

EUROPEAN PARLIAMENT



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A3-0257/93

REPORT

of the Committee on Foreign Affairs and Security

on the protection of the rights of journalists on dangerous missions

Rapporteur: Mr Jan Willem BERTENS

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**|| Cooperation procedure (second reading) requiring the votes of a majority of the current Members of Parliament
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At the sitting of 12 March 1990 the President of the European Parliament announced that he had forwarded the motion for a resolution by Mr Romeos (B3-0233/90) on protection for journalists' rights, pursuant to Rule 63 of the Rules of Procedure, to the Committee on Foreign Affairs and Security as the committee responsible.

At its meeting of 17 July 1990 the committee decided to draw up a report.

At its meeting of 16 October 1990 it appointed Mr Defraigne rapporteur.

At its meeting of 19 February 1992 it appointed Mr Bertens to replace Mr Defraigne as rapporteur.

At its meetings of 25 and 26 February, 1 July and 22 September 1993 the committee considered the draft report.

At the last meeting it adopted the resolution as a whole unanimously.

The following were present for the vote: Catherwood, acting chairman, Cassanmagnago Cerretti, vice-chairman; Crampton, vice-chairman; Bertens, rapporteur; Cheysson, Dillen, Fernández Albor, Gaibisso, Habsburg, Holzfluss, Jepsen, Kostopoulos (for Avgerinos, pursuant to Rule 111(2)), Langer, Llorca Vilaplana, McMillan-Scott, Musso (for Guermeur), Onesta, Oostlander (for Bethell), Penders, Pesmazoglou, Piecyk, Poettering, Prag (for Bonetti), van Putten (for Woltjer), Romberg, Titley and Trivelli.

The report was tabled on 23 September 1993.

The deadline for tabling amendments will appear on the draft agenda for the part-session at which the report is to be considered.

A
MOTION FOR A RESOLUTION

on the protection of the rights of journalists on dangerous missions

The European Parliament,

- having regard to the motion for a resolution by Mr Romeos on protection for journalists' rights (B3-0233/90),
- having regard to the report by the Committee on Foreign Affairs and Security (A3-0257/93),
- A. whereas press freedom is one of the conditions underpinning stable democracy and the defence of human rights and is therefore indispensable as a basic component of a democratic order,
- B. whereas free and independent journalism makes a major contribution to the process of forming critical views,
- C. whereas journalists and the mass media, i.e. the press, radio and television, are the main channels for the dissemination of ideas and information,
- D. recalling that guarantees for the protection of journalists laid down in conventions and agreements fall within the general framework of respect for human rights and the right to information,
- E. whereas, however, international humanitarian law in its present form protects the physical integrity of the journalist as an individual, but makes no provision for the protection of the journalist's profession in conflict situations or under other hazardous circumstances,
- F. whereas, despite the efforts of international organizations and associations which seek to ensure journalists' safety in the exercise of their profession, violations of their rights in war zones, regions with flashpoints and countries with repressive régimes are reported every day,
- G. whereas, in 1991, 72 journalists were murdered for practising their profession and a total of 1264 instances of aggression against journalists in 100 countries was registered,
- H. whereas, in addition, 324 journalists were imprisoned, 164 subjected to threats, 156 ill-treated, 151 taken to court and 42 deported, in all cases as a result of practising their profession, and whereas 96 newspapers were seized, 66 newspapers, radio stations and television channels banned and 27 newspapers, radio stations and TV channels raided,
- I. whereas a further 61 journalists at least were murdered in 1992, and whereas on 1 January 1993 123 journalists were being held in connection with their professional activities, some of them having been sentenced to long terms of imprisonment, while many times that number were arrested and released during 1992,

