

Committee of Experts on protection of journalism and safety of journalists (MSI-JO)



**MSI-JO(2014)03
10 March 2014**

**1st meeting, 3-4 March 2014
(Strasbourg, Agora, Room G05)**

Meeting Report

1. The Committee of Experts on protection of journalism and safety of journalists (MSI-JO) met in Strasbourg on 3 and 4 March 2014. The meeting was opened by Ms Onur Andreotti, Administrator, Media Division, Directorate General Human Rights and Rule of Law.
2. The MSI-JO unanimously elected as its Chair Ms Françoise Tulkens and as its vice-Chair Mr Trond Idaas and appointed as gender rapporteur Ms Małgorzata Pek.
3. Thereafter the meeting was chaired by Ms Françoise Tulkens. The Committee adopted the agenda (Appendix I).

During the meeting, the MSI-JO took the following decisions:

It took note of the [Terms of Reference](#) and of [Resolution CM/Res\(2011\) 24](#) on intergovernmental committees and subordinate bodies, their terms of reference and working methods.

After information provided by the Secretariat, it took note and discussed the Committee of Ministers Thematic debate 2012: "Safety of journalists", [SG/Inf\(2012\)6](#): Discussion paper presented by the Secretary General; Committee of Ministers Thematic debate 2013: "Safety of journalists – Further steps for the better implementation of human rights standards", [SG/Inf\(2013\)42](#): Discussion paper presented by the Secretary General and [SG/Inf\(2014\)2](#): Proposals for Follow-up.

After information provided by William Horsley, the MSI-JO took note and discussed two recent UN documents on safety of journalists:



UNGA_Resolution_on
_the_Safety_of_Jour



G1315319.pdf

Working methods and timelines

During the first day of the meeting, the MSI-JO in detail discussed draft structure for the Recommendation. It selected and designated Mr Tarlach McGonagle as rapporteur. The MSI-JO decided that the Rapporteur will work on a first skeleton (frame) in close collaboration with the Chair, the vice-Chair and the secretariat.

Structure of texts to be produced

The MSI-JO took note and discussed [CDMSI\(2013\)007rev5](#): Draft declaration of the Committee of Ministers on the protection of journalism and safety of journalists and other media actors and [CDMSI\(2012\)011rev2](#): Secretariat document on the protection of journalists/journalism, endorsed by the CDMSI. It discussed the later in detail and decided that a harmonised approach should be taken with regard to the two texts.

On the second day, the rapporteur presented and explained a first skeleton, namely a proposal for a structure of the recommendation to be drafted (appendix III) which was discussed in detail. The MSI-JO decided that the rapporteur will reflect the discussion in two working documents to be submitted in due course prior to the next meeting.

Cooperation with other organisations (EU, UN, OSCE)

The MSI-JO took note of information provided by EU and OSCE representatives, Mr Maciej Tomaszewski, DG-CONNECT and Ms Deniz Yazici, Office of the OSCE Representative on Freedom of the Media.

Based on information provided by the Secretariat, the MSI-JO took note and discussed the UNESCO Concept note: Research Project on the Safety of Journalists as a potential Indicator of Good Governance, Democracy and Development. It finds the approach innovative, expressed interest in this work and underlined that such a research could be relevant and useful for MSI-JO work if it also covers European countries. Doubts on the feasibility of the research within the delay and budget proposed have been expressed.

Any other business:

The MSI-JO had an exchange of views with Mr Kristian Bartholin, Co-Secretary to CODEXTER, and decided that regular information exchange and possible cooperation is desirable.

The MSI-JO took note of information provided by the representative of the Steering Committee for Human Rights (CDDH), Ms Kristine Licis, Ministry of Foreign Affairs of Latvia and welcomed future cooperation.

The MSI-JO took note of the information provided by the Secretariat on ad hoc cooperation between the Council of Europe and other international organisations, as well as on the Task Force on Freedom of Expression and the Media established in 2012, which is coordinated by the Media Division.

The MSI-JO decided to hold its next meeting in Strasbourg on 6 and 7 October 2014.

