App Nos. 65286/13

IN THE EUROPEAN COURT OF HUMAN RIGHTS

B E T W E E N :

KHADIJA ISMAYILOVA

Applicant

- v -

AZERBAIJAN

Respondent

(1) PEN INTERNATIONAL
(2) PRIVACY INTERNATIONAL
(3) ARTICLE 19
(4) COMMITTEE TO PROTECT JOURNALISTS
(5) INDEX ON CENSORSHIP
(6) INTERNATIONAL MEDIA SUPPORT
(7) INSTITUTE FOR REPORTERS' FREEDOM AND SAFETY
(8) INTERNATIONAL PARTNERSHIP FOR HUMAN RIGHTS
(9) PEN AMERICAN CENTER
(10) FRONT LINE DEFENDERS
(11) CANADIAN JOURNALISTS FOR FREE EXPRESSION
(12) INTERNATIONAL FEDERATION FOR HUMAN RIGHTS & WORLD ORGANISATION AGAINST TORTURE
(13) NORWEGIAN HELSINKI COMMITTEE
(14) HUMAN RIGHTS HOUSE FOUNDATION

Third Party Interveners

JOINT WRITTEN COMMENTS OF THE INTERVENERS[1]

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[1] Pursuant to leave granted by the President of the Fifth Section under Rule 44 §3 of the Rules of the Court, communicated by letter dated 22 March 2016 from the Section Registrar, C. Westerdiek.

INTRODUCTION

1. This application engages, and reinforces the importance of, the rights guaranteed by Articles 8 and 10 of the Convention to individuals targeted by the state for expressing critical views. Azerbaijan has one of the most restrictive environments for freedom of expression in the world.[2] State repression of journalists, media outlets, bloggers, and human rights defenders is widespread and severe. So far as relevant to this application, the repression takes two forms: state targeting of individuals and impunity for those who attack them.

2. The Third Party Interveners have long histories of working to support the rights to freedom of expression and to privacy as well as journalists, media outlets, bloggers, and others whose work both relies upon, and fosters, these rights. By this intervention, the Interveners draw on that expertise, to assist the Court in two ways:

    a. By providing the wider background against which the Court will determine this application (and related applications). The authorities have engaged, and continue to engage, in systematic repression of freedom of expression in Azerbaijan, including through the intimidation, targeting, and persecution of journalists and voices critical of the government. This repression has been made possible not only by state action but also by the failure by the state to protect against or investigate attacks, leading to a culture of impunity.

    b. By setting out the importance in this context of the positive obligations under both Articles 8 and 10 of the Convention, if the rights guaranteed by those provisions are to be effective. Azerbaijan, like other member states, must take necessary measures to protect journalists from breaches, or threatened breaches, of their Convention rights..

SECTION A: The systematic abuse of journalists and other dissenting voices in Azerbaijan has resulted in a culture of impunity.

3. Many of the Third Party Interveners, with other international governmental and non-governmental organisations, have long documented the deteriorating - and now dire - situation of journalists, bloggers, and human rights defenders in the country. Independent

[2] See Reporters without Borders' 2015 Press Freedom Index, which ranks the performance of 180 countries according to a range of criteria including media pluralism, independence, respect for the safety and freedom of journalists, and the legislative, institutional and infrastructural environment in which the media operate. The Index ranked Azerbaijan as 162nd: http://index.rsf.org/#!/. The Committee to Protect Journalists *Attacks on the Press* Report (2015 edition) lists Azerbaijan as number five in its list of 'Ten Most Censored Countries': https://cpj.org/2015/04/10-most-censored-countries.php.

journalists and activists face arrest, conviction and extended jail periods on spurious, politically-motivated charges. They also countenance violence and reprisals from state and non-state actors alike, which are treated with impunity. Against this backdrop, voices which challenge the government or the authorities have been effectively silenced.

