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Round Table on Safety of Journalists:
From commitment to action

Council of Europe, Strasbourg

19 May 2014

Report[*]

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1. INTRODUCTION AND CONTEXT[1]

The Round Table on Safety of Journalists was organised on the initiative of the Secretary General of the Council of Europe, supported by the Committee of Ministers.

1.1 Aims

- Identify ways of better addressing threats and violence against journalists
- Invite input on how to establish an early warning mechanism and rapid response capacity notably through the setting up of an Internet based platform

1.2 Key Questions

- What is being done, in practical terms, by each organisation for the safety of journalists in hostile environments?
- Are there early warning mechanisms in place and are they fit for purpose and capable of triggering the necessary protective or remedial action?
- The question of impunity – what measures are in place to address the lack of investigation into attacks against journalists, and what can the Council of Europe add?
- What are effective ways of protecting journalism? Electronic personal alarm systems, human / social shields and communities to protect journalists – how to apply and maximise impact and protection? (Example: Natalia Project)
- What deeper problems are underlying the lack of safety for journalists, or is it a stand-alone issue?
- How can protection be ensured for those who are not professional journalists but are communicating in the public interest, such as human rights defenders or whistle-blowers?
- How can an Internet-based platform contribute to establishing rapid response capacity? What conditions would have to be met for creating such a platform and ensuring such capacity?

1.3 Background

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[*] This report was written by Dr. Tarlach McGonagle, senior researcher, Institute for Information Law (IViR), Faculty of Law, University of Amsterdam and Rapporteur, Council of Europe Committee of Experts on protection of journalism and safety of journalists (MSI-JO), in an independent/individual capacity. The preparation of the report has benefitted from extensive consultation and collaboration with Ms. Onur Andreotti, Media Division, Council of Europe, for which the author is very grateful.

[1] This section of the report comprises the text of a Background Note for the Round Table drafted by the Media and Information Society Division Secretariat.

In the course of 2013, the safety of journalists and other media actors emerged as a dominant topic fuelled by constant reports of intimidation and violence also within Council of Europe member states. Safety of journalists was a strategic element and priority of the Austrian Chairmanship of the Committee of Ministers of the Council of Europe (November 2013 – May 2014).

The Council of Europe Conference of Ministers responsible for media and information society (Belgrade, November 2013) adopted the Resolution on Safety of Journalists. In this resolution, the ministers expressed their deep concern about continuing physical violence including killings, inhuman treatments, harassment, judicial intimidation, threats, as well as arbitrary measures such as detentions, expulsions, surveillances, searches and seizures.

The ministers condemned such attacks and the impunity of the perpetrators, as constituting violations of rights guaranteed by the European Convention on Human Rights. In this regard, the keynote speech of Dunja Mijatović, the OSCE Representative on Freedom of the Media, substantially contributed to the success of the conference.

The Ministerial Conference supported the UN Action Plan and encouraged member states and the Council of Europe to do more.

The Committee of Ministers pursued dialogue on the topic, devoting a thematic debate to it on 12 December 2013, based on a discussion paper of the Secretary General. As highlighted in this paper, international standards on freedom of expression adopted over the years, including those within the Council of Europe would remain a dead letter without an effective right to safety for journalists and other media actors, who play a vital part in and for a democratic society.

Following the thematic debate, the Committee of Ministers invited the Secretary General to submit operational proposals, emphasizing the need for co-ordination with other international organisations, in particular the European Union, the OSCE and the United Nations. The Round Table on Safety of Journalists, to be held on 19 May 2014, is part of these operational proposals made by the Secretary General https://wcd.coe.int/ViewDoc.jsp?id=2150257&Site=COE and endorsed by the Committee of Ministers. It is intended that international organisations and institutions and freedom of expression / media organisations identify concrete common action and further steps that the Council of Europe could take to establish rapid response capacity. (Background document, 27 March 2014).

For a more detailed overview of the Council of Europe's institutional efforts to ensure the safety of journalists, see the Secretariat's Information Note, 'The role of Council of Europe bodies to enhance media freedom and the protection of journalists', which is appended to this report.

