

## **THE ECHR SYSTEM**

- A. The ECHR institutional framework
- B. Relevant provisions and their judicial interpretation
- C. Applicable case-law
- D. Non-Binding instruments of the Council of Europe
- E. Conclusion

### **A. THE ECHR INSTITUTIONAL FRAMEWORK**

#### **CONVENTION FOR THE PROTECTION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS**

Adopted 4 November 1950, entered into force 3 September 1953.

<http://conventions.coe.int/treaty/en/treaties/html/005.htm>

#### **Monitoring bodies:**

##### **a. THE EUROPEAN COURT OF HUMAN RIGHTS**

The European Court of Human Rights was set up in 1959. It adjudicates on individual or state applications alleging violations of the rights set out in the Convention. Since 1998 it has operated as a full-time court and individuals are able to apply to it directly on the condition that domestic remedies have been exhausted. The decisions of the Court are binding.

[http://www.echr.coe.int/echr/Homepage\\_EN](http://www.echr.coe.int/echr/Homepage_EN)

##### **b. THE COMMITTEE OF MINISTERS**

In accordance with Article 46 of the Convention as amended by Protocol No. 11, the supervision of the execution of the Court's judgments is carried out by the Committee of Ministers, the main political body of the Council of Europe. The main task of the Committee of Ministers is to make sure that each member state complies with the judgments of the Court. A final resolution is adopted by the Committee when a case has been completed.

[http://www.coe.int/t/cm/home\\_en.asp](http://www.coe.int/t/cm/home_en.asp)

### **B. RELEVANT PROVISIONS AND THEIR JUDICIAL INTERPRETATION**

#### **Article 1 – Obligation to respect human rights**

The High Contracting Parties shall secure to everyone within their jurisdiction the rights and freedoms defined in Section I of this Convention.

## Article 2 – Right to life

1. Everyone's right to life shall be protected by law. No one shall be deprived of his life intentionally save in the execution of a sentence of a court following his conviction of a crime for which this penalty is provided by law.

2. Deprivation of life shall not be regarded as inflicted in contravention of this Article when it results from the use of force which is no more than absolutely necessary:

- (a) in defence of any person from unlawful violence;
- b) in order to effect a lawful arrest or to prevent the escape of a person lawfully detained;
- c) in action lawfully taken for the purpose of quelling a riot or insurrection.

### ✓ Scope of obligations under Article 2 – positive obligations

*Kilic v. Turkey* (2000) Appl. no. 22492/93

Para 62: The Court recalls that the first sentence of Article 2 § 1 enjoins the State not only to refrain from the intentional and unlawful taking of life, but also to take appropriate steps to safeguard the lives of those within its jurisdiction (see the *L.C.B. v. the United Kingdom* judgment of 9 June 1998, *Reports* 1998–III, p. 1403, § 36). This involves a primary duty on the State to secure the right to life by putting in place **effective criminal-law provisions** to deter the commission of offences against the person, backed up by **law-enforcement machinery** for the prevention, suppression and punishment of breaches of such provisions. It also extends in appropriate circumstances to a **positive obligation** on the authorities to take **preventive operational measures** to protect an individual or individuals whose life is at risk from the criminal acts of another individual (see the *Osman* judgment cited above, p. 3159, § 115).

Para 63: Bearing in mind the difficulties in policing modern societies, the unpredictability of human conduct and the operational choices which must be made in terms of **priorities and resources**, the positive obligation must be interpreted in a way which does not impose an impossible or disproportionate burden on the authorities. Accordingly, not every claimed risk to life can entail for the authorities a Convention requirement to take operational measures to prevent that risk from materialising. For a **positive obligation** to arise, it must be established that the authorities knew or ought to have known at the time of the existence of a real and immediate risk to the life of an identified individual or individuals from the criminal acts of a third party and that they failed to take measures within the scope of their powers which, judged reasonably, might have been expected to avoid that risk (see the *Osman* judgment cited above, pp. 3159–60, § 116).

### ✓ Procedural obligations under Art. 2 – countering impunity

*Kilic v. Turkey* (2000) Appl. no. 22492/93

Para 78: The Court reiterates that the obligation to protect life under Article 2 of the Convention, read in conjunction with the State's general duty under Article 1 of the Convention “to secure to everyone within [its] jurisdiction the rights and freedoms defined in [the] Convention”, requires by implication that there should be some form of **effective official investigation** when individuals have been killed as a result of the

use of force (see, *mutatis mutandis*, the McCann and Others v. the United Kingdom judgment of 27 September 1995, Series A no. 324, p. 49, § 161, and the Kaya judgment cited above, p. 329, § 105).