- J. deeply concerned at the worrying increase worldwide in persecution of the press and journalists, which is shown in reports by international journalists' associations and human rights organizations,
- K. fearing that, in the absence of adequate protective measures, this situation will persist as long as wars, coups, abuse of power, intolerance and lawlessness continue,
- L. whereas, in many countries, press freedom is muzzled both by means of legal or administrative measures and through acts of violence, and whereas aggression which threatens the lives of journalists may lead to de facto censorship,
- M. whereas the threat of violation of the journalist's physical integrity and fear of the imposition of an administrative penalty may result in self-censorship, which is arguably still more dangerous, since it preserves the illusion of independent reporting,
- N. whereas no objective data are available on certain countries, as independent journalists are not allowed access to them, or to certain regions within them,
- O. whereas it is European Parliament policy to foster pluralism, freedom of expression and guaranteed freedom for the mass media,
- P. whereas existing international conventions do not provide journalists on dangerous missions - writers, photographers and cameramen - and technicians with enough protection to enable them to perform their duties properly,
- Q. aware of the efforts of international journalists' organizations and human rights organizations to secure greater freedom and protection for journalists on hazardous missions,
- R. convinced that an efficient worldwide security network would require a financial effort on a scale beyond the capacity of these organizations, and that it will clearly also involve the responsibility of governments,
1. Calls on all countries to provide protection for pluralism and the freedom of expression of the media;
 2. Calls on the Commission and Council to:
 - urge the signatories of international conventions on the subject to fulfil their obligations and to consider ways of exerting greater pressure on them to abide by their commitments on human rights in general and specifically on the freedom of the press;
 - take immediate steps, on hearing of further violations of human rights and civil liberties, to draw such violations to the attention of the governments concerned and to urge them to adopt specific protection measures;

3. Calls on the Commission and Council to develop, to this end, specific policy instruments, including the following:
 - the establishment and constant updating of a 'blacklist' documenting the number and nature of violations of journalists' rights per country, so as to increase psychological pressure on the governments of the countries concerned;
 - the inclusion of specific clauses on journalists' rights in commercial and cooperation agreements and association agreements between the Community and third countries;
 - EC support for radio stations, television channels and the printed media in regions where there is no guarantee of independent and objective reporting, in cooperation with institutions such as 'EuroNews' and the world broadcasting services of the Member States;
4. Calls on the Commission and Council to urge the governments and authorities concerned to:
 - provide journalists with every opportunity to practise their profession, in order to guarantee objective and independent reporting;
 - provide journalists with as much protection as possible against terrorist organizations, for whom they are a target because of their professional activities, even when they are not on a dangerous mission;
 - conduct thorough investigations into the causes of journalists' deaths and to bring those responsible to justice, irrespective of whether they belong to terrorist organizations or government institutions;
 - re-examine the issue of rigorous sanctions against journalists for insulting the authorities and in respect of unfounded accusations of sedition;
 - refrain from cutting off their countries or regions thereof from independent reporting by refusing access to journalists, but, rather, to grant accreditation on the basis of a press pass issued by press bodies such as the internationally recognized professional associations and the recognized media;
 - take appropriate measures on the spot to ensure that journalists can move around freely in disputed areas and thus to guarantee independent news gathering;
 - step up efforts to protect journalists and help them practise their profession in safety;
5. Recommends the provision of training programmes which would effectively increase journalists' chances of surviving in war zones;
6. Calls on the European Parliament to designate the Subcommittee on Human Rights as a central coordinating point to maintain contact with the international journalists' organizations, so that immediate representations can be made to the persons responsible for these violations;

7. Calls on the Commission to consider without delay how it can provide financial support for international journalists' organizations in their initiatives and measures to protect journalists in the exercise of their profession when on hazardous missions;
8. Instructs its President to forward this resolution to the Commission, the Council and the Member State governments.

B.

EXPLANATORY STATEMENT

INTRODUCTION

The European Parliament is strongly in favour of a policy of pluralism, freedom of expression and guaranteed freedom for the mass media. On countless occasions it has expressed in resolutions its concern at the lack of protection and security for journalists on dangerous missions, most recently in connection with the death of journalists in Turkey and the lack of protection for journalists working in Yugoslavia.

Despite the efforts of international organizations and associations committed to protecting journalists' safety in a professional context, violations of human rights and the right to information are reported daily from war zones and regions with flashpoints.