The MSI-JO decided that the Secretariat will prepare a draft meeting report to be sent to the Chair and the vice-Chair for consideration. Thereafter the Secretariat will send the draft report to the MSI-JO with a deadline of 5 full working days allowing for comments. In the absence of comments within the deadline, the report will be deemed adopted by the MSI-JO and will be transmitted to the CDMSI.

The MSI-JO considers it unnecessary to distinguish between an abridged report and a full report as the progress of its work will be reflected in the draft recommendation to be produced. Hence it invites the CDMSI to consider the report as submitted and agree that future meeting reports will be submitted in the same manner and format.

Appendix I: List of participants

Appendix II: Annotated agenda

Appendix III: Proposal for a structure of the draft recommendation presented by Tarlach McGonagle and accepted by the group

Appendix I: List of participants 1st meeting, Strasbourg 3-4 March 2014

Committee of experts on protection of journalism and safety of journalists (MSI-JO)

Comité d'experts sur la protection du journalisme et la sécurité des journalistes (MSI-JO)

COMMITTEE MEMBERS**MEMBRES DU COMITE****Representatives of Member States****Représentants des Etats membres****Bulgaria**

Ms Hristina Dobрева
Senior Expert, Information Technology and e-Governance Directorate
Ministry of Transport, Information Technology and Communications

Bulgaria

Mme Hristina Dobрева
Expert, Direction des technologies de l'information et de l'e-gouvernance
Ministère des transports, des technologies de l'information et de la communication

France

Mr Jérôme Bouvier
Ombudsman for the Radio France radio channels

France

M. Jérôme Bouvier
Médiateur des radios de Radio France

Georgia

Ms Irine Bartaia
Deputy Director
Department of International Law
Ministry of Foreign Affairs

Géorgie

Mme Irine Bartaia
Directeur adjoint
Service des Droits Internationaux
Ministère des Affaires Etrangères

Italy

Ms Elda Brogi
Scientific Coordinator Centre for Media Pluralism and Media Freedom
Robert Schuman Centre for Advanced Studies
European University Institute

Italie

Mme Elda Brogi
Coordinatrice scientifique, Centre pour la pluralité des médias et la liberté des médias
Centre Robert Schuman d'études supérieures
Institut universitaire européen

Ireland

Dr Tarlach McGonagle (Rapporteur)
Institute for Information Law (IVIIR)
University of Amsterdam

Irlande

Dr Tarlach McGonagle (Rapporteur)
Institut du droit de l'Information (IVIIR)
Université d'Amsterdam

The Netherlands

Mr Nol Reijnders
Senior Adviser
Department for Media and Creative Industry
Ministry of Education, Culture and Science

Pays-Bas

M. Nol Reijnders
Conseiller, Service des médias et de l'industrie créative
Ministère de l'éducation, de la culture et des sciences

Norway

Mr Trond Idaas (vice-Chair)
Special advisor for the Norwegian Union of Journalists on safety and trauma

Norvège

M. Trond Idaas (vice-Président)
Conseiller spécial pour l'Union norvégienne des journalistes sur la sécurité et les traumatismes

Poland

Ms Małgorzata Pek
(gender equality Rapporteur)
 Director of Legal Department
 National Broadcasting Council of Poland

Russian Federation

Mr Arseny Nedyak
 Deputy Director
 Department of State Policy in the field of Mass Media
 Ministry of Communications and Mass Media

Represented by :

Mr Alexander Surikov
 Deputy Director
 Department of Information and Press
 Ministry of Foreign Affairs

Serbia

Ms Gordana Predić
 State Secretary
 Ministry of Culture and Information

“The former Yugoslav Republic of Macedonia”

Ms Vesna Poposka
 Head of International Public Relations Department
 Government of the Republic

Independent experts**Mr William Horsley**

Media Freedom Representative
 Association of European Journalists (AEJ)

Ms Françoise Tulkens (Chair)

Former Judge, and
 Former Vice-President of the
 European Court of Human Rights

Pologne

Mme Małgorzata Pek
(Rapporteuse égalité hommes-femmes)
 Directrice du service juridique
 Conseil national de radiodiffusion de Pologne

Fédération de Russie

M. Arseny Nedyak
 Directeur adjoint, Service des politiques nationales dans le domaine des médias de masse, Ministère de la communication et des médias de masse

Représenté par:

M. Alexander Surikov
 Directeur adjoint
 Département de l'information et de la presse
 Ministère des affaires étrangères

Serbie

Mme Gordana Predić
 Secrétaire d'Etat
 Ministère de la culture et de l'information

«Ex-République yougoslave de Macédoine»

Mme Vesna Poposka
 Chef du service des relations publiques internat.
 Gouvernement de la République

Experts indépendants**M. William Horsley**

Représentant pour la liberté des médias
 Association des journalistes européens (AEJ)

Mme Françoise Tulkens (Présidente)

Ancienne Juge, et
 Ancienne vice-Présidente de la Cour Européenne des Droits de l'Homme

PARTICIPANTS AND OBSERVERS**European Commission**

Mr Maciej Tomaszewski
 DG-CONNECT
 (Unit G1 on Converging Media)

OSCE

Ms Deniz Yazici
 Office of the OSCE Representative on
 Freedom of the Media

PARTICIPANTS ET OBSERVATEURS**Commission Européenne**

M. Maciej Tomaszewski
 DG-Connect
 (Unité G1 sur la convergence des médias)

OSCE

Mme Deniz Yazici
 Bureau de la Représentante de l'OSCE pour la
 liberté des médias

UNESCO

Mr Guy Berger *Apologised*
 Director, Division of Freedom of Expression
 and Media Development

UNESCO

M. Guy Berger *Excusé*
 Directeur, Division pour la liberté d'expression
 et le développement des médias

Reporters without borders

Mr Paul Coppin
 Coordinator of the legal committee

Reporters sans frontières

M. Paul Coppin
 Coordinateur du comité juridique

**Permanent Representation of Armenia
to the Council of Europe**

Ms Elen Harutyunyan
 Deputy to the Permanent Representative

**Représentation permanente de l'Arménie
auprès du Conseil de l'Europe**

Mme Elen Harutyunyan
 Adjointe au Représentant Permanent

**Permanent Representation of Serbia
to the Council of Europe**

Mr Ratomir Milikic
 Deputy Permanent Representative

**Représentation permanente de la Serbie
auprès du Conseil de l'Europe**

M. Ratomir Milikic
 Représentant Permanent adjoint

**Permanent Representation of Sweden
to the Council of Europe**

Ms Louise Floman
 Trainee

**Représentation permanente de la Suède
auprès du Conseil de l'Europe**

Mlle Louise Floman
 Stagiaire

**Permanent Representation of Turkey
to the Council of Europe**

Dr Bayram Turgut (Judge)
 Counsellor of the Permanent Representation

**Représentation Permanente de la Turquie
auprès du Conseil de l'Europe**

Dr Bayram Turgut (Juge), Conseiller auprès de
 la Représentation permanente

**Permanent Mission of Mexico
to the Council of Europe**

Mr Santiago Onate Laborde
 Permanent Observer

**Mission Permanente du Mexique
auprès du Conseil de l'Europe**

M. Santiago Onate Laborde
 Observateur permanent

**Parliamentary Assembly /Council of
Europe****Committee on Culture, Science,
Education and Media**

Mr Rüdiger Dossow
 Committee Secretary

**Assemblée Parlementaire / Conseil de
l'Europe****Commission de la culture, de la science, de
l'éducation et des médias**

M. Rüdiger Dossow
 Secrétaire de Commission

**Steering Committee
for Human Rights (CDDH)
Council of Europe**

Ms Kristine Licis
 Ministry of Foreign Affairs of Latvia

**Comité Directeur
pour les Droits de l'Homme (CDDH)
Conseil de l'Europe**

Mme Kristine Licis
 Ministère des Affaires Etrangères de Lettonie

**Directorate General
Human Rights and Rule of Law
Council of Europe**
Mr Kristian Bartholin
Deputy Head of Terrorism Division
Co-Secretary to CODEXTER

**Direction Générale
Droits de l'Homme et Etat de Droit
Conseil de l'Europe**
M. Kristian Bartholin
Chef adjoint de la Division Terrorisme
Co-Secrétaire du CODEXTER

SECRETARIAT

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Ms Silvia Grundmann
Head of Media Division
Information Society Department (CoE)

