adequately accessible and (ii) formulated with sufficient precision to enable an individual to regulate their conduct.⁴⁵ These restrictions must be necessary in the interests of national security or public safety, public order, protection of national security, public health or the rights of others. Any such restriction must also be necessary and proportionate to the aim that they intend to achieve. Specifically, national security cannot be invoked to address merely local or relatively isolated threats to law and order; nor can it be involved to impose vague and arbitrary restrictions on the right to freedom of

³⁸ Council of Europe, Parliamentary Assembly, “*PACE calls for action to combat Islamophobia*”, 11 October 2022, pace.coe.int/en/news/8843/pace-calls-for-action-to-combat-islamophobia

³⁹ ECtHR, *Vona v. Hungary*, App 35943/10, judgment, 9 July 2013 hudoc.echr.coe.int/eng?i=001-122183.

⁴⁰ *A/HRC/26/29* Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, 14 April 2014, para. 51. noting states’ obligations under Article 20(2) ICCPR; Office of the United Nations High Commissioner for Human Rights (OHCHR), “Hungarian extreme right: UN experts welcome European Court of Human Rights’ decision”, press release, 26 July 2013, ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=13584&LangID=E See also the injunction in Article 4(b) ICERD to declare illegal and prohibit organizations which promote and incite racial discrimination

⁴¹ ECtHR, *Vona v. Hungary*, App 35943/10, judgment, 9 July 2013 hudoc.echr.coe.int/eng?i=001-122183, paras 65-66. The organization had brought about an atmosphere of impending violence through, in particular, the holding demonstrations involving the wearing of military uniforms and the invocation of racist concepts and epithets.

⁴² Office of the United Nations High Commissioner for Human Rights (OHCHR), “Hungarian extreme right: UN experts welcome European Court of Human Rights’ decision”, press release, 26 July 2013, ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=13584&LangID=E

⁴³ Venice Commission, *Opinion on the compatibility with international human rights standard of law no. 7262 on the prevention of financing of the proliferation of weapons of mass destruction*, Opinion No. 1028/2021, 6 July 2021, para. 28, [CDL-AD\(2021\)023cor](https://www.venicecommission.org/en/CDL-AD(2021)023cor)

⁴⁴ OSCE-Venice Commission, *Guidelines on Freedom of Association*, 2015, para 35.

⁴⁵ *Anthony Fernando v. Sri Lanka*, Communication No. 1189/2003, U.N. Doc. CCPR/C/83/D/1189/2003, para. 7 (2005) (citing *Sunday Times v. United Kingdom*, App 6538/74, 26 April 1979). In *Taganrog LRO and Others v. Russia* (2022), for example, this Court considered that the impermissibly broad definition of ‘extremism activities’ in national law, coupled with a lack of judicial safeguards, did not provide a sufficiently foreseeable legal basis for the forced dissolution of Jehovah’s Witnesses religious organisations. ECtHR *Taganrog LRO and Others v. Russia*, App 32401/10, judgment, 7 June 2022, paras. 159 and 242 hudoc.echr.coe.int/eng?i=001-217535.

association.⁴⁶ The weaponization of emergency measures, which in several countries have been extended, normalized and permanently embedded in law and policy, presents a grave risk to the protection of human rights and respect for the rule of law. The effects of such measures are felt most acutely by those individuals and associations caught in their cross-hairs - commonly, human rights defenders, religious minorities and those who express dissent.⁴⁷

22. The joint OSCE-Venice Commission *Guidelines* note that legislation affecting the exercise of the right of association should have the purpose of “facilitating the establishment of associations and enabling them to pursue their objectives.”⁴⁸ The question of proportionality thus also arises in the design and underlying purpose of the legislative framework. As this court has previously well recognized, where the domestic legal framework provides that dissolution of an association is the only sanction available, without regard to the gravity of the breach, “[g]reater flexibility in choosing a more proportionate sanction could be achieved by introducing into the domestic law less radical alternative sanctions, such as a fine or withdrawal of tax benefits.”⁴⁹
23. The joint OSCE/ODHIR – Venice Commission *Guidelines on Freedom of Association* note that “[w]here the termination is voluntary, it should be initiated by the association itself, for example, in accordance with its founding instrument or by decisions of its members”.⁵⁰ Furthermore, “involuntary termination of an association, which may take the form of dissolution or prohibition, may only occur following a decision by an independent and impartial court.”⁵¹ Similarly, the ACHPR *Guidelines on Freedom of Association and Assembly in Africa*, emphasize that:

