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CONCLUSIONS OF COUNCIL OF EUROPE COMMISSIONER FOR HUMAN RIGHTS, MR
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COUNCIL OF EUROPE COLLOQUY ON „PROTECTING AND SUPPORTING HUMAN
RIGHTS DEFENDERS“
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The Colloquy, organised by the Commissioner for Human Rights and the Directorate General of Human Rights of the Council of Europe, has been highly significant. This has been a unique gathering of many human rights defenders, NGOs, government representatives of the Member States of the Council of Europe as well as representatives of international organisations. Participants included the United Nations Special Representative of the Secretary General on the situation of Human Rights Defenders, the Personal Representative of the Secretary General of the Council of the European Union, the Deputy Head of the OSCE/ODIHR Human Rights Department and representatives of different institutions of the Council of Europe.

The invaluable role of human rights defenders, including individuals, groups and Non Governmental Organisations (NGOs) working to promote, ensure and defend human rights was stressed by all participants at the Colloquy and many examples illustrated the need for greater attention to their protection and ability to fulfil their role.

It has become abundantly clear that the Council of Europe has an important role to play in protecting and supporting human rights defenders at a European level. Indeed, Heads of State and Government meeting in Warsaw during their Third Summit last year made a commitment to “play a dynamic role in protecting the rights of individuals and promoting the invaluable engagement of non-governmental organisations, to actively defend human rights”.

I should like to offer some conclusions, which in my view can be drawn from our debates.

I. Obstacles encountered at national level by human rights defenders

1. The nature of obstacles encountered by human rights defenders in the Council of Europe member states' is varied, ranging from direct use of violence, often by non-state actors, to more insidious measures, such as administrative obstacles, which may have an equally drastic impact on the ability of NGOs and individuals to promote and defend human rights. Defenders working on equal human rights for all, regardless of their perceived sexual orientation or gender, rights of migrants, and those defending the rights of national minorities or women's rights often face particular difficulties in their activities as is demonstrated by examples of restrictions on the right to peaceful assembly. Another concern is that increasing manifestations of racism and xenophobia in Europe have created a hostile environment for defenders working on rights of minorities and migrants. Also the media sometimes plays a very negative role in denigrating the work of human rights defenders.
2. Attacks on human rights defenders are often not subject to investigation and many perpetrators are never prosecuted. Such lack of accountability must stop. States should ensure that

perpetrators, regardless of their position or function, are brought to justice through independent and effective disciplinary and criminal procedures. The effective combat against impunity will deter members of military and security forces, civil servants and government officials from committing further violations.

3. Human rights defenders are often affected by over-zealous security measures carried out by states under the pretext of the fight against terrorism or organised crime. In addition, there is a risk that unwelcome activities of human rights defenders are branded as unpatriotic or even proscribed as extremist acts
4. As many difficulties stem from a misunderstanding of the notion of civil society, there is a need to promote better comprehension of this concept and its indispensable role in a democratic society. Authorities should not attempt to organise or control civil society and its critical voice. The furthering of dialogue between the government and civil society at large, including NGOs, academia, legal professions and media, is necessary and should be encouraged.
5. Other difficulties relate to legal harassment of human rights defenders, such as selective arbitrary application of laws leading in some cases to abusive prosecutions and investigations. In the same category, mention has been made of the administrative and bureaucratic obstacles relating to the registration and functioning of non-governmental organisations. This includes overregulation of the NGO sector making it difficult to secure autonomous funding, whether within the country or from abroad. Such obstacles can effectively lead to insolvency and silencing of the voice of human rights defenders. Finally, the functioning of the judicial system and the respect for the rule of law are very important general factors which can either facilitate or hamper the effective work of human rights defenders.

