

ECPMF's Legal Support Program Guidelines on How to Apply for Legal Support

The European Centre for Press and Media Freedom (ECPMF) recognises that threats to the life, safety, wellbeing and security of journalists and media organisations remain a serious concern in many European countries. Journalists continue to face physical violence, harassment, legal threats and other forms of intimidation in online and offline contexts, and these are all too frequently met with impunity and inaction. Particularly, legal actions are increasingly being used as a method to deter freedom of expression on matters of public interest. Legal support is needed more than ever to counter such legal threats. Furthermore, governments continue to pass or maintain laws that unjustifiably restrict the right to freedom of expression and freedom of the media. Accordingly, there is a continued need for advocacy, campaigning and litigation to challenge the existence and enforcement of such laws and hold governments and other powerful actors to account for their failure to maintain an enabling environment for press and media participation in public debate. Individual journalists, bloggers, activists, free speech advocates, non-governmental organisations and media outlets, especially those operating in countries with more restrictive environments, can find it difficult to access affordable legal support or to find legal expertise.

ECPMF offers and co-ordinates legal support for inter alia journalists, media, free speech advocates, activists and organisations based in Europe who are needing legal support relating to the laws or legal processes of a European jurisdiction.

Depending on ECPMF's assessment, such support may consist of:

- Financial support to cover lawyer's fees and assistance in accessing relevant legal representation
- General guidance
- Access to expertise in policy and law making
- Engagement in national or international litigation, either directly in ECPMF's own name (e.g. third party intervention) or indirectly by facilitating financial or legal support for parties to a case
- Provision of independent analysis, observation or advocacy around a case (e.g. watching briefs, court observations, advocacy campaigns, or legal reports).

The ECPMF's Legal Affairs Committee will review applications for support to provide non-binding advice and guidance to the ECPMF office¹. If you have any questions about your entitlement to legal support please contact us directly at legal@ecpmf.eu.

¹ The ECPMF office refers to employees managing the legal support program such as the legal advisor, the legal assistant and other employees involved on coordinating and providing legal support.

When applying for legal support, applicants will be asked to confirm that they have acted and will act in good faith by adhering to Global Charter of Ethics for Journalists.

For the avoidance of doubt: ECPMF will not support the legal defence of speech that violates the fundamental rights of others, such as incitement to discrimination, hostility or violence, or propaganda for war. ECPMF will also not support claimants in cases where the legal claim being brought amounts to an unjustified restriction on the right to freedom of expression and media freedom of others. In principle, ECPMF will not support standard labour/employment disputes, but exceptions might apply.

ECPMF will likely give priority to those applications that concern interferences with the right to freedom of expression and media freedom, such as cases involving serious violence or threats of violence, criminal charges, arbitrary arrest/detention, or impunity for crimes in relation to journalists, as well as the closure, suspension, or other forms of disproportionate prior censorship of media outlets.

ECPMF will also prioritise the legal defence of inter alia journalists, media outlets and other free speech activists, particularly legal defence against Strategic Lawsuits Against Public Participation (SLAPPs). Nonetheless, it will also consider supporting cases where journalists, media outlets and free speech activists are pursuing a legal claim, for example where they are acting as claimants/petitioners. Such cases will be supported when they are aimed at challenging serious violations of the right to freedom of expression and media freedom, for example where challenges are brought against impunity or the application of suppressive media laws. ECPMF will also support appeals of court decisions that amount to violations of the right to freedom of expression and media freedom. Lastly, the ECPMF will also provide support in cases involving pre-action or pre-trial correspondence concerning legal threats or engagement with alternative dispute resolution processes where they engage the right to freedom of expression and media freedom.

PART I - BEFORE YOU APPLY

The following set of criteria is intended to give some outline guidance for those considering applying for legal support.

1) Legal support might consist of:

- Financial support to cover lawyer's fees and assistance in accessing relevant legal representation
- General guidance
- Access to expertise in policy and law making
- Engagement in national or international litigation, either directly in ECPMF's own name (e.g. third party intervention) or indirectly by facilitating financial or legal support for parties to a case
- Provision of independent analysis or observation (e.g. watching briefs, court observations or legal reports).