*“Suspension may only be taken following court order, and dissolution only following a full judicial procedure and the exhaustion of all available appeal mechanisms. Such judgments shall be made publicly available and shall be determined on the basis of clear legal criteria in accordance with regional and international human rights law.”*⁵²

D. LIABILITY FOR “UNLAWFUL” COMMENTS POSTED BY THIRD PARTIES ON SOCIAL MEDIA ACCOUNTS OF AN ASSOCIATION

24. Restrictions on the right to freedom of expression based on the criminal proscription of specific forms of expression must meet a particular set of strict conditions to comply with international and regional human rights law and standards. For example, to comply with Article 19(3) ICCPR, any restrictions must ‘meet a strict test of justification’.⁵³ The burden of justification falls on the State Party to demonstrate the necessity of any restrictions imposed,⁵⁴ and speculative grounds will not suffice.⁵⁵ States “must demonstrate in specific fashion the precise nature of the threat to any of the enumerated purposes”.⁵⁶ Moreover, “the relation between right and restriction and between norm and exception must not be reversed”,⁵⁷ and Article 19(3) “may never be invoked as a justification for the muzzling of any advocacy of ... human rights.”⁵⁸ In the first instance, therefore, the purported illegality of third-party comments must be convincingly

⁴⁶ Siracusa Principles on the Limitation and Derogation Provisions in the International Covenant on Civil and Political Rights, 1 July 1984, Principles 30 and 31.

⁴⁷ Amnesty International, *Europe: Dangerously disproportionate: The ever-expanding national security state in Europe*, (Index: EUR 01/5342/2017), 17 January 2017, [amnesty.org/en/documents/eur01/5342/2017/en/](https://www.amnesty.org/en/documents/eur01/5342/2017/en/) page 8, 12 - 13

⁴⁸ OSCE/ODIHR – Venice Commission, *Guidelines on Freedom of Association*, 2015, para. 20.

⁴⁹ ECtHR, *Tebieti Mühafize Cemiyeti and Israfilov*, App 37083/03, judgment, 8 October 2009, paras. 82 and 43 hudoc.echr.coe.int/eng?i=001-94854; ECtHR, *Jehovah’s Witnesses of Moscow and Others v. Russia*, App 302/02, 10 June 2010, para. 159 hudoc.echr.coe.int/eng?i=001-99221.

⁵⁰ OSCE-Venice Commission, *Guidelines on Freedom of Association*, 2015, para. 258.

⁵¹ OSCE/ODIHR – Venice Commission *Guidelines on Freedom of Association*, 2015, para. 244

⁵² African Commission on Human and Peoples’ Rights (ACHPR), *Guidelines on Freedom of Association and Assembly in Africa*, 2017, para. 58.

⁵³ UN Human Rights Committee (HRC), Views: *Velichkin v Belarus*, adopted 20 October 2005, UN Doc. CCPR/C/85/D/1022/2001, para. 7.3.

⁵⁴ For example, HRC, Views: *Levinov v Belarus*, adopted 14 July 2016, UN Doc. CCPR/C/117/D/2082/2011, para. 8.3.

⁵⁵ For example, HRC, Views: *Reyes et al v Chile*, adopted 7 November 2017, UN Doc. CCPR/C/121/D/2627/2015, para. 7.5.

⁵⁶ For example, HRC, Views: *Hak-Chul Shin v Republic of Korea*, adopted 16 March 2004, UN Doc. CCPR/C/80/D/926/2000, para. 7.2.

