

# ON STUDENT AND UNIVERSITY BROADCASTING

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# On Student And University Broadcasting

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# DO RULES ON THE PROTECTION OF JOURNALISTS EXTEND TO MEDIA WORKERS ENGAGED IN CAMPUS AND STUDENT BROADCASTING ORGANISATIONS?

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**Abstract:** Free flow of information and ideas lies at the heart of the very notion of democracy and is crucial to effective respect for human rights. Freedom of expression and the right to information are exercised, *inter alia*, through pluralist media – newspapers, audio and visual broadcasting systems, but also through electronic media. An ideal broadcasting system comprises the public service, commercial and community broadcasting. Community broadcasting responds to the social and cultural needs of a defined community, usually in opposition to mainstream media. Campus and student broadcasting organizations are a form of community broadcasting, and are also a powerful educational tool. Student or campus broadcasting organizations can therefore simultaneously empower learners and expand democracy.

In recent years, media workers have been increasingly targeted around the world and there is disquieting evidence of the scale of such threats. In an attempt to mitigate this problem, global and regional organizations have developed legal instruments and mechanisms to advance the protection of journalists. On global level, the United Nations are at the forefront of these efforts, while, on the regional level, Europe has developed most advanced legal instruments aimed at the protection of journalists.

Threats similar to those sustained by media workers employed by public or commercial media can also affect those engaged in campus or student radio and TV stations. This can be particularly problematic if national legislations recognize the necessary level of protection only to registered journalists.

The paper will analyse global and regional standards for the protection of journalists and media workers as well as best practice models from European countries. The authors will investigate whether national legislations

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and jurisprudence protect media workers in student broadcasting systems in the same manner as registered journalists and formulate recommendations for improvement of legislation and practice based on this analysis.

**Key words:** community media; journalist; freedom of expression

# 1. INTRODUCTION

Free flow of information and ideas lies at the heart of the very notion of democracy and is crucial to effective respect for human rights.[1] This notion has been confirmed a number of times by international and regional human rights authorities.[2] For instance, the Human Rights Committee has stated in its General Comment No. 34 that the freedom of opinion and the freedom of expression "constitute the foundation stone for every free and democratic society"<sup>4</sup> A similar position had previously been affirmed by the European Court of Human Rights in the case *Handyside v UK* in 1976, "freedom of expression constitutes one of the essential foundations of such a society, one of the basic conditions for its progress and for the development of every man."<sup>5</sup> Freedom of expression and the right to information are exercised, *inter alia*, through pluralist media – newspapers, audio and visual broadcasting systems, and also through electronic media.

An ideal broadcasting system comprises the public service, commercial and community broadcasting. Community broadcasting is a form of broadcasting particularly important because responds to the social and cultural needs of a defined community, usually in opposition to mainstream media. It has developed in response to the needs of grassroots social movements and community based-organisations to find accessible and affordable means to express their own issues and concerns.[3] Campus and student broadcasting organizations are a form of community broadcasting, as well as a powerful educational tool. Student or campus broadcasting organizations can therefore simultaneously empower learners and expand democracy.

In recent years, media workers have been increasingly targeted around the world and there is disquieting evidence of the scale of such threats.[4] In an attempt to mitigate this problem, global and regional organizations have developed legal instruments and mechanisms to advance the protection of journalists. On global level, the United Nations are at the forefront of these efforts, while, on the regional level, Europe has developed most advanced legal instruments aimed at the protection of journalists. International and regional instruments promulgate a series of standards related to various mechanism of journalist's protection, covering issues such as protection of confidentiality of sources, guaranteed right to free legal aid in criminal and civil

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<sup>4</sup> Human Rights Committee, General Comment No 34 on Article 19 on freedom of opinion and expression, CCPR/C/GC/34, 11 September 2011, para 2

<sup>5</sup> Application No 5493/72, Judgment 7 December 1976 at para 49

proceedings, decriminalization of defamation and improved police protection of journalists. Many of these principles are reaffirmed in national legislation. However, what national laws seem to be lagging behind in, compared to supranational instruments, is the response to the changing landscape in which the freedom of expression and freedom of information is exercised – traditional media reporting and journalistic work is increasingly complemented or even replaced by online media content, which is not necessarily created by journalists. It is therefore legitimate to ask whether all those who create media content, regardless of whether they are registered journalists, citizen journalists, bloggers or students creating media content to be used by campus or university broadcasting service, are equally protected against threats to freedom of expression and freedom of media.