4. The pattern of repression stems both from the authorities' infringements of the rights of the media and their failure to act when journalists or other critical voices come under attack. Eleven journalists, bloggers and other activists critical of the government are currently imprisoned.[3] Since 2005, five journalists have died in state custody or have been murdered. Most recently, **Rasim Aliyev,** a journalist and chairman of one of the Interveners, the Institute for Reporters' Freedom and Safety ("**IRFS**"), was attacked and died in hospital on 9 August 2015. Mr. Aliyev had previously received threats after posting a number of photographs online depicting instances of police brutality. These threats were reported to the authorities but no protective action was taken.[4]

5. Journalists have been targeted by both state agents and private individuals. No meaningful steps have been taken by the state to prevent or to investigate these attacks. We draw the following examples to the Court's attention:

   a. **Uzeyir Jafarov**, a journalist working for the *Gündəlik Azərbaycan* newspaper, was violently attacked in 2007 by unknown assailants several hours after publishing an article accusing a senior military officer of corruption and illegal activities. In its judgment of 29 January 2015, this Court found that Azerbaijan had breached its procedural obligations under Article 3 of the Convention by failing to carry out an effective investigation into Mr. Jafarov's ill treatment.[5]

   b. In March 2008, following threats, **Agil Khalil** was attacked by agents from the Ministry of National Security for trying to take photographs as part of an investigative story. No effective investigation was carried out and a prosecution was brought against an individual whom Mr. Khalil repeatedly denied had attacked him.[6] In proceedings before this Court, the State admitted that Mr. Khalil's treatment constituted a violation of his rights under Articles 2, 3, and 10 of the Convention.[7]

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[3] Ilgar Mammadov (who remains in detention despite a judgment from this Court finding that his detention and trial violated Articles 5 and 6 of the Convention), Khadija Ismayilova, Nijat Aliyev, Araz Guliyev, Seymur Haziyev, Arshad Ibrahimov, Rashad Ramazanov, Elvin Karamov, Faraj Karamov, Abdul Abilov, and Ilkin Rustamzadeh.

[4] See https://cpj.org/2015/08/in-azerbaijan-independent-journalist-dies-after-be.php.

[5] App. No. 54204/08, §§44-53.

[6] See http://www.rferl.org/content/article/1079639.html.

[7] App. No. 60659/08.

c. **Aghan Mukhtarli** was attacked by uniformed police officers in January 2009 while covering a rally in Baku, despite identifying himself as a member of the press. An official investigation was subsequently abandoned for lack of evidence and further requests to re-open the investigation were refused.[8]

d. In July 2010 **Elmin Badalov**, a reporter for *Yeni Musavat* newspaper, was attacked by seven unidentified men while taking photographs as part of an investigation into luxury property allegedly owned by the Transport Minister, Ziya Mammadov. The attackers threatened to kill Mr. Badalov if he published information on the subject, beat him unconscious, and broke his nose. The newspaper filed a complaint with the police. No investigation was undertaken.[9]

e. In April 2012, **Idrak Abbasov**, a correspondent for IRFS, was severely beaten by approximately 20 police and security guards from the State Oil Company of Azerbaijan ("**SOCAR**") when he attempted to film the demolition of local houses by SOCAR. According to Human Rights Watch, the authorities "*failed to thoroughly investigate this attack and conduct an impartial investigation into the conduct of SOCAR security guards and other law enforcement officials who were at the scene.*"[10]

f. In October 2013 a group of journalists covering a campaign event were attacked and seriously injured by onlookers. It was alleged that police officers were present at the event but refused to intervene. Following the attack, the OSCE Representative on Freedom of the Media called on authorities to launch an immediate investigation into the allegations.[11] No action has been taken.

6. Independent media organisations have likewise come under attack. The examples abound:

a. The offices of IRFS, an independent institute protecting the interests of journalists, were raided in August 2014 and its property was confiscated.[12] Its director, **Emin Huseynov**, was forced to flee Azerbaijan and has since been stripped of his citizenship. The institute's activities have since been restricted. In a recent judgment concerning the ill-treatment of Mr. Huseynov by police following his arrest in 2008, this Court

[8] Human Rights Watch, *Beaten, Blacklisted, and Behind Bars* (2010), p. 39: www.hrw.org/sites/default/files/reports/azerbaijan1010W.pdf.
[9] International Bar Association, '*Azerbaijan: freedom of expression on trial*' (April 2014), p. 25, located at: http://www.ibanet.org/Article/Detail.aspx?ArticleUid=e1192b49-6a7c-410d-a833-a17f5fd4bcbb.
[10] Human Rights Watch, *Azerbaijan: Concerns* (2 November 2012): https://www.hrw.org/news/2012/11/02/azerbaijan-concerns-regarding-freedom-media-and-freedom-expression.
[11] http://www.osce.org/fom/106710.
[12] See: https://cpj.org/2014/08/in-azerbaijan-media-watchdog-raided-equipment-conf.php.