2. STRUCTURE OF THE ROUND TABLE

The Round Table was organised into three main sessions:

- Political commitment to protect journalists: Are we at a turning point?
- A Council of Europe 'Alert – Report – Response' mechanism?

- The way ahead. What needs to be done beyond today's discussions?

The first session focused largely on the activities of various branches of the Council of Europe and various other international organisations geared towards ensuring the safety of journalists. It provided an inventory of relevant standards, activities and recent developments from within the bodies represented. In the interests of efficiency, that inventory will not be repeated here: the expansive background materials collected on the webpages devoted to this event (updated since the event, including with the texts of some of the speakers and other reference documents they mentioned), cover most of the substance of the presentations.

The second session explored the modalities for the creation of an Internet-based platform to facilitate the compilation, processing and dissemination of information on serious violations of media freedom, notably safety of journalists. It focused on questions concerning the functions of the platform and practical arrangements for the operation of such a platform.

The third session was designed to channel the day's discussions into concrete action lines for further developing the (idea of an) Internet platform project.

3. SELECTED PRIORITY FOCUSES OF THE ROUND TABLE

As the purpose of the Round Table meeting was to gather and exchange information, insights, experiences and examples rather than to present official organisational/institutional lines, this report will seek to capture the essence of the discussions and distil key questions, priorities, examples and proposals. It will generally do so by focusing on actual points made (as opposed to who made them) and will only mention specific speakers when relevant for contextual or other reasons. The report does not purport to be comprehensive: the selection of issues treated has been guided by the need to prioritise contributions and reflections that are particularly pertinent for the achievement of the Round Table's stated aims. That selection of issues is inevitably somewhat subjective: any interventions by participants in the Round Table that are not reported on here should not be seen as unimportant or irrelevant. While the discussions were very rich, wide-ranging, informative and insightful, the purpose of this report is functional. It seeks to organise some key issues and priorities with a view to facilitating their operationalisation and further discussion.

3.1 Internet Platform

Several variants of the idea of an Internet platform for exchanging information relating to violations of journalistic/media freedom have been floated in different circles within the Council of Europe:

- Parliamentary Assembly of the Council of Europe:[2]

> 12. Referring to its Resolution 1636 (2008) on indicators for media in a democracy and on the basic principles for assessing media freedom, the Assembly asks the Secretary General of the Council of Europe to allocate the resources necessary to:

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[2] Parliamentary Assembly of the Council of Europe, 'Respect for media freedom', Recommendation 1897 (2010), 27 January 2010, para. 12.

12.1.   collate information on a continuing basis from media freedom organisations including the International Federation of Journalists, the Association of European Journalists, the European Newspaper Publishers Association, the International Press Institute, Article 19, and Reporters without Borders, identifying violations of media freedom;

12.2.   analyse this information on a systematic basis, country by country, using the indicators for media freedom set out in Resolution 1636 (2008);

12.3.   make such information publicly available in electronic form on the website of the Council of Europe, and in accompanying hard copy;

12.4.   issue electronic and print reports on this information and analysis to the governments and parliaments of member states and to the media, not less frequently than every three months, highlighting the important events of the most recent period in each country and requiring remedy when necessary.

- Committee of Ministers:[3]

The Deputies
1. welcomed the wide range of measures taken by the Secretary General for improved collection and sharing of information and enhanced co-ordination between the secretariats of the different Council of Europe bodies and institutions to promote respect of Article 10 of the European Convention on Human Rights (ECHR);
2. agreed that this work is to be given continued priority, in particular in relation to the rights of Internet users and Internet freedom and governance, protection of journalism and safety of journalists and combating hate speech;
3. *in this context, agreed on the usefulness of addressing an open invitation to interested media freedom organisations to report serious violations of media freedom to the relevant Council of Europe bodies via the Secretariat; also agreed to reflect on the modalities for the creation of an Internet based platform aimed at facilitating the compilation, processing and dissemination of the information collected to the above-mentioned bodies and to the OSCE Representative on Freedom of the Media*; (emphasis added)

- The Secretary General of the Council of Europe.[4]