This paper will first provide an overview of the most important legal instruments on global and European level that concern the protection of journalists and other media workers. It will then explore the best practices regarding the definition of a journalist in legal acts governing the protection of journalists. In the end, it will consider the implications of such regulation to student/campus broadcasting organisations.

## **2. INTERNATIONAL STANDARDS ON PROTECTION OF JOURNALISTS – GLOBAL AND REGIONAL**

As explained before, there is a number of supra-national legal instruments that envisage some level or form of protection of journalists. This is an overview of such instruments on global and European levels:

(1) Universal Declaration on the Rights of Man – envisages freedom of opinion and expression in its Article 19. This right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media.

(2) Geneva Conventions of 1949 – regulate the treatment of civilians, including journalists, and other persons who do not directly participate in armed conflict. Article 19 of Additional Protocol I states that "journalists engaged in dangerous professional missions in areas of armed conflict shall be considered as civilians"

(3) International Covenant on Civil and Political Rights<sup>6</sup> envisages the right to hold opinion without interference and the right to freedom of

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<sup>6</sup> International Covenant on Civil and Political Rights.

expression in its Article 19. In 2011, this Article was a subject of the General Comment of the Human Rights Committee No. 34<sup>7</sup>, which imposes on the states the obligation to adopt adequate laws and good practices and mechanism in order to protect the freedom of opinion and freedom of expression.

(4) Human Rights Council Resolution 21/12<sup>8</sup> - Condemns in the strongest term all attacks and violence against journalists, expresses its concern that there is a growing threat to the safety of journalists posed by non-State actors.

(5) Resolution 12/16<sup>9</sup> on freedom of expression, which voices a concern over violations of the freedom of expression and the right to ask, which continue to occur, and include extrajudicial killing, arbitrary detention, torture, intimidation, persecution and harassment, discrimination, and censorship against persons who exercise and seek to promote these rights, including journalists, writers, other media workers, internet users and human rights defenders.

(6) Special procedures of the Human Rights Council – are one of the mechanisms put in place to protect freedom of expression. In 1993 the mandate of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression was established. In its 2012 report, the Rapporteur has given most attention to the rights of journalists, given the increase in the number of journalist who were killed that year (104).

(7) UN Security Council Resolution 1738<sup>10</sup> - underscores that states must comply with the relevant obligations under international law to end impunity and to prosecute those responsible for serious violations of international humanitarian law. In addition, the Resolution reminds parties to armed conflicts of their obligations to protect journalists, those working in the media and associated personnel, and to prevent acts of violence and retribution.[5]

(8) Recommendation CM/Rec(2016)4 of the Committee of Ministers to member States on the protection of journalism and safety of journalists and other media actors – This recommendation can be considered as the sublimation of current best practice in adopting laws and mechanisms to protect journalists. The Recommendation, adopted on April 13, 2016, provides

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<sup>7</sup> Human Rights Committee 102nd session Geneva, 11-29 July 2011, General comment No. 34.

<sup>8</sup> Resolution adopted by the Human Rights Council 21/12 Safety of journalists.

<sup>9</sup> A/HRC/12/L.14/Rev.1 30 September 2009.

<sup>10</sup> Security Council Resolution 1738 (2006) of 23 December 2006, S/RES/1738.



guidelines that are "designed to meet the many-faceted challenge of ensuring the effective protection of journalism and safety of journalists and other media actors". The guidelines are divided into four categories, based on subject-matter: prevention, protection, prosecution, promotion of information, education and awareness raising. Firstly, the Recommendation orders the states to ensure independence of the media and safeguard media pluralism, including the independence and sustainability of public-service media and community media. The states should particularly re-examine its legislation in order to ensure that the effective exercise of these principles is ensured through regulatory and administrative mechanisms. The Recommendation stresses the need to decriminalize defamation, or, if defamation is incriminated, the need to ensure freedom of expression safeguards that comply with all relevant international instruments. When it comes to protection, the Recommendation reads that states should take appropriate preventive operational measures e.g. providing police protection, particularly if such protection is requested by media actors. The Recommendation stresses it is imperative for everyone involved in killings of, attacks on and ill-treatment of journalists and other media actors to be brought to justice. The states are obliged to ensure effective investigations of such cases. It is important that the Recommendation extends this requirement to "ill-treatment of journalists and media actors", reaffirming the idea that not only physical threats to the safety of journalists require adequate prosecution – states should protect journalist particularly having in mind their vulnerability, especially when they report on politically sensitive topics. In addition, states should eliminate all barriers that prevent journalists from collecting and publishing information of public importance.

