

**Towards an effective framework of protection for the work of journalists and an end to impunity
(Strasbourg 3 November 2014)**

Panel on Inter-regional dialogue to strengthen protection and eradicate impunity

Speaking notes

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Unfortunately Judges Karakaşand Spano have been prevented from attending this panel session on account of unforeseen Court work which requires their presence in the Plenary Court this afternoon.

They expressed their best wishes for the success of the Panel discussions. I am happy to replace them.

I would like to formulate my contribution in the form of a number of, hopefully relevant, statements and propositions.

1. Discussion and dialogue of the type we have witnessed today are of crucial importance for sharpening our understanding of the real problems and dangers which beset the work of media professionals and how to address them. It is a matter of profound regret that many speakers have highlighted the occurrence of incidents of violence against media professionals covering events on the territories of certain of the Member States of the Council of Europe, States which have pledged themselves to respect fundamental rights and freedoms, to uphold the rule of law and to defend and promote the values of democracy and pluralism.

2. The sharing of information, the raising of awareness, the identification of best practices, the formulation of remedial strategies in terms of policy measures and practical mechanisms, the stress on the value of collaborative action involving all interested parties, are to be applauded.

3. From the perspective of the European Court of Human Rights, factual information on the situation regarding the extent to which media professionals are exposed to the risk of violence or arbitrary arrest and detention in different countries is of crucial importance. As I noted at an earlier working session, country-specific reports are a critical factor in the Court's assessment of whether to apply an interim measure and whether to find on the merits of a particular case that a Contracting State would be in breach of Article 2 or Article 3 of the Convention if it were to deport or extradite, for example a journalist, to his country of origin.

4. The development of the Court's case-law in the area of media freedom does not unfold in a vacuum. The Court readily acknowledges that there is a world beyond the four walls of the court house.

5. If one analyses the relevant jurisprudence of the Court on Article 10 issues, or studies the judgments of the Court dealing with interim measures and the risk factors which are invoked to, for example, prevent the deportation or extradition of a media professional, it is striking to behold the number of occasions on which the Court draws on sources of information supplied by non-governmental organisations of the type represented here today.

6. Nor can one fail to notice the extent to which the Court draws on the factual and other information supplied by non-governmental organisations which are invited to take part in contentious proceedings on, for example, the scope of positive obligations under Article 10 of the Convention.

7. The Court also has due regard to relevant standards elaborated within the framework of intergovernmental organisations, be they regional or international in their geographic reach. The Court has in particular found the recommendations and declarations of the Committee of Ministers and the Parliamentary Assembly of the Council of Europe of particular relevance when it comes to the resolution of Article 10 litigation. Although such texts are non-binding on the Contracting States, they are nonetheless of great significance for the Court when it is required to assess what should be the expected European response to infringements of human rights including in the media sector. Standard setting instruments provide an extremely important basis for the Court's inquiry. It is for that reason that the recent Declaration of the Committee of Ministers on the protection of journalism and safety of journalists and other media actors may be of great assistance to the Court in a relevant case.

8. The Court has also had recourse to the case-law of other international courts when examining issues of relevance to today's Conference. For example in finding for the first time that an interim measure was binding in nature, the Court referred extensively to the case-law of the International Court of Justice and to that of the Inter-American Court of Human Rights in this area. The case-law of the Inter-American Court on the phenomenon of enforced disappearances – an issue which is of great concern to journalists in different parts of the world – was also a point of reference for the Strasbourg Court when it first had to deal with this grave breach of human rights from the standpoint of a Contracting State's positive and procedural obligations.

9. Accordingly the Court would welcome the development of further legal instruments, policies and practical mechanisms, such as the platform for information exchange on the protection and safety elaborated within the framework of the Council of Europe. Such initiatives can enrich the Court's approach to this crucial issue.

10. As for the Court's own contribution, we must bear in mind that the Convention is application-driven. The Court cannot work as a standard setting body/policy-making body in the abstract. Its mission is to examine the admissibility and merits of concrete cases, such those brought by the family of Mr Dink. That said, the Court's case-law does set the pan-European standard expected of public authorities in the area of media freedom in terms of obligations of a positive and procedural nature.

11. In this connection the Research and Library Division of the Court will continue to monitor for the benefit of the Court developments at the international level including the reports of the UN Special Rapporteur on freedom of expression/the case-law of the Inter American Court/the policy documents and reports of the OSCE/the legal and policy instruments elaborated within the framework of the Council of Europe/and so on.

12. I should also like to highlight the fact that, as a result of the translations programme which the Court launched in 2012, over 12,000 case-law translations in nearly thirty languages (other than English and French) have now been made available in the HUDOC database. Some of the cases which are now available in translated form contain important Court reasoning on media freedom and the protection of journalists. The cases can be searched in HUDOC using the appropriate keywords. I would suggest that this initiative is of immense importance for the training of a media-freedom

sensitive judiciary since it makes the essential Convention principles readily accessible in the language of the country concerned.