found two violations of Article 3, a violation of Article 5.1 and a further violation of Article 11 of the Convention.[13]

b. In December 2014 the offices of Radio Free Europe-Radio Liberty in Baku, where the Applicant worked, were raided by armed police and closed.

c. Reporters from the independent news outlet Meydan TV have faced continual harassment, including imprisonment, searches of their homes, travel bans and repeated interrogations. Its director, Emin Milli, was forced into exile following prolonged imprisonment on what experts have stated as politically-motivated charges.[14]

7. These examples are illustrative, but not exhaustive. The combined effect of Azerbaijan's crackdown on free speech and the State's failure to investigate or punish attacks on critical voices has created and entrenched a climate of impunity.[15] Where punishment or sanction has ensued, it has largely targeted the attacked rather than their attacker.[16]

8. The Third Party Interveners welcome the pardoning of 148 prisoners, including journalists and political prisoners, by President Aliyev on 17 March 2016. However, this action, taken following the threat of sanctions by the United States,[17] does not diminish the urgency of the present application; nor does it signal a change of policy on the part of the State. Pardons have previously been issued by the President, only to be followed by further detentions of dissenting voices.[18] The Court is invited to note that less than a fortnight after the President's pardon, 78 year old writer Akram Aylisli was detained in Baku's main airport and prevented from travelling to Venice to participate in the Incroci di Civilta literature festival. Charges were eventually brought against Mr. Aylisli for "hooliganism" under Article 222.1 of the Criminal Code.[19]

9. International and regional human bodies have repeatedly called upon Azerbaijan to improve its respect for the right to freedom of expression, both through the release of imprisoned journalists and the end of reprisals against voices critical of the government. In particular:

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[13] App No. 59135/09.
[14] See https://cpj.org/2015/09/azerbaijani-authorities-continue-harassment-of-mey.php.
[15] See, *inter alia*, '*Azerbaijan in 2015: Silenced Voices*', Institute for Reporters' Freedom and Safety, December 2015: https://media.wix.com/ugd/06f121_9ab5d677b3124ff3acbd8810cf4bdfc4.pdf.
[16] Ibid, pp. 18-21.
[17] In December 2015 U.S. Representative Christopher Smith introduced a bill to the U.S. Congress intended to impose sanctions on Azerbaijan for what he referred to as its "*appalling human rights violations*": http://www.rferl.org/content/us-bill-seeks-sanctions-on-azeri-officials-for-appalling-rights-record/27432171.html.
[18] See Index on Censorship '*Baku 2015 European Games: Give human rights a sporting chance in Azerbaijan*', p. 11: https://www.indexoncensorship.org/wp-content/uploads/2015/06/IPGA-European-Games-Press-Pack-April-2015.pdf.
[19] See Index on Censorship '*Azerbaijan: Persecuted writer Akram Aylisli faces charges of "hooliganism"* (31 March 2016): https://www.indexoncensorship.org/2016/03/azerbaijan-akram/

a. **The Council of Europe.** In a 2014 update to his report on human rights in Azerbaijan, the Council of Europe Commissioner for Human Rights emphasised that the situation with regard to the right to freedom of expression had deteriorated.[20] On 1 September 2015 the Commissioner issued a statement condemning the applicant's imprisonment and expressed concern that the "*the authorities are continuing to silence critical voices in Azerbaijan*".[21] In December 2015 the Council of Ministers adopted an interim resolution in which they expressed "*deepest concern*" in respect of: (i) the arbitrary application of criminal legislation to limit freedom of expression; and (ii) the state's failure to take steps to protect critical voices.[22] On 16 December 2015 the Council of Europe's Secretary General announced a review into human rights compliance by Azerbaijan under Article 52 of the Convention.[23] This followed a Parliamentary Assembly Resolution on the functioning of democratic institutions in Azerbaijan which expressed deep concern "*about the increasing number of reprisals against independent media and advocates of freedom of expression in Azerbaijan*" and called on the government to stop reprisals against journalists.[24]

b. **The Organisation for Security and Co-operation in Europe.** The OSCE has added its voice to the criticism, with the OSCE Representative on Freedom of the Media drawing attention to the "*systematic and wide-scale persecution of independent voices in Azerbaijan […] a clear violation of the fundamental and basic human right of freedom of expression*".[25] The Representative has repeatedly highlighted and condemned the ill-treatment of journalists in Azerbaijan and has called on President Aliyev to ensure the safety of journalists and the media.[26]

c. **United Nations.** The most recent Universal Periodic Review of Azerbaijan in 2013 made numerous recommendations as regards the position of the media. Azerbaijan was urged to ensure that all human rights violations against human rights defenders and journalists were investigated effectively and transparently, with perpetrators being