(9) Vilnius Recommendations on Safety of Journalists, 8 June 2011 include a set of guidelines for national governments, legislatures, law-enforcement agencies and the media to ensure safe working conditions for journalist. They stress the need for speedy and effective investigations in cases of violence against journalists, improvements of national regulatory frameworks in order to ensure media freedoms, free access to information of public importance and protection of sources of information, alongside the need to establish good practices that would ensure the safety of journalists.

The obligations the states have as a part of their duty to ensure effective exercise of human rights, including the freedom of expression and freedom of opinion, regardless of whether they impose positive or negative obligations on the state, can be grouped in the following manner:

Preventing that measures related to tax treatment, registration and accreditation of journalists, and the termination of employment from being

implemented in an arbitrary manner, since such actions would result in the prevention of freedom of expression<sup>11</sup>

Protection of confidentiality of journalist's sources<sup>12</sup>

Protection of journalists' business and living premises<sup>13</sup>

Establishment and development of media self-regulation bodies and initiatives<sup>14</sup>

Prevention of gender-based violence against female journalists<sup>15</sup>

Guaranteed right to free legal aid to journalists in civil and criminal proceedings<sup>16</sup>

Adoption and effective implementation of media ownership regulations<sup>17</sup>

Control of national regulatory framework and practice by independent bodies<sup>18</sup>

Establishment and promotion of mechanism resulting in effective investigation and prosecution of those involved in attacks against journalists<sup>19</sup>

Decriminalisation of defamation<sup>20</sup>

Improved police protection of journalists<sup>21</sup>

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<sup>11</sup> COE Recommendation, 2016, p.2-6, para 13, para 37; EU Guidelines, p. 16; European Charter on Freedom of Press

<sup>12</sup> COE Recommendation, 2016, para. 2, p.1 and Article 4, European Charter on Freedom of Press; Recommendation 1950 (2011) of the CoE Parliamentary Assembly on the protection of journalists' sources; Recommendation No. R (2000) 7 of the Committee of Ministers to member states on the right of journalists not to disclose their sources of information; Resolution of the European Parliament on confidentiality for journalists' sources and the right of civil servants to disclose information, (adopted in 1993, A3-0434/93, reported in The Official Journal of the European Communities on 18 January 1994, No. C 44/34); CSCE Concluding Document of 1986 Vienna Meeting.

<sup>13</sup> ECtHR 27 November 2007, Tillack v. Belgium, application no. 20477/05.

<sup>14</sup> EU Resolution, para. 9, p. 8

<sup>15</sup> COE Recommendation, 2016, para.2, p. 1.

<sup>16</sup> COE Recommendation, 2016, p. 6 , para 36.

<sup>17</sup> COE Recommendation, 2016, para. 15, p.5; EU Guidelines, p.8.

<sup>18</sup> COE Recommendation, 2016, p.2, para. 4.

<sup>19</sup> UN Human Rights Committee General Comment No. 34, General Assembly Resolution 68/163 of 18 December 2013, A/RES/68/163.

<sup>20</sup> COE Recommendation, 2016

<sup>21</sup> *Ibidem*.

