Parliamentary Assembly
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COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

Resolution 1239 (2001)[1]

Freedom of expression and the functioning of parliamentary democracy in Ukraine

Parliamentary Assembly

1. Although the Assembly recognises the various steps taken by Ukraine over the course of the last ten years in securing human rights and fundamental liberties, including the area of freedom of expression, it is concerned by the intimidation, repeated aggression and murders of journalists in Ukraine and the frequent abuse of power by the competent Ukrainian authorities in respect of freedom of expression.

2. The measures taken by the Ukrainian authorities and the Verkhovna Rada (parliament) to investigate the disappearance of the journalist Heorhiy Gongadze, and their efforts to do justice to all parties involved, should be considered as a test for the freedom of expression and the functioning of parliamentary democracy in Ukraine. The Assembly voices its concern over the drawn-out manner in which the General Prosecutor's office of Ukraine has handled this matter. The different results of the investigations conducted by the General Prosecutor's office and the ad hoc committee of the Verkhovna Rada have led to a crisis of confidence between the executive and the parliament.

3. Allegations involving the Ukrainian authorities in the disappearance of Mr Gongadze may have very serious consequences in the functioning of Ukrainian institutions. It is therefore of utmost importance to establish the authenticity of the evidence on which these allegations are based – the audio-tapes provided by Mr Melnychenko, a former member of the Security Service of the President of Ukraine. In this regard, the Assembly takes note of the expressed willingness of the Ukrainian authorities to assist in the process of establishing the authenticity of these tapes.

4. The Assembly notes that on 16 January 2001 the Verkhovna Rada organised a parliamentary hearing on the problems related to the freedom of expression and it welcomes the latter's activities to further the freedom of the press and mass media in Ukraine. The Assembly also takes note of the Presidential Decree "on additional measures of the unimpeded activity of the mass media, the further consolidation of freedom of speech in Ukraine" as a sign that the problem of the press in Ukraine may finally be adequately addressed at the highest governmental level.

5. The Assembly calls on the relevant Ukrainian authorities to undertake the following actions to improve the general framework in which media operate and, in the longer term, setting the grounds for a stable and irreversible democratisation of the media field:

– speedy and transparent investigation into all cases of violence and death of journalists;

– immediate abolishment of regulations and practices allowing out-of-court closure of media outlets and termination of broadcasting;

– adoption without any further delay of amendments to the legislation concerning fines or damages for libel and decriminalisation of libel;

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1. Assembly debate on 25 January 2001 (6th Sitting) (see Doc. 8945, report of the Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe, rapporteurs: Ms Severinsen and Ms Wohlwend, Doc. 8955, opinion of the Committee on Legal Affairs and Human Rights, rapporteur: Mr Eörsi and Doc. 8946, opinion of the Committee on Culture, Science and Education, rapporteur: Mr Urbanczyk). Text adopted by the Assembly on 25 January 2001 (7th Sitting).

– amendment of the Law on the National Television and Broadcasting Council in line with the expertise provided by the Council of Europe;

– creation of equal conditions for the functioning of all media, namely by amending the 1997 Act on Government Support for the Media and Social Protection of Journalists;

– stopping practices of pressure on the media through the leverages of printing and distribution;

– promotion of public service broadcasting;

– ratification of the European Convention on Transfrontier Television.

6. With specific reference to the case of Mr Gongadze, the Assembly calls on the relevant Ukrainian authorities:

6.1. to establish the exact time and reasons of death of the corpse found near Tarascha;

6.2. to conduct an expeditious, full and transparent investigation into the disappearance or death of Mr Gongadze, and to make known the results of this investigation as quickly as possible;

6.3. to establish the exact reasons and conditions of Mr Gongadze's disappearance or death and bring to justice those responsible for committing this crime;

6.4. to urge the ad hoc investigating committee of the Verkhovna Rada (parliament) of Ukraine to proceed as quickly and thoroughly as possible;

6.5. to urge the executive power to provide assistance but not to interfere in either investigation;

6.6. to respect the rights of the victim's relatives, including their right to be the aggrieved side in the case of Mr Gongadze's death.

7. The Assembly considers that if a request is issued by the Verkhovna Rada of Ukraine for assistance, the Council of Europe should arrange for:

7.1. an independent examination to establish the authenticity of the originals of the above-mentioned audio-tapes;

7.2. an independent examination to establish the exact time and the reasons of death of the corpse found near Tarascha, including a new DNA expertise of that body;

8. The Assembly also considers that the results of these examinations should be published.