Para 83: Having regard therefore to the **limited scope and short duration of the investigation** in this case, the Court finds that the authorities have failed to carry out an effective investigation into the circumstances surrounding Kemal Kılıç's death. It concludes that there has in this respect been a violation of Article 2 of the Convention.

*Branko Tomasic and Others v Croatia* (2009) Appl. no. 46598/06

Para 62: The Court reiterates that the obligation to protect life under Article 2 of the Convention requires that there should be some form of **effective official investigation** when individuals have been killed as a result of the use of force, either by State officials or private individuals (see, *mutatis mutandis*, *McCann and Others v. the United Kingdom*, cited above, § 161, and *Kaya*, cited above, p. 329, § 105). The essential purpose of such an investigation is to secure the effective implementation of the domestic laws which protect the right to life (see, *mutatis mutandis*, *Paul and Audrey Edwards*, cited above, § 69). The authorities must take the reasonable steps available to them to secure the evidence concerning the incident. Any deficiency in the investigation which undermines its ability to establish the cause of death, or identify the person or persons responsible, will risk falling foul of this standard. Whatever mode is employed, the authorities must act of their own motion once the matter has come to their attention (see, for example, *mutatis mutandis*, *Ilhan v. Turkey* [GC], no. 22277/93, ECHR 2000–VII, § 63).

<http://cmiskp.echr.coe.int/tkp197/view.asp?item=1&portal=hbkm&action=html&highlight=46598/06&sessionid=70103447&skin=hudoc-en>

*Hugh Jordan v. the United Kingdom* (2001) Appl. no. 24746/94

Para 106: For an investigation into alleged unlawful killing by State agents to be effective, it may generally be regarded as necessary for the persons responsible for and carrying out the investigation to be independent from those implicated in the events (see e.g. the Güleç v. Turkey judgment of 27 July 1998, *Reports* 1998–IV, §§ 81–82; *Öğur v. Turkey*, [GC] no. 21954/93, ECHR 1999–III, §§ 91–92). This means not only a lack of hierarchical or institutional connection but also a practical **independence** (see for example the Ergi v. Turkey judgment of 28 July 1998, *Reports* 1998–IV, §§ 83–84, where the public prosecutor investigating the death of a girl during an alleged clash showed a lack of independence through his heavy reliance on the information provided by the gendarmes implicated in the incident).

Para 107: The investigation must also be effective in the sense that it is capable of leading to a determination of whether the force used in such cases was or was not justified in the circumstances (e.g. the Kaya v. Turkey judgment, cited above, p. 324, § 87) and to the identification and punishment of those responsible (*Öğur v. Turkey*, cited above, § 88). This is not an obligation of result, but of means. The authorities must have taken the **reasonable steps** available to them to secure the evidence concerning the incident, including *inter alia* eye witness testimony, forensic evidence and, where appropriate, an autopsy which provides a **complete and accurate record of injury and an objective analysis of clinical findings, including the cause of death** (see concerning autopsies, e.g. *Salman v. Turkey* cited above, § 106; concerning witnesses e.g. *Tanrikulu v. Turkey* [GC], no. 23763/94, ECHR 1999–

IV, § 109; concerning forensic evidence e.g. *Gül v. Turkey*, 22676/93, [Section 4], § 89). Any deficiency in the investigation which undermines its ability to establish the cause of death or the person or persons responsible will risk falling foul of this standard.

Para 108: A requirement of **promptness** and reasonable expedition is implicit in this context (see the *Yaşa v. Turkey* judgment of 2 September 1998, *Reports* 1998–IV, pp. 2439–2440, §§ 102–104; *Cakıcı v. Turkey* cited above, §§ 80, 87 and 106; *Tanrikulu v. Turkey*, cited above, § 109; *Mahmut Kaya v. Turkey*, no. 22535/93, [Section I] ECHR 2000–III, §§ 106–107). It must be accepted that there may be obstacles or difficulties which prevent progress in an investigation in a particular situation. However, a prompt response by the authorities in investigating a use of lethal force may generally be regarded as essential in maintaining public confidence in their adherence to the rule of law and in preventing any appearance of collusion in or tolerance of unlawful acts.