### 3. DEFINITION OF JOURNALIST – BEST INTERNATIONAL AND NATIONAL PRACTICES

The question of who can be classified as a journalist is significant not only because certain rights and privileges flow from the title of “journalist”, but also because certain individuals may be targeted by virtue of playing or being identified with that role.[6] The response to that question, however, is complicated because of the changing media landscape and the ever-increasing online presence of traditional media, which also feature users's comments and own contributions, to media contents developed and intended to be used only online and dissemination of information and creation of media contents through social networks and community media. International and regional human rights instruments have, in response to this challenge, adopted a broad and functional approach to the notion of journalist.<sup>22</sup> Consequently, the definition of a journalist has opened up to include other types of media workers. [7] Thus, for instance, the UN Special Rapporteur on freedom of opinion and expression, Frank la Rue, stated in the 2012 Report of the Special Rapporteur to the Human Rights Council on the protection of journalists and media freedom<sup>23</sup> that "journalists are individuals who observe and describe events, document and analyse events, statements, policies and proposition that can affect society, with the purpose of systematizing such information and gathering of facts and analyses to inform sectors of society or society as a whole. Such a definition of journalists includes all media workers and support staff, as well as community media workers and so-called "citizen-journalists" when they momentarily play that role." The Human Rights Committee has, however, focused on the practice of journalism – in General Comment No. 34 interpreting Article 19 of the International Covenant on Civil and Political Rights, the Committee stated that "journalism is a function shared by a wide range of actors, including professional full-time reporters and analysts, as well as bloggers and others who engage in forms of self publication in print, on the internet or elsewhere, and general State systems of registration or licensing of journalists are incompatible with paragraph 3".[8] This broad interpretation of the notion of a journalist has also been supported in the case law of the European Court of Human Rights. Namely, in its decision in the case *Társaság a Szabadságjogokért v. Hungary*<sup>24</sup> the Court recognised "the civil society's important contribution to the discussion of public affairs", and recognised that a non-governmental organisation involved in matters of public interest is

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<sup>22</sup> Ibid.

<sup>23</sup> A/HRC/20/17, available at <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G12/137/87/PDF/G1213787.pdf?OpenElement>

<sup>24</sup> Application no. 37374/05

exercising a role as public watchdog, which is of similar importance to that of the press, and that the limitation of its access to information constituted a violation of Article 10 of the ECHR. This principle was confirmed in the cases of *Animal Defenders International v. the United Kingdom*<sup>25</sup> and *Youth Initiative for Human Rights v. Serbia*<sup>26</sup>. This position was reaffirmed in the 2016 Recommendation of the Council of Europe Committee of Ministers to member States on the protection of journalism and safety of journalists and other media actors. The Recommendation expressly states that the definition of media actors has expanded as a result of new forms of media in the digital age, and that it includes others who contribute to public debate and who perform journalistic activities or fulfil public watchdog functions.<sup>27</sup> Moreover, the Recommendation has emphasised that "Ongoing technological developments have transformed the traditional media environment, as described, *inter alia*, in CM/Rec(2011)7 on a new notion of media, leading to new conceptions of media and new understandings of the evolving media ecosystem. Advances in information and communication technologies have made it easier for an increasingly broad and diverse range of actors to participate in public debate. Consequently, the European Court of Human Rights has repeatedly recognised that individuals, civil society organisations, whistle-blowers and academics, in addition to professional journalists and media, can all make valuable contributions to public debate, thereby playing a role similar or equivalent to that traditionally played by the institutionalised media and professional journalists".<sup>28</sup>

It is therefore clear that international and regional human rights instruments award protection not only to journalists who are registered as such or who are employed by traditional media, but also to media workers more generally, particularly to those who perform the function of a public watchdog.

National legislations in some countries have followed the same line of reasoning, either in their regulatory acts or in their jurisprudence. However, most European national legal systems (including Eastern European) do not contain a legal definition of "journalist".[9] In the Eastern European region, the Republic of Croatia and the FYROM do represent an exception in that respect.

The Belgian Act on the Confidentiality of Journalistic Sources of April 2005 included provisions that enabled journalists not to disclose their sources and consequently has prohibited investigative measures against journalists

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<sup>25</sup> Application no. 48876/08

<sup>26</sup> Application no. 48315/06

<sup>27</sup> Recommendation CM/Rec(2016)4, paragraph 4.

<sup>28</sup> Recommendation CM/Rec(2016)4, paragraph 9.

that could jeopardize the confidentiality of their sources. Article 2, paragraph 1 of the Act defined journalists as "every employed or self-employed person and legal entity who regularly and directly contributes to the collection, edition, production or distribution of information to the public through a medium". After the Act came into force and started to be implemented, an action for annulment was brought before the Belgian Constitutional Court. It was filed by a person who occasionally wrote contributions for newspapers and also published online, and these contributions were sometimes based on information from sources who wanted to stay anonymous.[10] The applicant challenged the restrictive definition of journalist in the above-mentioned Act, claiming it was discriminatory and that it constituted a violation of the freedom of expression, as guaranteed by Article 19 of the Belgian Constitution. The Belgian Constitutional Court ruled that everyone undertaking journalistic activities could invoke the rules of the Act that guarantee the freedom of the press.<sup>29</sup> The Court decided that Article 2, paragraph 1 of the above-mentioned Act violated the Belgian Constitution and also Article 10 of the ECHR by its restrictive definition of journalist. The Court annulled a part of Article 2 of the Act, which then read that the Act applied to "everyone who directly contributes, edits, produces or disseminates information aimed at the public via a medium". This broad definition would imply that, e.g. bloggers, but also those working in campus and community media, would also be protected.[11]