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[20] https://wcd.coe.int/com.instranet.InstraServlet?command=com.instranet.CmdBlobGet&InstranetImage=2861581&SecMode=1&DocId=2150384&Usage=2.
[21] http://www.coe.int/en/web/commissioner/-/osce-representative-and-council-of-europe-commissioner-for-human-rights-condemn-sentencing-of-journalist-khadija-ismayilova-in-azerbaijan
[22] Interim Resolution CM/ResDH (2015) 250: https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=09000016805af010.
[23] http://www.coe.int/en/web/portal/full-news/-/asset_publisher/rfs6RdVHzAWb/content/secretary-general-launches-inquiry-into-respect-for-human-rights-in-azerbaijan
[24] Resolution 2062(2015): http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=21953&lang=en
[25] Statement of with OSCE Representative on Freedom of the Media, 16 April 2015: http://www.osce.org/fom/151301.
[26] http://www.osce.org/fom/106710; http://www.osce.org/fom/213301; http://www.osce.org/fom/179391; http://www.osce.org/fom/176611; http://www.osce.org/fom/204186; http://www.osce.org/fom/130076; http://www.osce.org/fom/126534; http://www.osce.org/fom/122389.

promptly brought to justice. It was also asked to protect media workers from reprisals for their publications.[27] On 19 August 2014, a joint declaration was issued by the UN Special Rapporteurs on the situation of human rights defenders, on the rights to freedom of peaceful assembly and of association, and on the promotion and protection of the right to freedom or opinion and expression, which condemned the growing tendency to prosecute prominent human rights defenders in Azerbaijan, and urged the government *"to show leadership and reverse the trend of repression, criminalization and prosecution of human rights work in the country."*[28]

10. This Court has repeatedly found Azerbaijan to be in breach of its obligations to protect journalists.[29] In particular, it has repeatedly found breaches of the state's investigative duty in this context.[30] Despite significant numbers of adverse judgments, Azerbaijan has failed to take steps to improve protection for journalists, or to investigate attacks upon them. It is telling that Intigam Aliyev, a lawyer who has brought more than 130 cases to this Court against Azerbaijan, was arrested in August 2014 and charged with tax evasion, illegal entrepreneurship and abuse of authority. Mr. Aliyev was one of the prisoners of conscience pardoned by the President in March 2016, after his seven-and-a-half year sentence was commuted to a five year suspended sentence.[31]

11. There are, in short, few remaining independent media outlets in Azerbaijan. Numerous local NGOs have been shut down and political protests are rare. Many opposition activists have fled the country or have been the subject of violence, arbitrary prosecution or detention. Journalists have lost their lives while their attackers have faced no sanction. The Interveners urge the Court to assess the present application (and related applications), concerning one of the few remaining independent voices in Azerbaijan, against this background.

SECTION B: Articles 8 and 10 of the Convention impose positive obligations on Azerbaijan to protect journalists.

12. The right to freedom of expression under Article 10 is rendered ineffective in an environment in which there is impunity for harassment, intimidation or violence directed against members of the media. The right is rendered similarly ineffective if, when a

[27] https://documents-dds-ny.un.org/doc/UNDOC/GEN/G13/154/65/PDF/G1315465.pdf?OpenElement, pp. 20-22.
[28] http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=14952&LangID=E
[29] See, e.g., *Tofig Yagublu v Azerbaijan* App. No. 31709/13, *Rasul Jafarov v Azerbaijan* App. No. 69981/14.
[30] *Emin Huseynov v Azerbaijan* App. No. 59135/09; *Rizvanov v Azerbaijan* App. No. 31805/06, *Uzeyir Jafarov v Azerbaijan; Mehdiyev v Azerbaiajn* App. No. 59075/09, *Hilal Mammadov v Azerbaijan*, App. No. 81553/12.
[31] See https://www.amnesty.org/en/press-releases/2016/03/azerbaijan-releases-human-rights-lawyer-intigam-aliyev/

journalist's Article 8 rights are engaged, there is a failure on the part of the state to carry out an effective investigation into the breaches, or threatened breaches, of the journalist's Convention rights.