Para 109: For the same reasons, there must be a sufficient element of public scrutiny of the investigation or its results to secure accountability in practice as well as in theory. The degree of public scrutiny required may well vary from case to case. In all cases, however, **the next-of-kin of the victim must be involved** in the procedure to the extent necessary to safeguard his or her legitimate interests (see *Güleç v. Turkey*, cited above, p. 1733, § 82, where the father of the victim was not informed of the decisions not to prosecute; *Öğur v. Turkey*, cited above, § 92, where the family of the victim had no access to the investigation and court documents; *Gül v. Turkey* judgment, cited above, § 93).

<http://cmiskp.echr.coe.int/tkp197/view.asp?item=7&portal=hbkm&action=html&highlight=24746/94&sessionid=70103447&skin=hudoc-en>

See also *Dink v. Turkey* (2010) Appls. nos. 2668/07, paras. 76–80

### **Article 3 – Prohibition of torture**

No one shall be subjected to torture or to inhuman or degrading treatment or punishment.

### **Article 5 – Right to liberty and security**

Everyone has the right to liberty and security of person. No one shall be deprived of his liberty save in the following cases and in accordance with a procedure prescribed by law: ...

### **Article 8 – Right to respect for private and family life**

1. Everyone has the right to respect for his private and family life, his home and his correspondence.

2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

## Article 10 – Freedom of expression

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.

*Kilic v. Turkey* (2000) Appl. no. 22492/93

Para 87: The Court notes that the applicant's complaints arise out of the same facts as those considered under Article 2 of the Convention. It therefore does not consider it necessary to examine this complaint separately.

*Ozgur Gundem v. Turkey* (2000) Appl. no. 23144/93

Para 42: The Court has long held that, although the essential object of many provisions of the Convention is to protect the individual against arbitrary interference by public authorities, there may in addition be **positive obligations** inherent in an effective respect of the rights concerned. It has found that such obligations may arise under Article 8 (see, amongst others, the *Gaskin v. the United Kingdom* judgment of 7 July 1989, Series A no. 160, pp. 17–20, §§ 42–49) and Article 11 (see the *Plattform “Ärzte für das Leben” v. Austria* judgment of 21 June 1988, Series A no. 139, p. 12, § 32). Obligations to take steps to **undertake effective investigations** have also been found to accrue in the context of Article 2 (see, for example, the *McCann and Others v. the United Kingdom* judgment of 27 September 1995, Series A no. 324, p. 49, § 161) and Article 3 (see the *Assenov and Others v. Bulgaria* judgment of 28 October 1998, *Reports 1998–VIII*, p. 3290, § 102), while a positive obligation to take steps to protect life may also exist under Article 2 (see the *Osman v. the United Kingdom* judgment of 28 October 1998, *Reports 1998–VIII*, pp. 3159–61, §§ 115–17).

Para 43: The Court recalls the key importance of freedom of expression as one of the preconditions for a functioning democracy. Genuine, effective exercise of this freedom does not depend merely on the State's duty not to interfere, but may require positive measures of **protection, even in the sphere of relations between individuals** (see *mutatis mutandis*, the *X and Y v. the Netherlands* judgment of 26 March 1985, Series A no. 91, p. 11, § 23). In determining whether or not a positive obligation exists, regard must be had to the fair balance that has to be struck between the general interest of the community and the interests of the individual, the search for which is inherent throughout the Convention. The scope of this obligation will inevitably vary, having regard to the diversity of situations obtaining in Contracting States, the difficulties involved in policing modern societies and the choices which must be made in terms of priorities and resources. Nor must such an obligation be interpreted in such a way as to impose an impossible or disproportionate burden on the authorities (see, among other authorities, the *Rees v. the United Kingdom*

judgment of 17 October 1986, Series A no. 106, p. 15, § 37, and the Osman v. the United Kingdom judgment cited above, pp. 3159–60, § 116).

Para. 44: In the present case, the authorities were aware that *Özgür Gündem*, and persons associated with it, had been subject to a series of violent acts and that the applicants feared that they were being targeted deliberately in efforts to prevent the **publication and distribution of the newspaper**. However, the vast majority of the petitions and requests for protection submitted by the newspaper or its staff remained unanswered. The Government have only been able to identify one protective measure concerning the distribution of the newspaper which was taken while the newspaper was still in existence. The steps taken after the bomb attack at the Istanbul office in December 1994 concerned the newspaper's successor. The Court finds, having regard to the seriousness of the attacks and their widespread nature, that the Government cannot rely on the investigations ordered by individual public prosecutors into specific incidents. It is not convinced by the Government's contention that these investigations provided adequate or effective responses to the applicants' allegations that the attacks were part of a concerted campaign which was supported, or tolerated, by the authorities.