USA Free Flow of Information Bill of 2013 provides statutory protection for the "reporters' privilege" — legal rules which protect journalists against the government requiring them to reveal confidential sources or other information. Article 11 of the Bill defined "covered journalist" as a person "who is, or on the relevant date, was, an employee, independent contractor, or agent of an entity or service that disseminates news or information by means of newspaper; nonfiction book; wire service; news agency; news website, mobile application or other news or information service (whether distributed digitally or otherwise); news program; magazine or other periodical, whether in print, electronic, or other format; or through television or radio broadcast, multichannel video programming distributor, or motion picture for public showing". The definition was criticized since it was interpreted that it only covers traditional and online media, it draws the line at posts on Twitter, blogs or social media from non-journalists.

However, in 2014, in the *Obsidian Finance Group v. Crystal Cox* case, the US court found that even though someone might not write for the "institutional press," they're entitled to all the protections the Constitution grants

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<sup>29</sup>Constitutional Court decision 91/2006 of June 7, 2006.

journalists. This ruling extended application of the statutory protection of journalist and made bloggers legally equivalent to journalist. Judge Andrew Hurwitz explained that the protections of the First Amendment do not turn on whether the defendant was a trained journalist, formally affiliated with traditional news entities, engaged in conflict-of-interest disclosure, went beyond just assembling others' writings, or tried to get both sides of a story.[12] As the Supreme Court has accurately warned, a First Amendment distinction between the institutional press and other speakers is unworkable: "With the advent of the Internet and the decline of print and broadcast media the line between the media and others who wish to comment on political and social issues becomes far more blurred."

Beside Federal Free Flow of Information Bill, the US states adopted their own legislation in this regard. The definition of journalist is different from state to state. Instead of defining who qualifies to invoke the reporter's privilege based upon a particular medium, some states embrace a definition of reporter based on the function of journalism. While some state statutes only provide the reporter's privilege to persons employed by an established media entity, other states apply it to any "person who is or has been directly engaged in the gathering, procuring, compiling, editing, or publishing of information for the purpose of transmission, dissemination, or publication to the public".<sup>30</sup> State legislatures have rightly extended the privilege to all persons who gather and disseminate news to the public rather than limiting protection to only professional journalists.

State courts have also wrestled with whether a reporter's privilege covers non-traditional journalists, including freelance writers,<sup>31</sup> authors,<sup>32</sup> documentary filmmakers,<sup>33</sup> academics,<sup>34</sup> and independent research consultants.<sup>35</sup> Hawaii is the only state to specifically include whether bloggers are protected by its shield law if certain conditions are met: "Non-traditional news gatherers, e.g., bloggers, are protected if (1) the individual invoking the

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<sup>30</sup> Minnesota State § 595.023 (2004).

<sup>31</sup> See *People v. Von Villas*, 13 Cal. Rptr. 2d 62, 78-79 (Cal. Ct. App. 1992) (holding California privilege applied to freelance author).

<sup>32</sup> See e.g., *Shoen*, 5 F. 3d at 1290-91.

<sup>33</sup> See *Silkwood v. Kerr-McGee Corp.*, 563 F.2d 433, 436-37 (10th Cir. 1977) (holding privilege applied to documentary filmmaker whose "mission...was to carry out investigative reporting for use in the preparation of a documentary film").

<sup>34</sup> See *Cusumano*, 162 F.3d at 714.