In 1991 61 journalists were murdered and a total of 1264 instances of aggression against journalists were recorded in 100 countries. In addition, 24 journalists were imprisoned, 164 threatened, 156 mistreated, 151 taken to court and 42 deported. Over 90 newspapers were seized, 66 newspapers, radio stations and television channels banned and 27 newspapers, radio stations and TV channels raided.

Up to September 1992 51 journalists were killed, 5 of them in Bosnia-Herzegovina, 2 in Croatia, 8 in Colombia and 6 in Peru. The twelfth journalist to be killed in Turkey last year died in November.

This report relates mainly to journalists on dangerous missions which place at risk both journalists' safety as individuals and their freedom to practise their profession. This may happen in international armed conflicts or comparable situations such as states of emergency, riots and martial law.

The term 'journalist' should be understood in the widest sense. It is used here to refer to all those who play an indispensable role in the exercise of the profession.

FUNDAMENTAL DEMOCRATIC RIGHTS AND THE JOURNALIST

The right to information and freedom of expression are fundamental rights in a democracy. All citizens should have access to information relevant to them. The government and the competent authorities have a duty to guarantee the availability and dissemination of information. In too many countries the freedom of expression is respected only where the outcome is favourable to the authorities or of little consequence. Genuinely democratic countries guarantee freedom of expression even in cases where matters displeasing to the authorities may come to light.

The concomitant freedom to gather information is a necessary condition for genuine use of the freedom of information. The freedom of expression is also a right which guarantees the protection and maintenance of other fundamental rights. It is, after all, a channel through which human rights abuses may come to light.

Journalists are the instrument par excellence whereby the fundamental right of freedom of expression and the right to receive information may be guaranteed. They are highly vulnerable in practising their profession. In countries with totalitarian regimes and regions with flashpoints, in particular, they need specific protection - because journalists in such regions are targets for acts of violence aimed at covering up war crimes and human rights violations as far as possible. The impact of the media on domestic and international public opinion is, after all, not without risks for the regimes concerned.

THE RISKS JOURNALISTS RUN

Data gathered over the last ten years show that the risks facing journalists are numerous and highly diverse.

During hostilities or in tense situations journalists may be killed or injured, wantonly murdered, mistreated, arrested or abducted.

They may also be hindered from practising their profession in the following ways:

They may be the target of an administrative sanction such as confiscation of equipment, films or documents, making it impossible for them to continue with their work. They may be forbidden to make use of the appropriate channels of communication. They may even be deported as persona non grata without any proper reason being given.

They may be refused renewal of their residence and work permit, a visa or accreditation and access to certain regions.

Administrative sanctions are the government's prerogative. In some cases the law allows the government to promulgate administrative measures at will. The concept of public or national security can be interpreted very broadly. In such cases, the state has de facto control over the information made available to the domestic and international public.

The risk of violation of the journalist's physical integrity and the fear of imposition of an administrative sanction can lead to self-censorship, which is even more dangerous, since it maintains the illusion of independent reporting.

INTERNATIONAL PROTECTIVE MEASURES AND THEIR IMPACT

While international humanitarian law protects the physical integrity of journalists as individuals, it lays down no provisions on the protection of their profession in war situations.

The Universal Declaration of Human Rights (1948) states that freedom of expression includes freedom to seek, receive and impart information and ideas regardless of frontiers. (Article 19).

- While Article 19 covers the right to information, it does not guarantee that the right can be enforced.

The International Covenant on Civil and Political Rights (1966) also includes a provision on the subject (Article 19(2)). However, it allows for certain restrictions of the right to information where these are in the interests of national security or public order (Article 19(3)).

- Under this last provision, press freedom can be muzzled to a large extent in wartime.

Under the Third Geneva Convention (1949), certain categories of people who accompany the armed forces without actually being members thereof, such as war correspondents, are to be regarded as prisoners of war if they fall into enemy hands (Article 4(4)). In all other eventualities they enjoy the same protection as ordinary citizens.