Mme Silvia Grundmann
Chef de la Division Médias
Service de la Société de l'Information (CdE)

Ms Onur Andreotti
Administrator, Media Division
Information Society Department (CoE)

Mme Onur Andreotti
Administratrice, Division Médias
Service de la Société de l'Information (CdE)

Ms Julia Whitham
Assistant, Media Division
Information Society Department (CoE)

Mme Julia Whitham
Assistante, Division Médias
Service de la Société de l'Information (CdE)

Ms Elisabeth Maetz
Assistant, Media Division
Information Society Department (CoE)

Mme Elisabeth Maetz
Assistante, Division Médias,
Service de la Société de l'Information (CdE)

INTERPRETERS

INTERPRETES

Ms Amanda Beddows

Mme Amanda Beddows

Ms Gillian Waknehut

Mme Gillian Waknehut

Ms Katia Di Stefano

Mme Katia Di Stefano

Mr Jean-Jacques Pedussaud

M. Jean-Jacques Pedussaud

Appendix II: Annotated agenda**MSI-JO (2014)01
3 March 2014****1st meeting, 3-4 March 2014
(Strasbourg, Agora, Room G05)****Annotated Agenda**

1. Opening of the meeting by Ms Onur Andreotti, Administrator, Media Division, Directorate General Human Rights and Rule of Law.
2. Election of the Chair (Ms Françoise TULKENS) and vice-Chair (Mr Trond IDAAS) and appointment of a gender rapporteur (Ms Małgorzata Pek).
 - [Terms of Reference](#)
 - Resolution CM/Res(2011) 24 on intergovernmental committees and subordinate bodies, their terms of reference and working methods
3. Adoption of the agenda
4. Information from the Secretariat
 - Committee of Ministers Thematic debate 2012: "Safety of journalists"
 - [SG/Inf\(2012\)6](#): Discussion paper presented by the Secretary General
 - Committee of Ministers Thematic debate 2013: "Safety of journalists – Further steps for the better implementation of human rights standards"
 - [SG/Inf\(2013\)42](#): Discussion paper presented by the Secretary General
 - [SG/Inf\(2014\)2](#): Proposals for Follow-up
5. Working methods and timelines
6. Structure of texts to be produced
 - [CDMSI\(2013\)007rev5](#): Draft declaration of the Committee of Ministers on the protection of journalism and safety of journalists and other media actors
 - [CDMSI\(2012\)011rev2](#): Secretariat document on the protection of journalists/journalism, endorsed by the CDMSI
7. Cooperation with other organisations (EU, UN, OSCE)
8. Any other business
9. Dates of next meetings

Reference documents

- [Link](#) to the official text of the European Convention on Human Rights in different languages
- [MCM\(2013\)009](#): How to address current threats to journalism? The role of the Council of Europe in protecting journalists and other media actors, by Tarlach McGonagle
- [MCM\(2013\)012](#): The principles which can be drawn from the case-law of the European Court of Human Rights relating to the protection and safety of journalists and journalism, report by Philip Leach
- [MCM\(2013\)011](#): The activities of organisations in Europe working for the protection and safety of journalists and to combat impunity by William Horsley
- [Research report](#) by ECHR on Positive obligations on member States under Article 10 to protect journalists and prevent impunity
- [Resolution n° 3](#) Ministerial Conference
- [CDMSI\(2012\)Misc11Rev2](#): Study on Defamation
- [Declaration](#) by the Committee of Ministers on the protection and promotion of investigative journalism, adopted 26 September 2007
- [Recommendation No. R\(2007\)7](#) of the Committee of Ministers to member states on the right to journalists not to disclose their sources of information
- [Recommendation 1950\(2011\)](#) on Protection of journalists' sources
- [Recommendation CM/Rec \(2011\)7](#) of the Committee of Ministers to member states on a new notion of media
- [Recommendation CM/Rec\(2013\)1](#) of the Committee of Ministers to member States on gender equality and media
- [Resolution 1636\(2008\)](#) on Indicators for media in a democracy
- [Resolution 1535\(2007\)](#) on Threats to the lives and freedom of expression of journalists
- [Resolution 1438\(2005\)](#) on Freedom of the press and the working conditions of journalists in conflict zones
- [Recommendation 1706\(2005\)](#) on Media and terrorism
- [Recommendation No R\(96\)4](#) on the protection of journalists in situations of conflict and tension
- European Court of Human Rights: [Factsheet New technologies](#)
- [Declaration](#) on the protection of journalists in situations of conflict and tension
- "Speaking of terror": A survey of the effects of counter-terrorism legislation on freedom of the media in Europe by David Banisar (Contains, in the appendix, Guidelines of the Committee of Ministers of the Council of Europe on protection freedom of expression and information in times of crisis, adopted on 26 September 2007 and Declaration on freedom of expression and information in the media in the context of the fight against terrorism)