Para. 45: The Court has noted the Government's submissions concerning its strongly held conviction that *Özgür Gündem* and its staff supported the PKK and acted as its propaganda tool. This does not, even if true, provide a justification for failing to take **steps effectively to investigate** and, where necessary, provide protection against unlawful acts involving violence.

Para. 46: The Court concludes that the Government have failed, in the circumstances, to comply with their **positive obligation** to protect *Özgür Gündem* in the exercise of its **freedom of expression**.

Para 49: The Court finds that the operation, which resulted in **newspaper production being disrupted** for two days, constituted a serious interference with the applicants' freedom of expression. It accepts that the operation was conducted according to a procedure "prescribed by law" for the purpose of preventing crime and disorder within the meaning of the second paragraph of Article 10. It does not, however, find that a measure of such dimension was proportionate to this aim. No justification has been provided for the **seizure of the newspaper's archives**, documentation and library. Nor has the Court received an explanation for the fact that every person found on the newspaper's premises had been taken into custody, including the cook, cleaner and heating engineer. The presence of forty persons who were not employed by the newspaper is not, in itself, evidence of any sinister purpose or of the commission of any offence.

Para 50: As stated in the Commission's report, the **necessity for any restriction** in the exercise of freedom of expression must be convincingly established (see, among other authorities, the Otto–Preminger–Institut v. Austria judgment of 20 September 1994, Series A no. 295–A, p. 19, § 50). The Court concludes that the search operation, as conducted by the authorities, has not been shown to be necessary, in a democratic society, for the implementation of any legitimate aim.

Para 71: The Court concludes that the respondent State has failed to take adequate **protective and investigative measures** to protect *Özgür Gündem's* exercise of its freedom of expression and that it has imposed measures on the newspaper, through the search–and–arrest operation of 10 December 1993 and through numerous prosecutions and convictions in respect of issues of the newspaper, which were disproportionate and unjustified in the pursuit of any legitimate aim. As a result of

these cumulative factors, the newspaper ceased publication. Accordingly, there has been a breach of Article 10 of the Convention.

See also *Dink v. Turkey* (2010) Appl. no. 2668/07, paras. 106 and 137.

### **Article 6 – Right to a fair trial**

1. In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. Judgment shall be pronounced publicly but the press and public may be excluded from all or part of the trial in the interests of morals, public order or national security in a democratic society, where the interests of juveniles or the protection of the private life of the parties so require, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice. ...

### **Article 13 – Right to an effective remedy**

Everyone whose rights and freedoms as set forth in this Convention are violated shall have an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity.

*Kilic v. Turkey* (2000) Appl. no. 22492/93

Para 73: Secondly, the cases examined by the Convention organs concerning the region at this time have produced a series of findings of failure by the authorities to investigate allegations of wrongdoing by the security forces, both in the context of the procedural obligations under Article 2 of the Convention and the requirement for **effective remedies imposed by Article 13** (see, concerning Article 2, the *Kaya v. Turkey* judgment of 19 February 1998, *Reports* 1998–I, pp. 324–26, §§ 86–92; the *Ergi v. Turkey* judgment of 28 July 1998, *Reports* 1998–IV, pp. 1778–79, §§ 82–85; the *Yaşa* judgment cited above, pp. 2454–57, §§ 98–108; *Çakıcı v. Turkey* [GC], no. 23657/94, § 87, ECHR 1999–IV; and *Tanrikulu* cited above, §§ 101–11; concerning Article 13, see the judgments cited above and the *Aksoy v. Turkey* judgment of 18 December 1996, *Reports* 1996–VI, pp. 2286–87, §§ 95–100; the *Aydın v. Turkey* judgment of 25 September 1997, *Reports* 1997–VI, pp. 1895–98, §§ 103–09; the *Menteş and Others v. Turkey* judgment of 28 November 1997, *Reports* 1997–VIII, pp. 2715–16, §§ 89–92; the *Selçuk and Asker v. Turkey* judgment of 24 April 1998, *Reports* 1998–II, pp. 912–14, §§ 93–98; the *Kurt v. Turkey* judgment of 25 May 1998, *Reports* 1998–III, pp. 1188–90, §§ 135–42; and the *Tekin v. Turkey* judgment of 9 June 1998, *Reports* 1998–IV, pp. 1519–20, §§ 62–69). ...