- This article does not make adequate provision for all situations in which journalists require protection. Not only is provision made for protection in international armed conflicts only, but such protection is also limited to the period of imprisonment.
- While there are advantages in prisoner-of-war status, the drawback is that it also entails limits on freedom of movement. The military authorities are entitled to restrict the freedom of movement of war correspondents or even to forbid them to accompany troops.
- Journalists who have no accreditation with the armed forces fall entirely outside the provisions of Article 4.

Protocol I (1977) of the Geneva Convention (1949) confers civilian status on war correspondents and journalists carrying out dangerous missions during international conflicts (Article 79); they consequently enjoy absolute immunity.

All of the provisions of the Conventions and Protocol I which relate to the protection of civilians in international conflicts therefore apply to journalists as well. The protection accorded to the civilian population is not linked to any particular nationality. In this context, this therefore means that all journalists enjoy protection, whether they are nationals of a state which is a party to the conflict or of a neutral state. Nor do they lose civilian status by carrying out a dangerous mission in a war zone, or even by accompanying the armed forces or making use of their logistic support.

- Consequently, protection is provided only in the above situations. No protection is provided in armed conflicts which fall outside the above definition, such as domestic disturbances and non-international conflicts.

Protocol II (1977), which focuses precisely on protection for victims of non-international armed conflicts, does not define any particular protected category. This implies that journalists therefore enjoy the same protection as all other civilians.

Article 3, which is common to all four 1949 Geneva Conventions, confirms a number of fundamental rules for the protection of persons, with particular reference to arbitrary measures. It provides protection in line with minimum humanitarian standards, not on the basis of a legal statute.

- Whilst the status of journalists in international conflicts is relatively clear, this is far less true of internal conflicts.

- There can be no doubt that the signing of the two protocols added to the 1949 Geneva Conventions represented a major step forward in the development of international humanitarian law. However, there is little basis for optimism. In practice, enforcement leaves much to be desired.

The European Convention on Human Rights and Fundamental Freedoms (1950) lays down the rights of imprisoned persons.

'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.' (Article 6(1)).

Everyone charged with a criminal offence has the right to be informed promptly, in a language which he understands, of the nature of the accusation against him, to defend himself in person or through legal assistance of his own choosing, and to have the free assistance of an interpreter if he cannot understand or speak the language used in court. (Article 6(3)).

'Everyone has the right to freedom of expression. (...) This article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.' (Article 10).

The Concluding Document of the Follow-up Conference on Security and Cooperation in Europe (CSCE) (Vienna 1989) states the following: 'Recalling that the legitimate pursuit of journalists' professional activity will neither render them liable to expulsion nor otherwise penalize them, they (*the participating states*) will refrain from taking restrictive measures such as withdrawing a journalist's accreditation or expelling him because of the content of the reporting of the journalist or of his information media.'

The Concluding Document of the CSCE Conference on the Human Dimension (Moscow 1991) stresses that human rights and fundamental freedoms are a direct concern of all participating states and do not belong exclusively to the internal affairs of individual states.

- The freedom of expression and the right to information are confirmed. Any restrictions on these rights must be laid down in law in accordance with international standards. Independent media are essential for a free and open society. (Article 26)
- There can be no justification for declaring a state of emergency in order to overthrow a democracy or to eradicate recognized human rights and fundamental freedoms. (Article 28(1)).
- Where necessary, the participating states shall take measures to protect journalists on dangerous missions, particularly in armed conflicts. They shall cooperate together to this end.
- Missing journalists shall be traced. (Article 34)

Problems specific to the profession:

Here we are faced with a paradox. On the one hand, it is in journalists' interests to have as much protection as possible. On the other hand, too high a degree of visible protection will prevent investigatory journalists, in particular, from working effectively.

Civil and military authorities do not like being checked up on. On many occasions, journalists engaged in an investigation displeasing to the authorities have been imprisoned on wholly different grounds. For instance, Robert Cullen of 'Newsweek' was expelled from the Soviet Union in 1984 for infecting a prostitute with a venereal disease, and on 11 October 1987 two American journalists were ambushed and killed by Afghan government forces.

People involved with journalists can also be at risk if they are too widely recognized. It can even be suspicious to talk to a journalist.