There appears to be broad support for the idea in principle, and firm political commitment to its realisation, but the details of the platform need to be worked out and clarified as a matter of urgency. What is its scope? What are its primary purposes/main functions? How will it be run and by whom? These – and other related – questions were recurrent during the Round Table. They will now be grouped and discussed under the following headings: Mission

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[3] Committee of Ministers, Decisions adopted, CM/Del/Dec(2013)1176   12 July 2013, 1176th meeting, 10 July 2013 Agenda item 5.2, Steering Committee on Media and Information Society (CDMSI) – Implementation of the Declaration of the Committee of Ministers on measures to promote the respect of Article 10 of the European Convention on Human Rights – Report by the Secretary General (CM(2013)29 final and DD(2013)738) https://wcd.coe.int/ViewDoc.jsp?id=2087017&Site=CM).

[4] See, for example, Secretary General of the Council of Europe, 'Thematic debate: safety of journalists – further steps for the better implementation of human rights standards: proposals for follow-up', Doc. No. SG/Inf(2014)2, 20 January 2014, available at: https://wcd.coe.int/ViewDoc.jsp?id=2150257&Site=COE and Secretary General of the Council of Europe, *State of Democracy, Human Rights and the Rule of Law in Europe*, Report, Doc. No. SG(2014)1 – FINAL, May 2014, p. 8.

Statement; Institutional Grounding; Governance and Collaboration; Resources; Design Values and Features.

3.2 Mission Statement

It is imperative to agree on and formulate a clear and coherent mission statement for the Internet platform as quickly as possible. This has implications for the selection of partners, the definition of their roles, the allocation of responsibilities and tasks, the design of the platform, the resources (financial and human) needed, etc.

Before focusing on the precise objectives of the Internet platform and how those objectives can best be achieved, it is important to position the platform in a wider institutional context. It is clear that the platform would be part of a broader whole; a particular mechanism in a bigger strategy/process for the Council of Europe. It was repeatedly stated that the Internet platform – on its own – would have little (added) value; that it would necessarily have to be integrated in a broader mission, so as to unlock synergies with existing standards and activities, within and beyond the Council of Europe.

The Internet platform is one of the Secretary General's "operational proposals" to contribute to the establishment of "rapid response capacity to instances of threats or violence against journalists or other media actors".[5] This is in keeping with the Secretary General's insistence (elsewhere) that:

> A specific monitoring mechanism is needed to prevent violations of Articles 10 (Freedom of Expression) and 11 (Freedom of Assembly and Association). Such a mechanism should be able to react rapidly to urgent challenges, report back to the Committee of Ministers, and make recommendations.[6]

Reference was also made during the Round Table to the need for the Council of Europe to have a "tool-box" of measures to enhance its monitoring and follow-up activities concerning the right to freedom of expression and the protection of journalists or other media actors.[7] The platform (Internet database) was styled as a technical device/resource and as such connected to, but distinct from, an early-warning/rapid-response mechanism within the Council of Europe.[8] Not only should the platform be positioned and used strategically within the Council of Europe, eg. by contributing to a genuine monitoring body,[9] it should also be linked to national/local initiatives for protection.[10] A balance of forces needs to be brought to bear on issues and initiatives relating to the safety of journalists and other media actors in order to ensure their success, according to Mr. La Rue. In other words, tripartite engagement and ownership is required, involving: national protection bodies, civil society and the international community.

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[5] Secretary General of the Council of Europe, 'Thematic debate: safety of journalists – further steps for the better implementation of human rights standards: proposals for follow-up', Doc. No. SG/Inf(2014)2, 20 January 2014.

[6] Secretary General of the Council of Europe, *State of Democracy, Human Rights and the Rule of Law in Europe*, Report, Doc. No. SG(2014)1 – FINAL, May 2014, p. 8.

[7] Mr. Boillat, Director General, Directorate General Human Rights and Rule of Law.

[8] Mr. Fasino (on behalf of Mr. Flego, Rapporteur on media freedom of the PACE Committee on Culture, Science, Education and the Media).

[9] Mr. Boillat described this as the Secretary General's aim.

[10] Mr. La Rue, United Nations Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression.