⁵⁷ UNHRC, General Comment 34 – Article 19: Freedom of Opinion and Expression, 12 September 2011, UN Doc CCPR/C/GC/34. [ohchr.org/english/bodies/hrc/docs/gc34.pdf](https://www.ohchr.org/english/bodies/hrc/docs/gc34.pdf), para. 21.

⁵⁸ General Comment 34, para. 23.

established under laws that satisfy these criteria. Overly broad criminal offences such as ‘apology of terrorism’ and ‘glorification of terrorism’ do not meet those strict criteria.⁵⁹

25. The exercise of the right to freedom of expression by associations is nowadays intrinsically linked to their existence online and their ability to conduct many of their activities online, which should be ensured in legislation and protected.⁶⁰ This is particularly important when associations carry out media duties or facilitate in some form the exercise of the right to freedom of expression of others in technically complex mass communication environments⁶¹ and become exposed to liability for the actions of third parties.
26. While States have the ultimate obligation to protect human rights and fundamental freedoms in the digital ecosystem,⁶² private actors and business enterprises, and in particular intermediaries, which facilitate the enjoyment of the right to freedom of expression through digital technologies, also have a responsibility to respect human rights.⁶³ However, in their Joint declaration on freedom of expression and the Internet, international mechanisms for the promotion of freedom of expression recognised the “vast range of actors who act as intermediaries for the Internet ...” and warned “of attempts by some States to deputise responsibility for harmful or illegal content to these actors.”⁶⁴ Moreover, “national law and practice should distinguish clearly between the responsibility of the author of expressions of hate speech, on the one hand, and any responsibility of the media and media professionals contributing to their dissemination as part of their mission to communicate information and ideas on matters of public interest on the other hand.”⁶⁵
27. It is worth highlighting the difficulties of categorising the different actors in an increasingly complex online environment, as different legislative frameworks use different definitions, and actors often carry out hybrid functions, or several functions at the same time.⁶⁶ In this fluid and multi-dimensional reality, it is fundamental for States to adopt a “graduated and differentiated approach”⁶⁷ and “take into account the substantial differences in size, nature, function and organisational structure of intermediaries when devising, interpreting and applying the legislative framework in order to prevent possible discriminatory effects”.⁶⁸ States must take measures to prevent a possible disproportionate impact on users of intermediary services and smaller internet intermediaries,⁶⁹ and to guarantee an appropriate level of protection and provide clarity on the duties and responsibilities of all actors.⁷⁰

⁵⁹ Amnesty International, *Europe: Dangerously disproportionate: The ever-expanding national security state in Europe* (Index: EUR 01/5342/2017), 17 January 2017, [amnesty.org/en/documents/eur01/5342/2017/en/](https://www.amnesty.org/en/documents/eur01/5342/2017/en/); Report of the Secretary-General, “The protection of human rights and fundamental freedoms while countering terrorism”, A/63/337, 28 August 2008, para. 62; International Commission of Jurists, *Assessing Damage, Urging Action: Report of the Eminent Jurists Panel on Terrorism, Counter-terrorism and Human Rights*, 2009.

⁶⁰ OSCE-Venice Commission, *Guidelines on Freedom of Association*, 2015, para. 261.

⁶¹ Actors who act as ‘intermediaries’ provide services such as access and interconnection to the Internet, transmission, processing and routing of Internet traffic, hosting and providing access to material posted by others, searching, referencing or finding materials on the Internet, enabling financial transactions and facilitating social networking. See for example, Recommendation CM/Rec(2018)2 of the Committee of Ministers to member States on the roles and responsibilities of internet intermediaries, adopted by the Committee of Ministers on 7 March 2018, paras 4 and 5; Joint Declaration on Freedom of Expression and the Internet, 1 June 2011, preamble; Organisation for Economic Cooperation and Development (OECD), *The Economic and Social Role of Internet Intermediaries*, April 2010, p. 9-10.

⁶² See for example, Appendix to Recommendation CM/Rec(2018)2 Guidelines for States on actions to be taken vis-à-vis internet intermediaries with due regard to their roles and responsibilities, adopted by the Committee of Ministers on 7 March 2018, preamble.