2) Legal support/expertise might be provided in cases involving:

- Regulatory bodies/institutions and public authorities with powers to supervise and apply laws, regulations or codes that may interfere with the right to freedom of expression and media freedom
 - National courts, including cases involving the application of criminal, civil, administrative, or human rights law
 - International and regional courts and quasi-judicial bodies (e.g. the Court of Justice of the European Union, the European Court of Human Rights, or the UN Human Rights Committee)
- 3) Persons/organisations who might be eligible to apply for legal support:
- Journalists, employed or otherwise
 - Freedom of expression activists or advocates
 - Bloggers and others carrying out the functions of public watchdogs
 - Independent media outlets
 - Organisations supporting the right to freedom of expression and media freedom
 - Whistleblowers who blow the whistle through media.
- 4) Temporal scope of applications
- Applicants should demonstrate respect for legal deadlines within the relevant jurisdiction (e.g. statutory limitations), as well as other procedural requirements, to the satisfaction of ECPMF that the case being supported is not being run negligently, unreasonably or improperly
 - ECPMF recommends applicants apply for support as soon as they become aware that they are in need of legal support
 - The type and duration of any legal support will be decided on a case-by-case basis.
- 5) Areas where legal support/expertise may be offered (non-exhaustive):
- Defamation
 - Privacy and media laws
 - Protection of sources and journalistic material
 - Bullying, harassment or incitement
 - Impunity
 - Whistleblowing
 - Prior-restraint issues such as injunctions and super-injunctions
 - Access to publicly-held information
 - Imprisonment and other criminal penalties
 - Strategic Litigation Against Public Participation (SLAPPs).

PART II - APPLICATION PROCEDURE

ECPMF will respond to an application for legal support/expertise as quickly as possible but in any event within 35 days of receipt of the application. For urgent cases, a fast-track procedure will be used.

1) Starting an application:

Applicants are asked to use the online form <https://www.ecpmf.eu/support/legal-support/>.

The form can also be printed off and posted to “European Centre for Press and Media Freedom, Request for legal support. Menckestrasse 27, 04155 Leipzig, Germany.” Relevant documents should be included. However, we recommend that sensitive documents are shared through a secure electronic communications channel such as through encrypted email legal@ecpmf.eu.

2) Confirmation of receipt of application:

The applicant will receive a confirmation via email that their application has reached the ECPMF.

3) Vetting

The ECPMF's office will carry out an initial due diligence of all applications in order to ensure their validity, veracity and integrity. An initial assessment will also be made on whether the application falls within the mandate/criteria for legal support outlined above. The ECPMF office may, but is not obliged to, refer the application to its Legal Affairs Committee.

4) Legal Affairs Committee

The Legal Affairs Committee (LAC) is composed of experts in law and/or policy pertaining to media freedom and freedom of expression in Europe and is appointed by the ECPMF. Its rules of procedure can be viewed here <https://www.ecpmf.eu/support/legal-support>. The principal role of the LAC is to offer non-binding advice and guidance when asked by the ECPMF office on (i) whether the ECPMF office should support the case based on ECPMF's mandate and criteria for support; and (ii) how any such legal support may best be delivered. The final decision on whether to support any particular application lies within the full and sole discretion of the ECPMF office, not LAC.

5) Decision period

LAC will consider and review any applications within 35 days of being sent to them by the office. If need be, LAC can ask the ECPMF office to contact the applicant and ask for further information. For urgent cases, a fast-track procedure will be used.

6) Decision

As soon as possible after receiving LAC's advice, the ECPMF office will contact the applicant in writing to inform them of the decision. If support has been refused, short reasons will be provided.

7) Right to appeal

The applicant is entitled to raise an appeal of an initial refusal to provide legal support. This appeal should be made to the ECPMF's managing director, who will then review the decision in light of the ECPMF's mandate and criteria for support. They may also consider additional information provided by the applicant. The outcome of the appeal of the ECPMF's managing director decision will be provided in writing and is final. There is no further route of appeal.