There is a tremendous sense of urgency about enhancing the safety of journalists and other media actors, and it was repeatedly stressed that there is a need to move from the current reliance on reactionary measures to a more pre-emptive mode.

The discussions generally seemed to assume that the platform would be used for information-sharing purposes and awareness-raising purposes. Both purposes are very important, but also very different: confidentiality is crucial for the former and publicity is crucial for the latter. The integration of both purposes into the one platform raises important questions for the design values and features of the platform (see further, below).

The information-sharing purpose requires further qualification. If the information-sharing has a signalling/alerting function, will that function be geared towards early-warning mechanisms, rapid-response mechanisms, or both? The distinction is that early warnings concern unfolding situations and require pre-emptive measures, whereas rapid responses are reactions to aggravated situations that usually already involve human rights violations. The signals/alerts would likely be conceived differently for each type of function. This calls for a "horses for courses" approach: different strategies for different objectives, and different types of intervention to achieve different types of results.

Early warning signals could point to general situations or specific/individual cases. The deterioration of the human rights, democracy and rule of law situation in a State would constitute early-warning signals for the safety of journalists and other media actors. Warning signals specifically concerning the enabling environment for freedom of expression could be developed in this regard. Measures targeting specific journalists or media actors (groups or individuals) are often symptomatic of, or preceded by, overall deteriorations in the enabling environment for freedom of expression.

Mr. Boillat clarified that the Internet platform should provide the Council of Europe with a more effective manner of anticipating and addressing dangers for journalists and the media. Mr. Flego's intervention went in the same direction, describing how the Internet platform would help the Council of Europe to calibrate rapid institutional responses to early warnings on the ground.

There were calls for the Internet platform to contribute to public accountability of honouring of member states' obligations under the European Convention on Human Rights and other Council of Europe standards.

3.3 Institutional Grounding

There is an urgent need for designated responsibility and 'ownership' of freedom of expression within the Council of Europe to achieve greater internal coherence and external visibility and impact for the organisation's standards and activities. Different modalities/structures were suggested, with different political and practical consequences, but all sharing the aim of ensuring that the Council of Europe lives up to the high expectations and responsibilities that flow from its primary institutional objectives and the vast body of standards it has developed in this area:

- Special Representative/Advisor of the Secretary General on Media Freedom and Journalist Security[11]
- Special Rapporteur on Freedom of the Press under the aegis of the Secretary General[12]
- Independent unit charged specifically with the safety of journalists and freedom of expression[13]
- A specialized mandate for freedom of expression enjoying high-level political status[14]

Similarly, there will be a need for designated responsibility and ownership of the platform within the Council of Europe. This will be crucial for its initial development and subsequent maintenance. How the platform will be embedded in existing or new structures within the Council of Europe will have important consequences for its governance and ultimately also its effectiveness.

3.4 Governance and Collaboration

Questions about the (editorial) governance, control and responsibility for the platform were recurrent. There was agreement among some participants that editorial control of the platform should rest primarily with the Council of Europe, but that scope for partners' input, from the planning/design stages through to the actual operation of the platform would be envisaged. The original conception of the platform by the PACE was more open to shared editorial governance.[15]

There was clear agreement that this would be a collaborative venture, involving a number of (selected) stakeholders, i.e., other international governmental and non-governmental bodies. The collaboration should be styled as a partnership, built on relationships and networks of trust.

The nature and scope of this partnership would involve clear terms of engagement for (a) the Council of Europe, and (b) selected partners. The Round Table did not discuss the likely terms of engagement in detail, other than to flag the importance of principles such as mutual trust and operational autonomy for civil society partners. The terms of engagement would, in part, be influenced by the functions and design of the platform. The details of the partnership would be best discussed and agreed upon in the context of a focused meeting involving the Council of Europe and its selected partners to draft a memorandum of understanding.

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[11] Mr. Fasino (on behalf of Mr. Flego), who added that the incumbent should ensure proper in-house information flow and synergies, and take proper initiatives under the authority of the Secretary General.

[12] Mr. Gutiérrez, General Secretary, European Federation of Journalists.

[13] Mr. Horsley, Association of European Journalists and Independent Expert in the Council of Europe Committee of Experts on protection of journalism and safety of journalists (MSI-JO), who added that the unit should be mandated to conduct monitoring activities and country visits and have a voice to speak out against severe and persistent problems.