⁶³ See, for example, Recommendation CM/Rec(2018)2 of the Committee of Ministers to member States on the roles and responsibilities of internet intermediaries, adopted by the Committee of Ministers on 7 March 2018, paras 7 and 11; Joint declaration on freedom of expression and “fake news”, disinformation and propaganda, 3 March 2017, UN Doc. FOM.GAL/3/17, preamble.

⁶⁴ Joint declaration on freedom of expression and the Internet, 2011, preamble.

⁶⁵ Annex to Recommendation R (97) 20 of the Council of Europe’s Committee of Ministers on “hate speech”, adopted on 30 October 1997, principle 6, as quoted in ECtHR *Sanchez v. France*, App 45581/15, chamber judgment, 2 September 2021, para. 60. See also, Special Rapporteur for Freedom of Expression of the Inter American Commission on Human Rights, annual report of 31 December 2013, OEA/Ser.L/V/II.149. Doc. 50, para. 102.

⁶⁶ Recommendation CM/Rec(2018)2 of the Committee of Ministers to member States on the roles and responsibilities of internet intermediaries, adopted by the Committee of Ministers on 7 March 2018, paras 4 and 5.

⁶⁷ Recommendation CM/Rec(2011)7 of the Committee of Ministers to member States on a new notion of media, adopted on 21 September 2011, para. 7.

⁶⁸ Appendix to Recommendation CM/Rec(2018)2 Guidelines for States on actions to be taken vis-à-vis internet intermediaries with due regard to their roles and responsibilities, adopted by the Committee of Ministers on 7 March 2018, para. 1.1.5.

⁶⁹ Recommendation CM/Rec(2022)16 of the Committee of Ministers to member States on combating hate speech, adopted by the Committee of Ministers on 20 May 2022, para. 21. [coe.int/cm/Pages/result_details.aspx?ObjectId=0900001680a67955](https://www.coe.int/cm/Pages/result_details.aspx?ObjectId=0900001680a67955)

⁷⁰ Recommendation CM/Rec(2018)2 of the Committee of Ministers to member States on the roles and responsibilities of internet intermediaries, adopted by the Committee of Ministers on 7 March 2018, para. 1.3.9.

28. The Digital Services Act (DSA), adopted as a regulation in 2022 and directly applicable across the European Union (EU),⁷¹ updates and clarifies existing legislation and codifies international guiding principles and jurisprudence of the Court of Justice of the European Union (CJEU). In some areas it also provides innovative and progressive answers to key challenges, and it is expected to impact the furthering of standards globally.⁷² The DSA approaches liability and due diligence obligations of different types of intermediaries to regulate their “role in the intermediation and spread of unlawful or otherwise harmful information and activities” in an asymmetric manner.⁷³
29. Due diligence obligations are conditioned by the type of intermediary, their activities, size, capabilities and impact. For instance, hosting services, online platforms and very large platforms,⁷⁴ “play a particularly important role in tackling illegal content online, as they store information provided by and at the request of the recipients of the service and typically give other recipients access thereto, sometimes on a large scale” and are expected to put in place easily accessible and user-friendly notice and action mechanisms.⁷⁵ While very small platforms are exempt from the majority of obligations, very large online platforms and very large online search engines⁷⁶ are subject to specific rules due to the particular risks they pose in the dissemination of illegal content and societal harms. For example, Amnesty International documented Meta (formerly Facebook)’s role in the serious human rights violations perpetrated against the Rohingya in Myanmar in 2017, elucidating not only Meta’s failures of content moderation, but also its active role in algorithmic amplification. Meta’s algorithms proactively amplified and promoted content which incited violence, hatred, and discrimination against the Rohingya, contributing to adverse human rights impacts suffered by the Rohingya.⁷⁷
30. When it comes to exemptions from liability for intermediaries or actors that carry out media duties online, international organisations, human rights mechanisms, civil society and others have attempted to articulate a framework of guiding principles to protect these actors and create some level of foreseeability. These principles among others include exemptions from liability for content of which intermediaries are not the author and that they have not modified,⁷⁸ emphasize that intermediaries should not be required to determine whether particular content is illegal, since this requires careful balancing of competing interests and consideration of any relevant legal defences, and highlight that any such censorship should result from judicial intervention and be subject to oversight.⁷⁹ Liability for third party content must also be linked to

⁷¹ 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 (Digital Services Act).