Selection of documents from other organisations

- [UN plan of action](#) on the safety of journalists and the issue of impunity
- [Resolution](#) on the Safety of Journalists – United Nations Human Rights Council, 21st session
- [OSCE Safety of Journalists guidebook](#)
- [International News Safety Institute](#): Journalism Safety: Threats to media workers and measures to protect them
- [Safety of journalists and the issue of impunity](#): revised draft resolution, United Nations General Assembly, 68th session
- [The safety of journalists](#) : report of the United Nations High Commissioner for Human Rights, United Nations General Assembly, Human Rights Council, 24th session
- [UNESCO Concept note](#): Research Project on the Safety of Journalists as a potential Indicator of Good Governance, Democracy and Development
- [Remarks by William Horsley](#): Thematic debate Council of Europe Committee of Ministers, 12 December 2013
- [Presentation by Dr Ian Brown](#): Surveillance, freedom of expression and international law
- [Report](#) of the High Level Group on Media Freedom and Pluralism: A free and pluralistic media to sustain European democracy, January 2013
- [Conclusions](#): Council of the European Union "Education, Youth, Culture and Sport Council meeting, 25-26 November 2013
- T.McGonagle & F.J. Cabrera Blázquez (eds.), with the collaboration of D. Voorhoof), Freedom of Expression, the Media and Journalists: Case-law of the European Court of Human Rights, [IRIS Themes – Vol III](#), Strasbourg: European Audiovisual Observatory, 2013
- T.McGonagle & S. Nikoltchev (eds.), Freedom of Expression and the Media: Standard-setting by the Council of Europe's Committee of Ministers, [IRIS Themes - Vol I](#), Strasbourg: European Audiovisual Observatory, 2011

**Appendix III: Proposal for a structure of the draft recommendation presented by
Tarlach McGonagle and accepted by the group [MSI-JO (2014)02]**

**MSI-JO OUTLINE STRUCTURE FOR DRAFT RECOMMENDATION
ON THE PROTECTION OF JOURNALISM AND SAFETY OF JOURNALISTS
AND OTHER MEDIA ACTORS
(4 March 2014)**

Preamble

- Panorama of relevant international (esp. Council of Europe) standards *and* initiatives

I. Enabling Environment

Interpretive principles

- Freedom of expression for everyone
- Holistic approach to Article 10, ECHR, in context of ECHR
- Living instrument doctrine (organic growth)
- Practical and effective doctrine (technology and specific characteristics/situations): substance & remedies
- Positive obligations doctrine (procedural; substantive)

Essential features

- Safety, security, protection
- Media ecosystem (legal, political, socio-cultural, economic, technological, etc.)
- Without fear
- Non-discrimination; non-exclusion
- Pluralism

II. Safety, Security, Protection

- Physical integrity
- Liberty
- Security (physical, operational (economic & communicative elements))
- Impunity
- State obligations

III. Contribution to public debate

- Dissemination of information and ideas (widely)
- Contribution to opinion-forming processes
- Watchdog function
- Provision of forums for public debate

IV. Chilling effect

- (mis-)use of different types of legislation to prevent contribution to public debate (defamation, anti-terrorism, national security, hate speech, etc.) – threatened or actual
- Intimidation from any source (judicial, political, religious, economic, criminal, etc.)
- Unlawful monitoring and surveillance
- (patterns of) violence, threats, impunity
- Failure to honour (international) obligations

(Concrete) Recommendations

- Differentiation: levels; actors; (non-)legal, etc.

Appendices

- Compilation of best practices
- Compilation of relevant international instruments and jurisprudence