[14] Described as "a new institutional champion of freedom of expression": T. McGonagle, *How to address current threats to journalism?: The role of the Council of Europe in protecting journalists and other media actors*, Expert paper, Doc. No. MCM 2013(009), the Council of Europe Conference of Ministers responsible for Media and Information Society, 'Freedom of Expression and Democracy in the Digital Age: Opportunities, Rights, Responsibilities', Belgrade, 7-8 November 2013, pp. 32-33.

[15] Mr. Fasino (on behalf of Mr. Flego).

Various NGOs explained their monitoring methodologies; their processes for verifying information they receive about (alleged) violations of journalists' and media actors' rights; their processes for dealing with confidential or sensitive data; their risk assessments based on possible threats and their decision-making processes about whether or not to issue alerts or escalate publicity and other strategies in specific circumstances. There appeared to be broad similarities in relevant working methods of the NGOs represented at the Round Table. In light of these considerations, the civil society representatives were adamant that it should fall within their operational autonomy to judge what information should be shared via the platform, at what stage and how. This underscores the importance of the ethos of trust between the Council of Europe and its partners. Furthermore, from the NGOs' perspective, it was made clear that it would be very important for them to be kept informed of any follow-up action taken by different bodies of the Council of Europe in relation to information provided by them for that purpose.

3.5 Resources

The platform's effectiveness will be severely limited unless adequate resources are made available for its developmental phase and also for its day-to-day operation once it is up and running. The safety of journalists and upholding freedom of expression are now political priorities for the Secretary General of the Council of Europe. It is imperative that resources match the rhetoric; that political and financial prioritisation coincide. The (existing or new) structures within the Council of Europe charged with guaranteeing these values require dedicated, multi-annual funding to ensure the necessary human and technical resources to carry out their (revised) tasks in an effective manner.

3.6 Design Values and Features

A number of design values and features of the platform were identified in the discussions:

- Technical security of platform
- Public and protected sections of platform
- Authorization and access to protected platform
- Informational security
- Confidentiality and anonymity
- Prior, informed consent of victims
- Accuracy and authenticity of information
- Limitations of technological solutions for inherently human problems
- Provision of information on follow-up by the Council of Europe
- Clarification of the types of threats and violations (a) to be prevented, and/or (b) publicised

These design values and features would need to be developed further by the Council of Europe and its partners early in the planning stages of an Internet platform.

Conclusion

The Internet platform requires, first and foremost, a mission statement that sets out – with exemplary clarity – its central purpose(s). Useful distinctions could, perhaps, be made between information-sharing (confidential) and awareness-raising purposes (public), and

between information-sharing geared towards triggering early-warning mechanisms and information-sharing geared towards triggering rapid-response mechanisms.

Pressing questions of editorial governance, responsibility for, and ownership of, the platform need to be resolved before many technical, financial and practical details can be worked out. The details of the partnership with selected civil society organisations need to be finalised as a matter of urgency as well. The financial underwriting of the platform project (design, development and continued maintenance) is of paramount importance. All of these questions are related to the broader considerations and discussions about the Council of Europe's concerted strategies and initiatives for the protection of journalists and media actors and the 'ownership' of freedom of expression within the Council.

The Council of Europe needs the best possible tool-kit in order to be able to play a meaningful role in assuring the safety of journalists and other media actors. If an Internet platform is to become one of the tools used by the Council of Europe for serious, revamped engagement with (violations of) the right to freedom of expression and the safety of journalists and other media actors, then the whole initiative needs to be properly focused, designed, resourced and driven by strong political leadership and a renewed sense of institutional urgency.