⁷² See for example, Joris van Hoboken, João Pedro Quintais, Naomi Appelman, Ronan Fahy, Ilaria Buri & Marlene Straub, “Putting the DSA into Practice: Enforcement, Access to Justice, and Global Implications, Contextualisation over Replication”, 2013, pp. 39, 162, 133; Tomiwa Ilori, “The Possible Impacts of the Digital Services Act on Content Regulation in African Countries”, 3 November 2022 verfassungsblog.de/dsa-contextualisation-replication/

⁷³ 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 (Digital Services Act), point 5 of the preamble.

⁷⁴ Under the Digital Service Act, hosting services are intermediaries such as cloud and webhosting services, which include online platforms such as online marketplaces, app stores, collaborative economy platforms and social media platforms. Very large online platforms pose particular risks in the dissemination of illegal content and societal harms. Specific rules are foreseen for platforms reaching more than 10% of 450 million consumers in Europe. commission.europa.eu/strategy-and-policy/priorities-2019-2024/europe-fit-digital-age/digital-services-act-ensuring-safe-and-accountable-online-environment_en

⁷⁵ Regulation (EU) 2022/2065 of the European Parliament and of the Council of 19 October 2022 (previously cited), para. 50; Recommendation CM/Rec(2018)2 of the Committee of Ministers to member States on the roles and responsibilities of internet intermediaries, adopted by the Committee of Ministers on 7 March 2018, 1.3.7.

⁷⁶ Under the Digital Services Act very large online platforms, which have a significant societal and economic impact, reaching at least 45 million users in the EU (representing 10% of the population), are subject to the most far-reaching rules. Similarly, very large online search engines with more than 10% of the 450 million consumers in the EU will bear more responsibility in curbing illegal content online.

⁷⁷ Amnesty International, *Myanmar: The social atrocity: Meta and the right to remedy for the Rohingya*, 29 September 2022, (Index: ASA 16/5933/2022) [amnesty.org/en/documents/asa16/5933/2022/en/](https://www.amnesty.org/en/documents/asa16/5933/2022/en/), pp. 6-10.

⁷⁸ See for example, Appendix to Recommendation CM/Rec(2018)2 of the Committee of Ministers to member States on the roles and responsibilities of internet intermediaries, adopted by the Committee of Ministers on 7 March 2018; Joint declaration on freedom of expression and the Internet, 2011, 1d. Regulation (EU) 2022/2065 of the European Parliament and of the Council of 19 October 2022 (previously cited), Articles 4, 5, 6, sets up conditional liability exemptions for intermediary services, this is for “mere conduit”, “caching” and “hosting” services.

⁷⁹ UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Report, 16 May 2011, UN Doc. A/HRC/17/27, para. 43; Joint declaration on freedom of expression and the Internet, 2011, para. 2; Manila Principles on Intermediary Liability, 30 May 2015 manilaprinciples.org/index.html; Joint declaration on freedom of expression and “fake news”, disinformation and propaganda, 3 March 2017, UN Doc. FOM.GAL/3/17 [osce.org/fom/302796](https://www.osce.org/fom/302796).

the technical capacity to act in relation to the “unlawful” content.⁸⁰ In their 2017 Joint Declaration, international human rights mechanisms highlighted the importance to protect “... individuals against liability for merely redistributing or promoting, through intermediaries, content of which they are not the author and which they have not modified.”⁸¹