Para 91: The Court reiterates that Article 13 of the Convention guarantees the **availability at the national level of a remedy** to enforce the substance of the Convention rights and freedoms in whatever form they might happen to be secured in the domestic legal order. The effect of Article 13 is thus to require the provision of a domestic remedy to deal with the substance of an “arguable complaint” under the Convention and to grant appropriate relief, although Contracting States are afforded some discretion as to the manner in which they conform to their Convention obligations under this provision. The scope of the obligation under Article 13 varies depending on the nature of the applicant's complaint under the Convention. Nevertheless, the remedy required by Article 13 must be “effective” in practice as

well as in law, in particular in the sense that its exercise must not be unjustifiably hindered by the acts or omissions of the authorities of the respondent State (see the following judgments cited above: Aksoy, p. 2286, § 95; Aydın, pp. 1895–96, § 103; and Kaya, pp. 329–30, § 106).

Given the fundamental importance of the right to protection of life, Article 13 requires, in addition to the **payment of compensation** where appropriate, a **thorough and effective investigation** capable of leading to the identification and punishment of those responsible for the deprivation of life and including effective **access for the complainant to the investigation procedure** (see the Kaya judgment cited above, pp. 330–31, § 107).

Para 93: The authorities thus had an obligation to carry out an **effective investigation** into the circumstances of the killing of the applicant's brother. For the reasons set out above (see paragraphs 79–82), no effective criminal investigation can be considered to have been conducted in accordance with **Article 13, the requirements of which are broader than the obligation to investigate imposed by Article 2** (see the Kaya judgment cited above, pp. 330–31, § 107). The Court finds therefore that the applicant has been denied an effective remedy in respect of the death of his brother and thereby access to any other available remedies at his disposal, including a claim for compensation.

Consequently, there has been a violation of Article 13 of the Convention.

See also *Dink v. Turkey* (2010) Appls. nos. 2668/07, ..., 7124/09, paras. 44 and 145.

## **Protocol to the Convention for the Protection of Human Rights and Fundamental Freedoms (Paris, 20 March 1952)**

### **Article 1 – Protection of property**

Every natural or legal person is entitled to the peaceful enjoyment of his possessions.

No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.

The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties.

## **C. APPLICABLE CASE-LAW**

*Kilic v. Turkey* (2000) no. 22492/93

The applicant complained that the respondent state was responsible for the death of his brother Kemal Kılıç, a journalist, through the lack of protection and for the failure to provide an effective investigation into his death.

Held: violation of Article 2 (substantive and procedural aspect); violation of Article 13

<http://cmiskp.echr.coe.int/tkp197/view.asp?item=1&portal=hbkm&action=html&highlight=22492/93&sessionid=70102612&skin=hudoc-en>

*Ozgur Gundem v. Turkey* (2000) no. 23144/93

The applicants, owners and staff of a newspaper, invoking Article 10 of the Convention complained that the newspaper *Özgür Gündem* was forced to cease publication due to the campaign of attacks on journalists and others associated with the newspaper and due to the legal steps taken against the newspaper and its staff.

Held: violation of Article 10

<http://cmiskp.echr.coe.int/tkp197/view.asp?item=1&portal=hbkm&action=html&highlight=23144/93&sessionid=70103206&skin=hudoc-en>

*Dink v. Turkey* (2010) nos. 2668/07, ..., 7124/09

The applicants complained that the state authorities failed to take effective measures to protect the life of Firat Dink, a prominent journalist, who had received death threats from racist groups.

Held: violation of Article 2 (both substantive and procedural aspect); violation of Article 10; violation of Article 13.

<http://cmiskp.echr.coe.int/tkp197/view.asp?item=1&portal=hbkm&action=html&highlight=2668/07/&sessionid=70103447&skin=hudoc-en>

## **D. NON-BINDING INSTRUMENTS OF THE COUNCIL OF EUROPE**

### ***1. Resolution 1535 (2007) Threats to the lives and freedom of expression of journalists***

Text adopted by the Assembly on 25 January 2007 (7th Sitting).

...