APPENDICES

I. Round Table Final Programme

II. Round Table Information Note: The role of Council of Europe bodies to enhance media freedom and the protection of journalists

Round Table Final Programme

Council of Europe Round Table:
Safety of Journalists: From commitment to action

19 May 2014 (9h30 – 18h)

Strasbourg, Palais de l'Europe (Room 5)

Programme

09:30 - 10:00	**Opening remarks** by Mr Nils Muižnieks, Council of Europe Commissioner for Human Rights
10:00 - 12:30	**Political commitment to protect journalists: Are we at a turning point?**

The Council of Europe's Secretary General called for <u>a specialised monitoring mechanism to prevent violations of Articles 10 and 11 of the European Convention on Human Rights</u> and the Committee of Ministers has agreed on the usefulness of <u>reporting</u> serious violations of media freedom to the Council of Europe bodies. After a stock-taking of safety of journalist initiatives and actions by participating organisations this session will discuss how to develop international concerted action on:

- warning signs indicating that an environment may turn hostile towards the safety of journalists;
- preventive and early warning mechanisms for the safety of journalists;
- measures to tackle impunity, in particular with regard to lack of investigation on attacks against journalists;
- protection activities and their potential preventive impact beyond the concrete measure

Moderator	Professor Richard Sambrook, Director - Centre for Journalism
Key discussants	Juan Barata, OSCE, Representative on Freedom of the Media Office, Principal Adviser
	Lorena Boix Alonso, European Commission, Head of Converging Media and Content Unit
	Sylvie Coudray, UNESCO, Chief of Section for Free Expression
	Gvozden Srećko Flego, Croatia, Parliamentary Assembly of the Council of Europe Rapporteur, Socialist Group

	Frank La Rue, United Nations Human Rights, Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression
12:30 - 14:00	Lunch

14:00 - 17:30	**A Council of Europe 'Alert – Report – Response' mechanism?**

The Council of Europe is reflecting on the modalities for the creation of an Internet based platform to facilitate the compilation, processing and dissemination of information on serious violations of media freedom, notably safety of journalists.

This session will focus on questions on the functions of the platform and practical arrangements for its operation:

- collecting and registering safety of journalist alerts;
- providing access to national and international networks;
- information sharing to reduce vulnerability factors and increase protection capacities;
- placing alerts into the perspective of European standards and states' obligations;
- triggering further action: public opinion pressure, collection of evidence, oversight of states' reactions, what else?
- ensuring objectivity and avoiding politisation
- governance of the platform (who, with whom and how);
- resources and funding for setting it up (information technologies, project staff and continuous co-operation)

Moderator	Philippe Couve, Freelance journalist, editorial strategist, web-journalism teacher
Key discussants	NGO representatives, Council of Europe IT staff
17.30 - 17.45	**Closing session: The way ahead. What needs to be done beyond today's discussions?** With the intervention of Philippe Boillat, Director General, Directorate General Human Rights and Rule of Law
17.45 – 18.00	**Closing remarks:** Gabriella Battaini-Dragoni, Deputy Secretary General

Round Table Rapporteur: Tarlach McGonagle, Institute for Information Law at the University of Amsterdam; Council of Europe Committee of Experts on protection of journalism and safety of journalists (MSI-JO)

APPENDIX II

Round Table Information Note:

The role of Council of Europe bodies to enhance media freedom and the protection of journalists

The Council of Europe provides for the protection of freedom of expression notably through the European Convention on Human Rights, its Court and its standard setting by the Committee of Ministers. This system could be described as creating an "enabling environment" for freedom of expression, including as exercised by journalists and other media actors. The European Court of Human Rights has established that States are required to create a favourable environment for participation in public debate by all persons, enabling them to express their opinions and ideas without fear.[16]

> *Consequently, Article 10 of the European Convention on Human Rights ("ECHR") is at the core of the Council of Europe's system for the protection of the right to freedom of expression.*

It reads:

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.

On proceedings, it follows that:

• Individuals, but also non-governmental organisations, like the press, NGOs, human rights defenders may **bring cases** before the Court for their rights guaranteed in the Convention.

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[16] See *Dink v. Turkey, Application Nos. 2668/07, 6102/08, 30079/08, 7072/09, 7124/09, judgment of 14 September 2010, paragraph 137.*

•   Experts, representatives of human rights organisations and others can gain permission from the President of the Court to intervene in the proceedings by filing pleadings and/or to take part in public hearings (**third party intervention**).