<sup>35</sup> See *Summit Tech., Inc. v. Healthcare Capital Group, Inc.*, 141 F.R.D. 381, 384 (D. Mass. 1992)(holding independent research consultant was "engaged in the dissemination of investigative information to the investing business community" on "matters of public concern," and was therefore "entitled to raise the claim of privilege").

privilege regularly participates in reporting or publishing news of significant public interest, (2) the person holds a position similar to a traditional journalist or newscaster, and (3) the public interest is served by extending the protection of the statute.”<sup>36</sup>

The definition of journalist contained in Article 2 paragraph 8 of the Media Law of the Republic of Croatia<sup>37</sup> is not sufficiently broad, as it solely refers to the professional journalists. More precisely, it encompasses natural persons involved in collecting, processing, designing or classifying information for publishing through the media provided that the journalist is employed with the media publisher on the basis of a work contracts, or perform journalist activities as an independent profession in accordance with law.<sup>38</sup> In other words, it implies that certain categories of media actors other than professional journalists are not protected by the Croatian Media Law. Therefore, the key shortcoming of the notion of journalist as it is referred to in the Media Law relates to the fact that other categories are covered neither by the definition of journalist in the sense of the Media Law, nor by creation of the separate category of „other media actors“ to whom would be guaranteed the equal level of protection.

This definition is not in line with the abovementioned Council of Europe and United Nations documents. Apparently, the mere referral to the European Convention on Human Rights made in Article 1 of the Media Law *per se* does not constitute strong safeguard nor provide sufficient guidelines for the strict compliance with the Council of Europe instruments.<sup>39</sup>)

The restrictiveness of the definition of journalist in the sense of Article 2 of the Media Law recently also gave rise to initiation of the proceeding for review of compliance of this provision with the Constitution before the Croatian Constitutional Court. The Constitutional Court of the Republic of Croatia rendered the ruling in June of 2016, finding that the definition of journalist limited to the category of professional journalists set by Article 2 of Media Law is in line with the journalists’ right to freedom of reporting stipulated by the Croatian Constitution.<sup>40</sup> By doing so, the court implicitly opted for the approach

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<sup>36</sup> See Privilege Compendium, <http://www.rcfp.org/privilege/index.php?op=browse&state=HI>

<sup>37</sup> Media Law (Consolidated version, Official Gazette of the Republic of Croatia 59/04, 84/11, 81/13).

<sup>38</sup> Media Law, Article 2, para. 8.

<sup>39</sup> Article 1 paragraph 2 of the Media Law stipulates that the provisions of this Law shall be applied and interpreted in line with the European Convention on the Protection of Human Rights and Fundamental Freedoms.

<sup>40</sup> Ruling of the Constitutional Court of the Republic of Croatia of 3th of June 2016, no: U-I-578/2013.

whereby the protection guaranteed to professional journalists should differ from the protection guaranteed to other categories of journalists and media actors.

The recently adopted Law on Media of the FYROM contains almost identical wording as the aforementioned Media Law of the Republic of Croatia.<sup>41</sup> The restrictiveness of this definition which implicitly excludes all media actors except professional journalists already received considerable criticism from the expert community. [13]

Freedom of expression in the Netherlands is safeguarded under Article 7 of the Constitution, and free and independent media operate throughout the country. The Netherlands still lacks specific national legislation ensuring the right of journalists to protect their sources, [14] despite a landmark *Autoweek* judgment<sup>42</sup> of the European Court of Human Rights (ECHR) of 14 September 2010 ruling that media premises are exempt from police searches, and that police may not seize journalistic materials unless they obtain a warrant. Based on the of the ECHR decision it is necessary that the use of a coercive measure by which sources may be revealed is always tested in advance by the court. This requires an amendment of the law. In November 2012, the ECHR reinforced this principle with a ruling that the Netherlands had violated the European Convention on Human Rights when police used coercion to force two journalists to surrender documents in 2006.

The Board of Procurators General amended the text of its "Instructions for Use of Coercive Measures against Journalists".[15] The new regulation entered into effect on 1 March 2012. This concerns coercive measures such as monitoring and following journalists, searches of editorial premises and seizure of journalistic material. These new Instructions are an improvement of the journalists' position. The starting point is that the use of coercive measures against journalists to retrieve the identity of a source is not permitted. The use of a coercive measure is only permitted in the event of the detection and prevention of very serious offenses: crimes which may seriously damage the life, security or health of people, such as tracking down explosives in the event of an imminent attack, or detecting a suspect of whom it is suspected that he will commit serious crimes again. When there is no such 'very serious offense', no coercive measures may be used against journalists.