13. It is well established that the "effective" exercise of the rights protected by the Convention does not depend only on the state's duty not to interfere, but may require positive measures.[32]

14. There is, in particular, a positive obligation under Article 10 on member states to take the necessary measures to prevent and to investigate conduct designed to restrict journalistic activity. In particular:

    a. In *Palomo Sanchez v Spain*,[33] the Grand Chamber held that "*the genuine and effective exercise*" of freedom of expression "*may require positive measures of protection, even in the sphere of relations between individuals.*"[34]

    b. In *Özgür Gündem v Turkey*,[35] this Court held that Turkey had violated Article 10 by failing to comply with its positive obligation: (i) to protect a newspaper and its staff from unlawful acts of violence; and (ii) to carry out an effective investigation into such acts. In so doing, the Court recalled "*the key importance of freedom of expression as one of the preconditions for a functioning democracy*".[36]

    c. These principles were reiterated with approval in *Dink v Turkey*[37] where this Court found, again in the context of obligations under Article 10, that states are required to create an environment conducive to freedom of expression, including taking investigative measures in cases of intimidation.[38]

15. It is submitted that the steps which a state must take to protect journalists include measures to protect interference with their private life. This is in accordance with *Fuentes Bobo v Spain*,[39] in which this Court held that the state's positive obligation to protect freedom of expression may extend to the private employment context.

16. In addition, the UN Human Rights Committee's General Comment No. 34 on Article 19 of the ICCPR calls on states to "*put in place effective measures to protect against attacks aimed at*

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[32] See *Vgt Verein Gegen Tierfabriken v Switzerland*, App. No. 32772/02, §79 (Grand Chamber), *Marckx v Belgium* App. No. 6833/75 §31; *Young, James and Webster v the United Kingdom* App. Nos. 7601/76 and 7806/77 §49.
[33] App. Nos. 28955/06, 28957/06, 28959/06, 28964/06.
[34] Ibid, §59.
[35] App. No. 23144/93.
[36] Ibid, §43.
[37] App. Nos. 2668/07, 6102/08, 30079/08, 7072/09 and 7124/09, *Özgür Gündem v Turkey* approved at §106.
[38] Ibid, §137. See also *Alinak v Turkey* App. No. 40287/98, *Appleby v United Kingdom* App. No. 44306/98, *Frasila and Ciocirlan v Romania* App. No 25329/03.
[39] App. No. 39293/98, §38.

silencing those exercising their right to freedom of expression", observing that "*journalists are frequently subjected to such threats, intimidation and attacks because of their activities. So too are persons who engage in the gathering and analysis of information on the human rights situation and who publish human rights-related reports, including judges and lawyers*" so that "*All such attacks should be vigorously investigated in a timely fashion, and the perpetrators prosecuted, and the victims, or, in the case of killings, their representatives, be in receipt of appropriate forms of redress.*"

17. Similarly, Article 8 of the Convention can impose positive obligations upon states. In *Bédat v Switzerland*, the Grand Chambers recently re-affirmed this principle, stating that:[40]

> "[Article 8] does not merely compel the State to abstain from such interference: in addition to this primarily negative undertaking, there may be positive obligations inherent in effective respect for private or family life. These obligations may involve the adoption of measures designed to secure respect for private life even in the sphere of the relations of individuals between themselves […] That also applies to the protection of a person's picture against abuse by third parties."