II. Protection of Human Rights Defenders

6. States have the obligation and the responsibility to protect and promote respect of human rights defenders and their work, also by creating conditions that fully enable the exercise of advocacy, monitoring and reporting on human rights. In order to fulfil such functions, human rights defenders must be given access to information and freedom of movement that enables their access to sites and to victims of violations.
7. Human rights defenders should be encouraged and supported to develop strategies to protect and promote their own work, for example through networking with each other and also with independent National Human Rights Institutions and ombudspersons, with the media, with human rights defenders abroad and with international organisations.
8. Member states should endeavour to strengthen their judicial systems and improve access to remedies for all. Independence of the judiciary must be ensured and adequate judicial training in the area of international human rights should be provided. In this context, and in addition to judicial mechanisms, extrajudicial, low-threshold complaint mechanisms such as Ombudspersons should be set up, allowed to exercise their duties effectively and be respected by the public authorities.
9. National Human Rights action plans should be adopted and include strategies and measures to protect human rights defenders and their work. Respect and protection for them should be encouraged. There should be provision for independent and strong national human rights institutions responsible for monitoring the human rights situation at national level while reminding governments of their human rights commitments and ensuring that fundamental

rights are respected. Parliaments should not fail to hold governments to account in case of incidents or practices which hamper the work of human rights defenders.

10. Member states should ensure that national legislation potentially affecting human rights defenders and their activities is brought into conformity with internationally recognised human rights standards. Such legislation, as well as other legislation that may affect the enjoyment of human rights, should be drafted in effective consultation of human rights defenders and NGOs. In particular, when adopting legislation, States should fully respect the exercise of freedom of assembly, association and other rights in accordance with international human rights standards. The national legal framework should also fully respect freedom of expression, which is a right essential to the work of human rights defenders. Authorities at all levels should be made aware of the requirements in this regard and adopt practices accordingly.
11. States should ensure that all the obligations and rights embodied in the UN Declaration on Human Rights Defenders are included in national law, including the right to freedom of association and the right to receive funding. States should ensure that the protection mechanisms available at the local, national, regional and international level are accessible to defenders. Where necessary, human rights defenders should be encouraged to familiarise themselves with the UN Declaration so as to be fully aware of their rights and the responsibilities which some of these rights entail.
12. More emphasis should be placed on human rights education and awareness. The wider public, especially young people, should be informed about the importance of human rights and the work of human rights defenders. Civil servants and government officials should be made aware of the UN Declaration on Human Rights Defenders and their duties to respect its provisions.
13. It was stressed that the media can be a powerful partner for HRDs, both indirectly and directly. For instance, the media can publicize the often sensitive issues raised by human rights defenders. More generally the media can increase awareness and understanding of the important role played by human rights defenders in society. All this requires that media independence is fully respected by the authorities.
14. There is also a need to ensure protection, even of a physical kind, of human rights defenders who face specific threats. Member States of the Council of Europe should develop a policy on the issuing of emergency visas for Human Rights Defenders and members of their families. Member States should consider establishing a test pilot programme of such visas. Other measures to ensure physical and other protection include public statements in support of human rights defenders at risk; international monitoring of demonstrations, trials and places of detention, which could help prevent possible violations of the rights of human rights defenders; liaising with embassies or other member states, and the development of protection programmes for human rights defenders. At the same time, great care should be taken to avoid that support and protection measures do not unwittingly place human rights defenders at even greater risk.
15. The right of individuals, groups and NGOs to actively defend human rights is not confined within national borders. No obstacles should be placed on international or transfrontier activities of human rights defenders. This is equally important as regards co-operation with human rights defenders in countries where their rights are threatened. Therefore, states that have not already done so, should ratify the European Convention on the Recognition of the Legal Personality of International Non-Governmental Organisations.

III. Responses to be given by the Council of Europe and other intergovernmental organisations to improve the protection of human rights defenders