If journalists are not given the opportunity to practise their profession effectively and to gather information through the normal channels, they will resort to more unorthodox methods, which may put their safety at considerable risk. Governments and the competent authorities can threaten journalists with death or imprisonment or make their work impossible through expulsion, seizure of equipment or refusal to issue visas.

Clearly, the main problems in this area are in countries which are not party to any international conventions.

This chapter draws on Michiel Elst's article in Studia Diplomatica, Vol. XLIV, 1991, No.4.

ATTITUDES OF INTERNATIONAL JOURNALISTS' ASSOCIATIONS

Given that journalists play an important role in guaranteeing the fundamental rights of freedom of expression, the right to information and the right to be informed, their protection should be guaranteed to enable them to practise their profession in safety.

Efforts to do so through a specific statute on the protection of journalists have proved somewhat controversial.

The aim of the UN draft convention on the protection of journalists (1973) was to improve the situation of journalists on dangerous missions by establishing a special journalists' charter. In order to enjoy special protection, they would need to hold a special identity card issued and controlled by an International Professional Committee which was to be set up. Another idea was a special badge which it would have been compulsory to wear. However, the professional associations were afraid that this would lead to restrictions on the freedom of movement and independence of journalists, particularly if the granting of this special charter were to lead to an international system of licensing and control. They were not prepared to exchange press freedom for safety and therefore rejected all proposals for an international identity card for journalists.

Third World countries were able to agree to accreditation provided that it was given by the host country, not by a supranational professional committee.

The draft convention came to nothing because the question of who should issue identity cards could not be resolved. The international journalists' associations take the view that the question of who counts as a journalist should be left to the journalists themselves and both registration and a professional code are the concern of the professional associations themselves.

In 1954, for instance, the International Federation of Journalists, which now has some 300 000 members, drew up an international code of conduct, the Bordeaux Code; this was revised in 1986. In 1971 the journalists' associations of the then six EC Member States drew up a declaration on the rights and duties of journalists.

In the opinion of all democratic journalist's associations, accreditation should be granted on the basis of a press card issued by press organizations such as the internationally recognized professional associations and the recognized media. The press card may be used to obtain certain facilities necessary to the profession.

Political organizations must not arrogate to themselves the right to issue press cards. Governments should provide appropriate facilities on presentation of a press card issued by a press organization. If this rule is not applied, journalists will be licensed in such a way that authorities can decide who is or is not eligible for a press card.

INITIATIVES FOR THE PROTECTION OF JOURNALISTS

The various organizations concerned with the violation of the freedom of expression worldwide have taken initiatives to improve the safety and protection of journalists practising their profession.

Via the DINE project set up by the International Federation of Journalists, Amnesty International, the organisations Article 19 and Index on Censorship, the New York Committee to Protect Journalists and the International Red Cross, these organizations have a permanent link with the UN database, thus enabling campaigns to be coordinated whenever a journalist is in serious trouble.

On a proposal by the North American National Association, a hotline has been set up in cooperation with the International Red Cross. This is a telephone number which can be called at any time of the day or night by a journalist's family, his editor's office, the national professional association to which he belongs and any international professional association of which he is a member. Any time a journalist is in danger, the Red Cross can be asked to intervene via this number.

Vaarious journalists' associations such as the IFJ, the World Press Freedom Committee and the Inter-American Press Association, as well as journalists' employers, such as the three major American channels ABC, CBS and NBC, have drawn up guidelines for journalists sent to war zones.

In cooperation with the International Federation of Journalists, the European Community has set up a pilot project entitled 'Journalisme sur le terrain' ('Journalism in the field') for 1991-1992. Within the framework of the project, experienced journalists are sent to Central and Eastern Europe to advise journalists there on professional ethics. This project has been adopted for 1991-1992.

There is a pressing need for an international contact point to protect journalists' safety. However, there is a lack of centralized agreements and organizations. For instance, there are seven different lists of journalists killed in connection with their work in circulation. The number of journalists killed and the names vary from list to list.