18. This Court has previously found there to be a positive obligation upon the state under Article 8 to:

    a. protect individuals from the dissemination of photographs of them in intimate moments taken without their consent[41] (*a fortiori* where the applicant is a private citizen);[42]

    b. protect individuals from criminal acts by others;[43]

    c. put in place appropriate systems to safeguard against secret surveillance by private parties;[44] and

    d. carry out an effective investigation into crimes.[45]

19. Importantly, the Grand Chamber has held that while the choice of means to secure protection of the right to privacy under Article 8 in the sphere of the relations of individuals between themselves to fall within a state's margin of appreciation, "*where a particularly important facet of an individual's existence or identity is at stake, or where the activities*

[40] App. No 56925/08 §73. See also *Guerra v Italy* App. No. 14967/89; *López Ostra v Spain* App. No 16798/90 and *Airey v Ireland*, App. No 6289/73.
[41] *Von Hannover v Germany (No 1) and (No. 2)* App. Nos. 59320/00, 40660/08 and 60641/08.
[42] *Sciacca v Italy* App. No. 50774/99.
[43] *X & Y v Netherlands* App. No. 8978/80.
[44] *Kopke v Germany* App. No. 420/07.
[45] *M.C. v Bulgaria* App. No. 39272/98; *Assenov and Others v Bulgaria* App. No. 24760/94; *Calvelli and Ciglio v Italy* App. No. 32967/96.

at stake involve a most intimate aspect of private life, the margin allowed to the State is correspondingly narrowed."[46]

20. In the particular context of personal data, the Court is invited to note the following negative obligations on the State:

    a. It is well established in the Court's jurisprudence that the police and prosecution authorities have specific obligations relating to the protection of personal information that they obtain in the course of their investigations. In this respect, the Court is referred to its decisions in *Leander v Sweden* and *M.K. v France.*[47]

    b. The Council of Europe Committee of Ministers Recommendation No. R (87) 15 to member states regulating the use of personal data in the police sector provides guidance on how police authorities should process personal data.

    c. Recommendation No R (2003)13 on the provision of information through the media in relation to criminal proceedings states that: "*The provision of information about suspects, accused or convicted persons or other parties to criminal proceedings should respect their right to protection of privacy in accordance with Article 8 of the Convention. Particular protection should be given to parties who are minors or other vulnerable persons, as well as to victims, to witnesses and to the families of suspects, accused and convicted. In all cases, particular consideration should be given to the harmful effect which the disclosure of information enabling their identification may have on the persons referred to in this Principle.*"

21. It is submitted that the combined effect of this jurisprudence is that, where the privacy of journalists is interfered with as a result of their journalistic work, this should constitute a breach of Articles 8 and 10 of the Convention.

22. The Third Party Interveners urge the Court to consider the Azerbaijan's positive obligations as part of its assessment of the compliance with Articles 8 and 10 in this case. As the Interveners have sought to show in the previous section of this intervention, the systemic failure by Azerbaijan to investigate or prevent infringement of journalists' rights has contributed to the silencing of free expression in the country. The Third Party Interveners hold grave concerns about the resulting culture of impunity for attacks upon journalists in Azerbaijan. In order for the rights of journalists to be protected the state must provide appropriate protection against intimidation, threats, covert surveillance and all other forms of harassment. That must, in the Interveners' submission, include

[46] *Söderman v Sweden*, App. No. 5786/08, § 78.
[47] *Leander v Sweden*, App. No. 9248/81; *M.K. v France*, App. No. 19522/09; see also *M.M. v the United Kingdom*, App. No. 24029/07.

protections to journalists from interference with their private life where these interferences result from their exercise of free expression.

23. In the context of interference with journalists' private lives, positive obligations under Article 10 must necessarily extend to actual or threatened breaches of Article 8 rights and the positive obligations under Article 8 must, it is submitted, be subjected to particularly close review by the Court where Article 10 rights are engaged. This follows from the special status afforded to journalists under the Convention: *"the most careful scrutiny on the part of the Court is called for when the measures taken by the national authority are capable of discouraging the participation of the press, one of society's "watchdogs", in the public debate on matters of legitimate public concern."*[48]

24. The ability of journalists to perform their role as 'public watchdogs' depends on their freedom from intimidation and harassment. It further depends upon the protection of their right to privacy from unlawful surveillance and deliberate intrusion into their private affairs. Where the state fails to ensure respect for journalists' private lives this will have a chilling effect upon their journalism which – as this Court has recognised – *"works to the detriment of society as a whole."*[49] Meaningful and effective protection of these rights, in line with the object and purpose of the Convention, obliges states to take positive steps to protect freedom of expression.

[48] *Társaság a Szabadságjogokért v Hungary*. App. No. 37374/05, §26.
[49] *Cumpănă and Mazăre v Romania* App. No. 33348/96, §114.