•   **Interim measures** under Rule 39: The Court has the power to order the equivalent of an injunction, in 'life and limb' cases. If it were possible to present compelling evidence that a journalist has been targeted and that the state is complicit or that the State refuses to provide the necessary protection, it is possible that the Court could order interim measures to require the State to provide the required protection.

On substance:

- The right to freedom of expression and its corollary, freedom of media, are also **essential tools for the defence of other human rights**. That has been repeatedly underlined by Council of Europe bodies, for being a core element of democracy.

- *"Not only the media have the task of imparting (…) information and ideas: the public also has a right to receive them".[17]*

- Article 10 doesn't distinguish ordinary citizens and journalists. However, **an enhanced protection for the exercise of the freedom of expression is guaranteed for journalistic activities**. While the enjoyment of the freedom -and task to- informing is coupled with the expectation of adherence to professional ethics and codes of conduct, the later shouldn't be envisaged as a precondition for the protection to be provided by states.

- The ECtHR doesn't give a definition of journalism but refers to a diverse range of contributions to public debate, emphasizing the freedoms that are instrumental to the realisation of the public watchdog role traditionally played by journalists and the media in any democratic society. **Whereas public watchdog functions were predominantly fulfilled by journalists and the media in the past, they are now increasingly being fulfilled also by other media and non-media actors**.

- Not only article 10 of the ECHR, but also the number of autonomous rights guaranteed in the ECHR is potentially (depending on the type of interference) implicated in issues surrounding the **safety of journalists and the fight against impunity**. Typically, they include: the right to life (Article 2); prohibition of torture (Article 3); right to liberty and security (Article 5); right to a fair trial (Article 6) and no punishment without law (Article 7). The ECtHR has read positive State obligations into these rights.

- State obligations to protect the physical integrity of journalists under the European Convention on Human Rights can be simplified to: **prevention, protection and prosecution.**

- Attacks on, and intimidation of, journalists and other media actors inevitably have a very **chilling effect on freedom of expression**. The chill factor is all the more

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[17] The Sunday Times v. the United Kingdom, (no1), 26 April 1979, § 65, Series A no.30.

piercing when the prevalence of attacks and intimidation is compounded by a culture of legal impunity for their perpetrators.

> *The translation of the ECHR's principles through divers tools, mandates and fora, by all relevant Council of Europe bodies: standard-setting, monitoring, political fora, expertise, cooperation, country visits, dialogue*

The Committee of Ministers, as the decision-making body of the Organisation is the political forum where member States can debate and agree on joint action to protect and further the values of the Organisation. The Committee of Ministers adopts reports, statements, resolutions or other standard-setting instruments.

The Committee of Ministers also holds regular thematic debates in the context of their meetings. These debates are the subject of a summing-up under the Chair's responsibility. They may also give rise to the adoption of decisions.

The Committee of Ministers pursued dialogue on the safety of journalists and media freedom devoting three thematic debates to these topics on 2011, 2012 and 2013 (please see list of documents).

The Committee of Ministers monitors the execution of judgments of the Court by member States in respect of which the Court has found a violation of Article 10. As a first measure when it is deemed necessary, the Committee of Ministers can change the monitoring procedure of a particular case and decide to continue its examination under enhanced procedure which requires closer scrutiny by the Committee. In case of lack of a development in the execution of a case, the Committee may invite or even urge a member state to take necessary measures to prevent similar violations in the future. If the state does not take action, the Committee of Ministers may decide to send a letter to the authorities of that state or pass an interim resolution. According to Article 46§4 of the Convention, having considered that the relevant state refuses to abide by a final judgment, the Committee of Ministers may refer the issue to the Court. Some of the cases which are currently being supervised by the Committee of Ministers are Gongadze v. Ukraine (enhanced supervision) Dink v. Turkey (enhanced supervision), Muradova vs. Azerbaijan, Mahmudov and Agazade v Azerbaijan, Fatullayev v. Azerbaijan (enhanced supervision).

The Department of Execution of Judgments working under the Committee of Ministers also provides technical assistance to member states in the framework of different projects, country visits and bilateral meetings.