A start has been made in the form of the International Freedom of Expression Exchange (IFEX) Clearing House. This is a computer network linked up to a large number of human rights organizations. Its purpose is to receive information about violations of rights from its members and to disseminate it. Information about campaigns run by individual IFEX members comes in on a daily basis.

The members of IFEX are: Article 19, the Canadian Committee to Protect Journalists, the Committee to Protect Journalists, the Fund for Free Expression, Index on Censorship, International Pen, American Pen, International Federation of Newspaper Publishers, Reporters sans Frontières, Reporteros sin Fronteras and the West African Journalists Association.

A proposal has recently been made at the instigation of the International Federation of Journalists (IFJ) for the establishment of an independent international network called 'Reporters' Support' to help improve journalists' safety. Its main tasks will be to maintain an international alarm network and to present a reliable list of journalists killed in the course of their work each year. Subsidiary tasks will include education and training and coordination with other human rights organizations.

CONCLUSION

Journalists should have free access to any country which their work requires them to visit, and should be able to practise their profession there in safety and independence.

The conclusions of the report may be summarized in the following two paragraphs:

The journalist

There should be a simple way for journalists to obtain a visa.

The host country should grant accreditation freely.

The host country should be provided with a guarantee that the person concerned is a genuine journalist. This may be done in two ways:

1. Recognition by established press organizations and journalists' associations.
2. In connection with the above, issue of an identity card (press card) by press organizations and journalists' associations. All journalists should be able to identify themselves as such if necessary.

Policy

As many countries as possible should accede to the relevant international conventions.

Whenever journalists' rights and freedoms have been endangered - whether through death, disappearance, imprisonment or unjust expulsion - representations must be made to the government in question.

The CSCE conference in Moscow (1991) represents a step in the right direction. The principle of non-interference in domestic matters where human rights violations are concerned is gradually losing its immutable status, so that future improvements in the position of journalists reporting on domestic conflicts are conceivable.

The project 'Journalisme sur le terrain' should be followed up. If journalists in Central and Eastern Europe, Africa and elsewhere learned the meaning of democracy and what is meant by a journalist, and if they had an international professional association to rely on, this might help to bring about a gradual reduction in aggression against journalists.

The initiatives of the international journalists' associations are funded by journalists themselves. Although some funds do exist, the money available is insufficient to set up an efficient worldwide professional network. The question of how the European Community can contribute here must be considered.

The European Parliament should use information provided by and be briefed by the international journalists' network, once it is in operation. Good coordination is vital. In view of this, the Subcommittee on Human Rights of the Committee on Foreign Affairs and Security should be designated as a contact point, thus enabling Parliament to take immediate action.

MOTION FOR A RESOLUTION

(B3-0233/90)

on the protection of the rights of journalists
by Mr Romeos pursuant to Rule 63 of the Rules of Procedure

The European Parliament,

- A. whereas despite the efforts of international organizations and elected bodies - such as the European Parliament - for the protection of human rights, those rights are violated daily throughout the world,
 - B. whereas freedom of speech and information is both the foundation of democracy and a pre-condition for the defence of all other human rights,
 - C. recognizing that freedom of speech and information is a basic component in the development of international cooperation and a rapprochement between nations,
 - D. believing that glasnost, the product of perestroïka, has enabled the Press of the East European States to open the way for democratic changes in those countries,
 - E. whereas journalists and the mass communication media (the press and radio and television) constitute a channel for the dissemination of ideas and information,
 - F. whereas in many countries the exercise of the profession of journalism and freedom of the Press are hampered by legislative measures and acts of violence,
1. Notes that the volume of data collected by the International Federation of Journalists on the persecution of the Press and journalists throughout the world is disturbing;
 2. Regards as especially worrying the fact that in 1988 alone 43 journalists were killed in the performance of their duties, hundreds of others were wounded and thousands are in prison;
 3. Maintains that, with the current emergence of a new Europe, we must play a wider part in promoting the principles of democracy, the protection of human rights and international solidarity; and undertakes to draw up each year a study of the violations of freedom of speech and information and a detailed record of cases of persecution of the Press and of journalists.