5. The Assembly recalls the legal obligation of member states, in accordance with Articles 2 and 10 of the ECHR, to investigate any murders of journalists as well as acts of severe physical violence and death threats against them. This obligation stems from the individual journalist's rights under the Convention as well as from the necessity for any democracy to have functioning media free from intimidation and political threats. Where attacks against journalists can be carried out with impunity, democracy and the rule of law suffer.

...

11. The Assembly calls on all parliaments concerned to conduct parliamentary investigations into the unresolved murders of journalists as well as attacks and death threats against them, in order to shed light on individual cases and develop as a matter of urgency effective policies for the greater safety of journalists and their right to carry out their work without threats.

...

<http://assembly.coe.int/main.asp?Link=/documents/adoptedtext/ta07/eres1535.htm>

– *Declaration of the Committee of Ministers on Council of Europe action to improve the protection of human rights defenders and promote their activities*  
(Adopted by the Committee of Ministers on 6 February 2008 at the 1017th meeting of the Ministers' Deputies)

...

2. Calls on member states to:

...

ii) take effective measures to protect, promote and respect human rights defenders and ensure respect for their activities;

iii) strengthen their judicial systems and ensure the existence of effective remedies for those whose rights and freedoms are violated;

iv) take effective measures to prevent attacks on or harassment of human rights defenders, ensure independent and effective investigation of such acts and to hold those responsible accountable through administrative measures and/or criminal proceedings;

v) consider giving or, where appropriate, strengthening competence and capacity to independent commissions, ombudspersons, or national human rights institutions to receive, consider and make recommendations for the resolution of complaints by human rights defenders about violations of their rights;

vi) ensure that their legislation, in particular on freedom of association, peaceful assembly and expression, is in conformity with internationally recognised human rights standards and, where appropriate, seek advice from the Council of Europe in this respect;

...

<http://www2.ohchr.org/english/issues/defenders/docs/DeclarationHRDCoECommitteeMinisters.doc>

## ***2. Guidelines of the Committee of Ministers of the Council of Europe on eradicating impunity for serious human rights violations***

(Adopted by the Committee of Ministers on 30 March 2011 at the 1110th meeting of the Ministers' Deputies)

Preamble

...

Considering that impunity must be fought as a matter of justice for the victims, as a deterrent to prevent new violations, and to uphold the rule of law and public trust in the justice system, including where there is a legacy of serious human rights violations;

...

Stressing that the full and speedy execution of the judgments of the Court is a key factor in combating impunity;

...

Recalling the importance of the right to an effective remedy for victims of human rights violations, as contained in numerous international instruments – notably in Article 13 of the Convention, Article 2 of the United Nations International Covenant on Civil and Political Rights and Article 8 of the Universal Declaration on Human Rights – and as reflected in the United Nations General Assembly's Principles and

Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law;

...

Adopts the following guidelines and invites member states to implement them effectively and ensure that they are widely disseminated, and where necessary translated, in particular among all authorities responsible for the fight against impunity.

I. The need to combat impunity

...

II. Scope of the guidelines

...

III. General measures for the prevention of impunity

...

IV. Safeguards to protect persons deprived of their liberty from serious human rights violations

...

V. The duty to investigate

...

VI. Criteria for an effective investigation

...

Adequacy

...

Thoroughness

...

Impartiality and independence

...

Promptness

...

Public scrutiny

...

VII. Involvement of victims in the investigation

...

VIII. Prosecutions

...

IX. Court proceedings

....

X. Sentences

...

XI. Implementation of domestic court judgments

...

XIII. Accountability of subordinates

...

XIV. Restrictions and limitations

...

XV. Non-judicial mechanisms

...

XVI. Reparation

...

[http://www.coe.int/t/dghl/standardsetting/hrpolicy/DH-I/CM\\_GuideLines\\_Impunity\\_March2011\\_en.pdf](http://www.coe.int/t/dghl/standardsetting/hrpolicy/DH-I/CM_GuideLines_Impunity_March2011_en.pdf)

## **E. CONCLUSION**

The system of the European Convention has provided a legal framework for the repression of violence against the person, and by extension, violence against media professionals. Specific protective measures and procedural guarantees have been defined by the jurisprudence of the European Court of Human Rights. The newly published 'Guidelines of the Committee of Ministers of the Council of Europe on eradicating impunity for serious human rights violations' reflect the standards and the obligations established by said jurisprudence. As a matter of law, the Convention arguably offers a comprehensive and consistent legal response for the protection of journalists against violence and the measures that must be implemented to counter impunity.