



**Doc. 13078**

07 December 2012

## The state of media freedom in Europe

### Report<sup>1</sup>

Committee on Culture, Science, Education and Media

Rapporteur: Mr Mats JOHANSSON, Sweden, Group of the European People's Party

### Summary

Freedom of expression and information constitutes a cornerstone of good governance and thriving democracy. The state of media freedom in Europe is marked by the numerous murders of and serious physical attacks against journalists, especially in Russia. In Turkey, the high number of journalists imprisoned, detained or prosecuted has a paralysing effect on its media environment. As regards Belarus, the persistent and systematic violation of media freedom is to be condemned. Relevant organisations should regularly report serious violations of media freedom to the Secretary General of the Council of Europe.

---

1. Reference to committee: Doc 12518, Reference 3775 of 27 May 2011.



<b>Contents</b>	<b>Page</b>
A. Draft resolution .....	3
B. Draft recommendation .....	6
C. Explanatory memorandum by Mr Johansson, rapporteur .....	7
1. Introduction .....	7
2. Standards on media freedom .....	7
3. Follow-up on previous reports .....	8
3.1. Recommendation 1950 (2011) on the protection of journalists' sources .....	8
3.2. Recommendation 1897 (2010) on respect for media freedom .....	9
4. Serious violations of media freedom 2010-2012 .....	11
4.1. Deadly attacks against journalists .....	11
4.2. Armenia .....	12
4.3. Azerbaijan .....	12
4.4. Belarus .....	13
4.5. Bulgaria .....	13
4.6. Greece .....	13
4.7. Hungary .....	13
4.8. Italy .....	14
4.9. Romania .....	14
4.10. Russian Federation .....	14
4.11. Serbia .....	15
4.12. "The former Yugoslav Republic of Macedonia" .....	15
4.13. Turkey .....	15
4.14. Ukraine .....	16
4.15. United Kingdom .....	17
5. Conclusions .....	17

## A. Draft resolution<sup>2</sup>

1. The Parliamentary Assembly stresses that freedom of expression and information constitutes a cornerstone of good governance and thriving democracy, as well as a fundamental obligation of each member State under Article 10 of the European Convention on Human Rights (ETS No. 5, “the Convention”). Member States have, in particular, a positive obligation under Articles 2 and 10 of the Convention to protect journalists against attacks on their lives and freedom of expression and prevent impunity of the perpetrators.
2. The Assembly condemns the numerous attacks against investigative journalists as well as threats against people working with investigative media, like Sergei Magnitsky who was tortured and murdered in a Russian prison in 2009. The Assembly calls on the competent authorities to properly investigate such cases in order to bring to justice those who instigate them.
3. Regarding the assassination of Rafiq Tagi in Azerbaijan in 2011, the Assembly reiterates its condemnation of 2007 that a death fatwa had been issued against him in Iran for having reprinted the Mohammed cartoons of the *Jyllands-Posten* in a newspaper in Azerbaijan. Welcoming the arrest and adjudication in Denmark in June 2012 of a group of Islamist criminals who had planned a major assault on the Copenhagen office of the *Jyllands-Posten*, the Assembly condemns the recent Iranian death fatwa against Shahin Najafi in Germany and emphasises that authorities in member States must fight against religiously framed or other terrorism which threatens human lives and freedom of expression.
4. Referring to paragraphs 4 and 5 of its [Recommendation 1897 \(2010\)](#) on respect for media freedom, the Assembly welcomes the fact that the respective murderers of Ivo Pukanic and Niko Franjic in Croatia, Anastasia Baburova and Stanislav Markelov in Russia as well as of Hrant Dink in Turkey have been arrested and adjudicated by national courts. It remains necessary, however, to further investigate the personal environment of these murderers in order to find possible collaborators and to combat effectively those environments which are hostile to media freedom.
5. In view of the numerous murders of, and serious physical attacks against, journalists in Russia, the Assembly notes the establishment in 2011 of the Investigative Committee of the Russian Federation under the Russian President. The Assembly calls on this committee to continue the work of previous investigative bodies, publish periodically the progress of its work and establish rules for its good governance and judicial supervision. The Assembly invites the Commissioner for Human Rights to prepare a report on the efforts by the Russian authorities to combat effectively the *de facto* impunity for the numerous murders of journalists and human rights defenders in Russia.
6. The Assembly is shocked by the high number of journalists imprisoned, detained or prosecuted in Turkey for having expressed their political opinions and contributed to a political debate necessary in a vibrant democracy. The enormous number of cases has a paralysing effect on Turkey’s media environment and journalists.
7. While welcoming that the “Third Judicial Reform Package” adopted by the Turkish Parliament on 2 July 2012 may prevent excessively long detentions in the future, the Assembly notes with concern that previously imposed detentions still continue and ongoing trials continue to be adjudicated by the previous special courts. The Assembly calls for the findings by the Commissioner for Human Rights in his report of 12 July 2011 to be fully implemented by the Turkish Government without delay.
8. The legislative revision in 2008 of Article 301 of the Turkish Penal Code has not resolved the problem that this article can be applied unduly against journalists and others, as stated by the European Court of Human Rights in the case of *Altuğ Taner Akçam v. Turkey* on 25 October 2011. Therefore, the Assembly calls on Turkey to repeal Article 301 immediately.
9. The Assembly also expresses its deep concern over the numerous criminal investigations initiated against journalists under Articles 285 and 288 of the Turkish Penal Code, Article 6 of the Turkish Anti-Terror Law and related legal provisions, in particular for having reported on the massive court trials concerning the alleged “Ergenekon” conspiracy. The sheer number of cases is an indication of a serious violation of media freedom, also in the light of Committee of Ministers Recommendation Rec(2003)13 on the provision of information through the media in relation to criminal proceedings.