The Parliamentary Assembly ("PACE") has four plenary part-sessions of one week each in Strasbourg every year. Committees meet also throughout the year, often in national parliaments. Its 318 representatives are appointed by national parliaments from among their members in accordance with the party-political composition of each parliament. The

parliaments of Canada, Israel and Mexico are observers and Kyrgyzstan, Morocco and the Palestinian Legislative Council have a status as Partner for Democracy. Parliamentary delegations of other states often participate in Assembly work.

Under the Statute of the Council of Europe, the Assembly elects the judges to the European Court of Human Rights, the Commissioner for Human Rights as well as the Secretary General and Deputy Secretary General of the Council of Europe.

Based on committee reports prepared by individual parliamentarians, the Assembly adopts three types of text: resolutions, recommendations to the Committee of Ministers and opinions on draft conventions or treaties prepared by the Committee of Ministers. Following a plenary debate, those decisions are taken by the Assembly through voting.

Assembly resolutions and recommendations often initiate new work by the Council of Europe, and the most important initiative was the drafting of the European Convention on Human Rights ("ECHR").

The Assembly monitors the honouring of obligations and commitments of individual Council of Europe member states through its Monitoring Committee and prepares a thematic analysis of serious violations of media freedom in Europe by a parliamentary rapporteur of the Committee on Culture, Science, Education and Media. The latter committee frequently prepares also reports on other issues related to Article 10 of the ECHR. The Assembly Bureau produces reports on election observations in member States, which also look at media freedom and election campaigns.

Individual parliamentarians can put written questions to the Committee of Ministers, make declarations in plenary sessions and initiate new Assembly reports. The preparation of reports typically involves country visits, hearings with NGOs such as journalists' and media organisations as well as expert reports.

PACE resolutions aim to analyse situations in member states, which give rise for concern in the light of Article 10 ECHR; they politically guide national parliaments and often address also other international organisations.

The Congress of Local and Regional Authorities has a fundamental role in promoting democracy by involving local and regional authorities. The Congress can also initiate cooperation at the highest level with representatives of national authorities and be informed about critical situation on the ground by a variety of sources.

The Congress is currently preparing a report on the situation of regional media, which will address the issues of media freedom and working conditions of regional media (legal framework, ownership, censorship, persecution, etc.). However, the Congress has not yet addressed in-depth and exclusively the subject of the safety of journalists

The media role in electoral campaigns is also regularly addressed in Congress reports on local and regional elections' observation, mainly from the viewpoint of objectivity, fair coverage, access of candidates and media freedom vs. control over media.

The Commissioner for Human Rights: His mission is to promote the observance of human rights and to assist member States to implement the standards of the Council of Europe. The Commissioner visits member States and prepares reports on the national or regional problems with regard to human rights. He cooperates with the standing committee of Conference of INGOs, which is the highest representative of the civil society and develops fruitful relations with the NGO's (about 400) setting guidelines and adopting action plans.

The safety of journalists and media freedom has been a focus of a number of the Commissioner's country visits and reports; it is also the subject of regular media, including social media, and conference interventions of the Commissioner. The Commissioner can visit journalists in detention and raise issue arising out of these cases with the relevant national authorities, and more broadly.

In the Commissioner's view, bloggers, reporting citizens and others active on the Internet have joined traditional journalists in the ranks of those who are at risk of retaliation by state authorities or interest groups. The protection and safety of journalists must therefore be strengthened in a manner that is as inclusive as possible, including not only journalists in the formal sense, but all those reporting in the public interest.

Whatever the source of the attacks, the Commissioner's main recommendations are the following: Effective investigations, prosecutions and dissuasive sanctions for those who ordered the attacks and those who carried them out / Measures to protect journalists, such as police protection / Unequivocal political signals from the highest level that such attacks are attacks on democracy / Ensure that policing fully respects freedom of expression and media freedom.

In this work, the Commissioner cooperates with several important partners – not only associations of journalists and specialised NGOs, but also at UN level (the Special Rapporteur on freedom of expression and UNESCO). The OSCE Representative on Freedom of the Media, with which the Commissioner's office is in regular contact, is a particularly important partner.

For all relevant documents, please see Round Table web page http://www.coe.int/t/dghl/standardsetting/media/roundtable-en.asp