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<sup>41</sup> See. Article 2 paragraph 5 of the FYROM's Law on Media adopted in 2013: "Journalist shall mean a person who collects, analyses, processes, edits and/or classifies information published in a media and is employed by the media publisher or has an employment contract with the latter, or is a person who provides journalist activities as independent profession (freelance journalist) ".

<sup>42</sup> Cases of *Sanoma Uitgevers B.V v the Netherlands* (Application no. 38224/03)



In the Netherlands, the concept of 'journalist' includes everyone who professionally occupies himself with the collection and subsequent dissemination of information via the media. This includes members of the editorial staff, camera and sound crew. New media such as news sites and professional bloggers are also mentioned explicitly.

Italian law gives journalist the right to protect their sources.[16] But in Italy, journalist can work full time only if they are on the profession register and if they are properly trained and have passed professional exams before they can register and practice. Obtaining a license from Order of Journalist (ODG) is a lengthy procedure in which applicants must pass a professional qualification test, which generally costs about €400, after serving as an intern for at least 18 months. In Italy, one can work as a journalist if he or she is 21. Journalist can be removed from the registry if they violate code of the profession [17]. Such professional registration, "licensing" of journalist through an Order of Journalist is Italian specifics. Compared to other professional unions for journalists elsewhere in Europe, however, the Order of Journalist is quite a unique institution. In the rest of Europe, the journalistic profession is not regulated and limited by any external body. Journalists set up their own associations and unions, such as the National Union of Journalists in the UK and Ireland. These organizations are self-regulated like the ODG but they are not under the supervision of the Minister of Justice, nor do they require mandatory membership in order for one to practice journalism.

Media legislation in Sweden is based on a strong tradition of press freedom. It is all regulated in a basic law, Freedom of the Press Act dating back to 1766. Freedom is granted for the content of radio and television by a parallel basic law, the Freedom of Expression Act. Additional laws regulate organisational and technical conditions. Internet is generally treated like the press, meaning there are legal freedoms to establish sites and no restriction on contents. The Freedom of the Press Act provides protections to journalists' sources and guarantees access to information.<sup>43</sup> The basic laws on press freedom also grant citizens' access to public documents.

#### **4. IMPLICATIONS FOR CAMPUS AND COMMUNITY MEDIA**

Community media are understood as independent, civil society based media that operate for social benefit and not for profit.[18] Community media create an alternative both to national public broadcasters, which are often

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<sup>43</sup> Freedom of the Press, 2016 Report, Freedom House.

under government control, and to private commercial media. They play an important role in many countries, often in the form of community radio stations. Campus media are very similar to community media, particularly since they have very similar roles – both are almost always focused on local concerns and news, in a manner that is much more micro-oriented than conventional media [19]. In doing so, community and campus media play an important role within the national broadcasting systems, as they engage citizens and help shape the public debate. However, both community and campus media rely largely on the work of volunteers, i.e. unpaid labour and expertise of local residents and students who are not professional journalists, but rather citizen journalists. And while it is evident that campus and community media play an increasingly important role in the modern broadcasting systems worldwide<sup>44</sup> [20], [21], it does not seem to be evident that those engaged at community and campus media should be awarded the same level of protection that is granted to professional journalists. If that were not the case, their role in informing and engaging their communities, documenting and dissemination news, would be jeopardized, if not made impossible.

It is therefore imperative to ensure that national legislators, legal practitioners and law enforcement officials comply with the UN and COE interpretation of the freedom of expression, the result of which, as explained above, is that online journalists, citizen journalists, and organisations that seek, receive and impart information, are awarded the same level of protection as professional journalists. It is important to ensure that this interpretation is used irrespective of the definition of a journalist in national legislation and national jurisprudence, which, as shown above, can range from very broad to very narrow. To facilitate the transition from a restrictive interpretation of the notion of journalist to an interpretation that recognises the technological developments and the various forms of media in a pluralist society, information related to norms regulating the status of journalists and citizen journalists and the implications of the recent developments on international and regional level should be made accessible to the widest circle of media actors. Informed legislators, prosecutors, judges, law enforcement officials, journalist and citizen journalists can work together towards creating a pluralist and democratic broadcasting system of any country, in which campus media can effect both their educational role and their role in promoting a pluralist society.

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<sup>44</sup> According to Steve Buckley, there are indications that there are over 2000 community radio stations in the European Union alone.

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