16. There was general agreement that existing human rights standards provide sufficient protection for human rights defenders and that the UN Declaration on Human Rights Defenders should remain the common minimum standard for all future activities.
17. It was commonly agreed that there is no need to define human rights defenders, and that the activity-based definition based on the UN Declaration and developed through the practice of the UN Special Representative should remain the common reference point .
18. It was generally acknowledged that the multiplicity of international actors supporting human rights defenders and their work in Europe is in fact useful and important. A call was made to the Council of Europe to draw up a detailed inventory of existing activities and mechanisms inside and outside the Council of Europe (legislative advice, monitoring, reporting and protection mechanisms, awareness raising and training, interventions, follow-up).
Creating and promoting an enabling environment for the work of human rights defenders
19. While the main responsibility lies with the governments which should promote and support the vital role played by HR defenders in their respective countries, the Council of Europe is well placed to provide legal advice on the compatibility of draft and existing legislation with European standards, notably those regarding freedom of association and assembly. Governments should be encouraged to request such advice.
20. The Council of Europe can also contribute to creating an enabling environment for human rights defenders by providing information, documentation and case law to them about relevant European standards and by encouraging cooperation between governments and civil society.
21. The Council of Europe's preparation of a Recommendation on the Legal status of Non-Governmental Organisations in Europe and the drafting of the Convention on Access to Official Documents, are further examples of initiatives which can assist to create an enabling environment. In the first text, particular mention should be made of human rights defenders and existing human rights standards should be fully taken into account.
22. As regards the role of the media in support of human rights defenders, the Council of Europe's CDMC ([Steering Committee on the Media and New Communication Services](#)) should be invited to examine, with input from civil society and media organisations, how to promote such a role in concrete terms.
23. The Council of Europe's independent human rights institutions and mechanisms, such as the European Committee of Social Rights, European Committee for the Prevention of Torture, European Commission against Racism and Intolerance and the Advisory Committee of the Framework Convention for the Protection of National Minorities should be encouraged to address the issue of HR defenders in their respective activities. To the extent possible, the European Court of Human Rights should be invited to take the specific situation of human rights defenders into account. In cases of threats to applicants, it is important that interim measures are applied and fully respected by the state concerned. The same applies to the need to execute fully and rapidly the judgments of the Court.
24. Attacks on Human Rights Defenders should be condemned at the highest level of the State, by other member states of the Council of Europe as well as by the different institutions and monitoring bodies of the Council of Europe and other International Organisations.

Developing a new European mechanism

25. The Commissioner for Human Rights should play a key role in supporting and protecting human rights defenders in Europe through all his activities and in co-operation with others working for the protection of human rights defenders in Europe. The Commissioner should continue to meet with a broad range of defenders during his country visits and to raise concerns with the authorities about any problems they may face.
26. The Commissioner can also act upon information received in order to protect defenders, including in situations where there is a need for urgent action. Where necessary, the Commissioner is able to use discrete diplomacy and confidential demarches. The Commissioner was strongly encouraged to develop the role and the capacity of his Office in this respect so as to achieve an effective mechanism to protect human rights defenders in urgent cases. The mechanism must be strong and persuasive and be able to count on the co-operation of all member states so as to ensure that adequate responses are given by the governments concerned. It would be for the Commissioner to develop his policies for intervention, taking into account the specific needs of different categories of human rights defenders.
27. It was suggested that the Commissioner's thematic, country and annual reports could usefully include developments related to Human Rights defenders and their work, in particular the identification of trends, threats and possible responses.
28. The Commissioner should work in close co-operation and in complementarity with other intergovernmental organisations, in particular the OSCE/ODIHR Focal Point for Human Rights Defenders, the European Union and the United Nations, in particular with the Special Representative on Human Rights Defenders.
29. Governments should give consideration to the additional resources that will be needed for the development of such a mechanism. This also applies to further resources needed to increase awareness raising and training activities of the Council of Europe with and for human rights defenders.
30. To achieve all this, the proposal was made and widely supported that the Committee of Ministers should adopt a strong political declaration on human rights defenders and their vital work, in line with the commitment made by Heads of State and Government at the Third Council of Europe Summit, and taking forward conclusions of this Colloquy. Strong encouragement was also expressed for the ongoing work of the Parliamentary Assembly on this subject, and the latter was invited to adopt a text strongly supportive of the work of human rights defenders.
31. Finally, the point was eloquently made that the Council of Europe's current and proposed action for the promotion and protection of human rights defenders should not be conceived or conducted in isolation. It is important to ensure that the development of the role of the Council of Europe and of other regional organisations is firmly placed in a context of a broader global strategy for the defence of the right to promote and defend human rights.