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The situation of human rights defenders in Council of Europe member states

Reply to Recommendation[1]: Recommendation 1866 (2009)
Committee of Ministers

1. The Committee of Ministers has taken note of Parliamentary Assembly Recommendation 1866 (2009) on "The situation of human rights defenders in Council of Europe member states", which it has brought to the attention of the member states' governments and communicated to the Steering Committee for Human Rights (CDDH) for comments. It recalls the commitment made by Heads of State and Government meeting at their Third Summit in Warsaw 2005 that the Council of Europe "shall – through its various mechanisms and institutions – play a dynamic role in protecting the right of individuals and promoting the invaluable engagement of non-governmental organisations, to actively defend human rights".

2. The Committee of Ministers considers that human rights defenders play an important role at national and international levels in ensuring the effective protection of individual rights and freedoms. It deeply regrets that they are often victims of violations of their rights, threats and attacks, despite efforts at both national and international levels. The Committee of Ministers condemns all attacks on human rights defenders.

3. In February 2008, the Committee of Ministers adopted a Declaration on Council of Europe action to improve the protection of human rights defenders and promote their activities. This declaration presents a set of provisions for states to observe for the protection of human rights defenders and promotion of their work. Whereas it acknowledges that primary responsibility and duty to promote and protect human rights defenders lies with the state, the Committee of Ministers underlines that the Council of Europe shall also contribute to creating an enabling environment for human rights defenders and to protecting them and their work in defending human rights. The declaration calls on member states to take a certain number of measures, including to "provide measures for swift assistance and protection to human rights defenders in danger in third countries, such as, where appropriate, attendance at and observation of trials and/or, if feasible, the issuing of emergency visas".

4. In the context of the follow-up to the 118th Ministerial Session (Strasbourg, May 2008), the Ministers' Deputies instructed the Steering Committee for Human Rights, in consultation with the Commissioner for Human Rights, to undertake a first review of the follow-up given to the Committee of Ministers' declaration and to report back. At the handover meeting of the Chairmanship of the Committee of Ministers between Slovenia and Switzerland on 18 November 2009, the Committee of Ministers took note of a report on the follow-up given to its declaration. On the same occasion, the Committee of Ministers reaffirmed its condemnation of all attacks on and violations of the rights of human rights defenders in Council of Europe member states or elsewhere, whether carried out by state agents or non-state actors. It also welcomed the work undertaken in this field by all Council of Europe bodies and institutions and reiterated its call to these bodies to pay special attention to issues concerning human rights defenders in their respective work.

5. The Committee of Ministers has on several occasions highlighted the important role played by the Council of Europe Commissioner for Human Rights in protecting and supporting human rights defenders. It welcomes the useful information contained in the Commissioner's 2008 annual activity report as well as the

1. adopted at the 1081st meeting of the Ministers' Deputies (31 March 2010)

report he published in March 2009 on the Round Table on the situation of human rights defenders in Europe.[2] The Committee of Ministers recalls that the Commissioner's competences are particularly suitable for effective contribution to the protection of human rights defenders. The Committee also welcomes the Assembly's statement that it will actively co-operate with and help the Commissioner with this task when the need arises. It notes that the Commissioner works in close co-operation with other intergovernmental organisations and institutions.

6. Regarding efforts seeking to put an end to impunity for human rights violations, the Committee of Ministers refers, *inter alia,* to ongoing work in the CDDH, which is currently elaborating a set of guidelines against impunity for human rights violations. These guidelines will be completed towards the end of 2010.

7. The Committee of Ministers supports the Assembly's call for increased focus on human rights defenders within the Council of Europe's human rights awareness-raising and training activities, notably those concerning law-enforcement bodies and the media. As regards media freedom, it wishes to draw the Assembly's attention to its Declaration on measures to promote respect for Article 10 of the European Convention on Human Rights adopted on 13 January 2010 and to its invitation to the Secretary General to make arrangements for improved collection and sharing of information and enhanced co-ordination in the field of freedom of expression and information, including freedom of the media. In this context, the Committee of Ministers has also made a call on all member states to co-operate with the relevant bodies and institutions of the Council of Europe in ensuring compliance of national law and practice with the relevant standards of the Council of Europe, guided by a spirit of dialogue and co-operation.

8. Finally, the Committee of Ministers welcomes the work of the Council of Europe Conference of International Non-Governmental Organisations and its Expert Council on NGO Law. It recalls the work under way to follow-up the implementation of its Recommendation CM/Rec(2007)14 on the legal status of non-governmental organisations in Europe, which stipulates that NGOs should enjoy the right to freedom of expression and all other universally and regionally guaranteed rights and freedoms applicable to them.

2. CommDH(2009)15 – Strasbourg, 20 March 2009 – Report of the Round Table on the situation of human rights defenders in the member states of the Council of Europe, organised by the Office of the Commissioner for Human Rights (Strasbourg, 3-4 November 2008)

Comm DH(2009)12 – Strasbourg, 22 April 2009 – Annual activity report 2008 by Thomas Hammarberg, Commissioner for Human Rights of the Council of Europe presented to the Committee of Ministers and the Parliamentary Assembly

Appendix to the reply

Comments by the Steering Committee for Human Rights (CDDH)

1. Considering particularly the recent assassinations of human rights defenders,[3] the Steering Committee for Human Rights (CDDH) can only join in on the concerns expressed by the Parliamentary Assembly in its Recommendation 1866 (2009) on "The situation of human rights defenders in Council of Europe member states". The CDDH remains convinced of the essential importance of the protection of human rights defenders, who play a fundamental role in the promotion and protection of human rights and who contribute in a crucial way to the efforts put in place within the framework of international human rights, as it was underlined in the Declaration of the Committee of Ministers on Council of Europe action to improve the protection of human rights defenders and promote their activities, adopted on 6 February 2008.

2. In the first place, the CDDH refers to its activity report from 2008[4] and recalls that the aforementioned declaration is a common minimum norm which the states must observe for the protection of human rights defenders and promotion of their work. The primary responsibility and duty to promote and protect human rights defenders lies with the state. In this regard, the declaration orders member states to take a certain number of measures, namely "provide measures for swift assistance and protection to human rights defenders in danger in third countries, such as, where appropriate, attendance at and observation of trials and/or, if feasible, the issuing of emergency visas".

3. In its activity report, the CDDH underlined that the Council of Europe has an important role to play by contributing to the creation of an environment favourable to human rights defenders and that the Commissioner should reinforce his key role. Similarly, the CDDH has invited the Council of Europe to carry out its activities concerning human rights defenders in direct co-operation and in complementarity with other intergovernmental organisations, mainly the OSCE, the European Union and the United Nations.

4. In this sense, the CDDH thus welcomes the terms of the Recommendation 1866 (2009). Regarding the efforts seeking to eradicate violations of the rights of human rights defenders and to put an end to impunity for these violations, the CDDH wishes to remind of the work that it is currently carrying out in relation to the feasibility of guidelines against impunity for human rights violations. This work should be accomplished in 2010.

5. Furthermore, the CDDH welcomes the report prepared by the Commissioner for Human Rights in 2009 and recalls that this body has competences particularly suitable for effective contribution to the protection of human rights defenders.

3. See the statements of the Parliamentary Assembly of the Council of Europe from 16 July and 11 August 2009.
4. CDDH activity report on Council of Europe action to improve the protection of human rights defenders and promote their activities, adopted on 6 February 2008.