31. A key argument which has been widely advanced by international human rights mechanisms and acknowledged by this court, is the risk of imposing on small intermediaries and platform users, such as individuals or associations, an excessive and impractical burden of having to discern whether unfiltered comments may be in breach of the law. Imposing such liability may lead to the censorship of lawful content and have a significant chilling effect on the right to freedom of expression.⁸² Legislation imposing liability upon users of intermediary services and online intermediaries that does not take a graduated and differentiated approach and that does not prevent undue restrictions on the right to freedom of expression risks giving States an additional tool to target human rights defenders, media or other actors critical of the authorities.⁸³ To avoid these risks, States “should establish effective legal and practical safeguards against any misuse or abuse of hate speech legislation, in particular for the purpose of inhibiting public debate and silencing critical voices, political opponents or persons belonging to minorities”⁸⁴ and consider the adoption of appropriate legislation to prevent strategic lawsuits against public participation (SLAPP) or abusive and vexatious litigation against users, content providers and intermediaries which is intended to curtail the right to freedom of expression.⁸⁵

E. CONCLUSION

32. Particularly in country contexts where international monitoring bodies and/or human rights organizations have identified stigmatizing socio-political narratives and/or systemic racism against particular groups, state authorities must resolve to counter such attitudes, to foster pluralism and ensure human rights protections for all. The dissolution of associations that provide support to marginalized groups or that advocate on behalf of victims of racism is not only counter-productive but wholly inimical to the protection of human rights. These vital critical voices must not be eliminated from the public sphere.
33. As noted in Part B, serious concerns about racial, religious and gender-intersecting discrimination in France have been documented by international human rights groups, intergovernmental organisations and expert bodies monitoring the implementation of human rights treaties and standards. Anti-Muslim racism in France has been specifically cited by treaty bodies and experts. The UN Special Rapporteur on the protection of human rights concluded their 2018 country visit warning they were “deeply concerned that these minority communities are being constructed in political discourse and legal practice as a per se “suspect group” through the sustained application of counter-terrorism law.”⁸⁶ In 2018, the UN Human Rights Committee found that France had violated the human rights of two Muslim women by imposing fines on them for wearing the niqab, as the ban disproportionately affected the women concerned and violated their rights to freedom of thought, conscious, religion or belief and to be free from discrimination as France failed to demonstrate that such a general ban was necessary and proportionate. The Human Rights Committee also pointed out other discriminatory effects that laws such as the French ban may have on Muslim women. It warned that they may result in “confining them to their homes, impeding their access to public services

⁸⁰ See for example, Joint declaration on freedom of expression and “fake news”, disinformation and propaganda, 3 March 2017, (previously cited), 1d. [osce.org/fom/302796](https://www.osce.org/fom/302796)

⁸¹ Joint declaration on freedom of expression and “fake news”, disinformation and propaganda, 3 March 2017, (previously cited), 1e. [osce.org/fom/302796](https://www.osce.org/fom/302796)

⁸² CIDH, Estándares para una Internet libre, abierta e incluyente, 2016, paras 106, 107; Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, David Kaye, 6 April 2018, UN Doc. A/HRC/38/35, para. 17.; ECtHR *Magyar Tartalomszolgáltatók Egyesülete and Index.hu Zrt v. Hungary*, App 22947/13, judgment, 2 February 2016 para. 86. See also, for example, the reported impact of the Australian High Court judgment in *Fairfax Media Publications v. Voller* [2021] HCA 27: ‘CNN disables Facebook page in Australia after high court defamation decision’, *The Guardian*, 29 September 2021; ‘Lawyers use Voller defamation case to demand Facebook group admins remove posts’ *The Guardian*, 28 October 2021.

⁸³ See for example UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Report, 16 May 2011, UN Doc. A/HRC/17/27, para. 39 and Addendum 1, UN Doc. A/HRC/17/27/Add.1, paras. 2146-2147.

⁸⁴ Recommendation CM/Rec(2022)16 of the Committee of Ministers to member States on combating hate speech, adopted by the Committee of Ministers on 20 May 2022, para. 9.

⁸⁵ Appendix to Recommendation CM/Rec(2018)2 Guidelines for States on actions to be taken vis-à-vis internet intermediaries with due regard to their roles and responsibilities, adopted by the Committee of Ministers on 7 March 2018, para. 1.3.4.

⁸⁶ The UN Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, preliminary report following her country visit in France, 8 May 2019, UN Doc. A/HRC/40/52/Add.4, para. 49.

and exposing them to abuse and marginalization”.⁸⁷ Fulfilment of the right of association necessarily includes enabling the expression and promotion of opinions by groups which may entail critique of the state itself, using expression which the state may consider harsh or unpalatable.

34. States undermine the right to freedom of association and expression for marginalised groups by drawing false equivalence between groups affected by racism (which organize collectively to claim their rights, thereby advancing human rights protection for all) and groups that have the objective of excluding or suppressing certain groups or identities.⁸⁸ Treating similarly that which is different is itself an odious form of discrimination.⁸⁹ By shuttering, undermining and threatening the status of anti-racism groups, the state risks emboldening groups perpetuating the very discriminatory discourse the state is obliged to combat. The state cannot eliminate racism in society by exercising administrative power over groups, but must rather protect, and refrain from unduly interfering with, the rights to freedom of association and expression of anti-racism organisers.
35. The right of association is especially vulnerable to arbitrary interference where the domestic legal framework fails to provide the necessary clarity (and thus predictability), where it provides only for dissolution of an association (rather than for a range of less intrusive sanctions), and/or where the requisite procedural safeguards (including judicial oversight over any dissolution procedure) are lacking or absent. In such circumstances, it is our contention that the court ought to identify concrete general and specific measures (in light of states’ obligations and undertakings under Articles 1 and 46 ECHR) – insisting, for example, that the state take all necessary measures to reinstate the association and to reform the domestic legal framework to ensure its compatibility with the Convention.
36. In assessing where liability for third party comments might properly fall, there is a need for considerable nuance even when invoking descriptive categories such as “platform” or “social media account”.⁹⁰ As argued in Part D above, the question of potential liability for third party comments, and the imposition of any due diligence obligations, must be parsed in highly particularized ways, having regard to a matrix of factors that reflect the multiple and disaggregated responsibilities for authorship and communication – in particular, the type of actor, their activities, size, capabilities and impact. It is imperative, therefore, that a “differentiated and graduated approach” is applied to liability for third party comments.⁹¹ Moreover, even where some level of liability for “unlawful” content under domestic law is found to arise, this must not be relied upon to justify restrictions – as emphasized in Part C above – that wholly undermine the very essence of the right to freedom of association.

⁸⁷ Human Rights Committee, France: Banning the niqab violated two Muslim women’s freedom of religion - UN experts, 23 October 2018, [ohchr.org/en/press-releases/2018/10/france-banning-niqab-violated-two-muslim-womens-freedom-religion-un-experts?LangID=E&NewsID=23750](https://www.ohchr.org/en/press-releases/2018/10/france-banning-niqab-violated-two-muslim-womens-freedom-religion-un-experts?LangID=E&NewsID=23750).

⁸⁸ See also para. 18, text accompanying fn.35, above (quoting the UN Special Rapporteur).

⁸⁹ Paraphrasing Otto Kahn-Freund, (1971) 4 *Human Rights Journal* 49, 51.

⁹⁰ Gillespie, Tarleton, *Custodians of the Internet: platforms, content moderation, and the hidden decisions that shape social media* (Yale University Press: 2018) p.18: “[platforms]... are sociotechnical assemblages and complex institutions; they’re not even all commercial, and the commercial ones are commercial in different ways.”

⁹¹ Recommendation CM/Rec(2011)7 of the Committee of Ministers to member states on a new notion of media, adopted on 21 September 2011, including the Appendix to Recommendation CM/Rec(2011)7 Criteria for identifying media and guidance for a graduated and differentiated response [edoc.coe.int/en/media/8019-recommendation-cmrec20117-on-a-new-notion-of-media.html](https://www.coe.int/en/media/8019-recommendation-cmrec20117-on-a-new-notion-of-media.html)