---

2. Draft resolution adopted by the committee on 2 October 2012.

10. Welcoming the assistance and co-operation projects established by the Council of Europe with Turkey upon the invitation extended by the Turkish Prime Minister, Recep Tayyip Erdoğan, in April 2011, the Assembly invites the Secretary General of the Council of Europe to assess the impact of this action and to review and possibly increase co-operation activities in the field of media freedom.

11. The Assembly notes the amendments made in May 2012 to the media laws adopted in Hungary in 2010, but regrets that those amendments address only a small number of the concerns raised by the Commissioner for Human Rights in his opinion of 25 February 2011 and do not prevent the abuse of such laws for restricting media freedom. Therefore, the Assembly calls for the Commissioner's findings to be fully implemented by the Hungarian Government.

12. The Assembly condemns the persistent and systematic violation of media freedom in Belarus and reminds its government of its obligations under Articles 9, 19 and 25 of the International Covenant on Civil and Political Rights. With Belarus being a candidate for membership of the Council of Europe and a Party to the European Cultural Convention (ETS No. 18), the *acquis* of the Council of Europe, including the case law of the European Court of Human Rights, constitutes a relevant frame of reference for the authorities in Belarus. In this context, the Assembly welcomes the recent establishment by the United Nations Human Rights Council of a special rapporteur on the human rights situation in the Republic of Belarus and invites the special rapporteur to co-operate with the relevant committees of the Assembly.

13. The Assembly urges the authorities in Belarus to properly investigate the disappearance of the photo journalist, Dmitry Zavadsky, in 2000 and the death of the founder of the news website "Charter 97", Aleh Byabenin, in 2010, release immediately Ales Bialiatski from prison and Anton Suryapin from detention, waive the penalties for Iryna Khalip, Andrzej Poczobut, Pavel Sverdlov, Yulia Doroshkevich and Iryna Kozlik, drop the prosecution charges against Natalya Radina, Andrzej Poczobut, Pavel Yevtikheev, Andrey Tkachev, Roman Protasevich, Oleg Shramuk and Sergei Bepalov, and stop their practice of issuing administrative warnings to media and associations, in accordance with the opinions of 17-18 December 2010 and 17-18 June 2011 adopted by the European Commission for Democracy through Law (Venice Commission).

14. The considerable growth in Internet media has widely increased the possibilities for everyone to receive and impart information and ideas without interference by public authority and regardless of frontiers in accordance with Article 10 of the European Convention on Human Rights. The Assembly condemns the prosecution, detention and imprisonment of Internet users for having expressed political criticism of the government, for example in Azerbaijan, the Russian Federation and Turkey, as well as in Belarus.

15. Recalling its [Resolution 1577 \(2007\)](#) "Towards decriminalisation of defamation", the Assembly deplores the excessive application of criminal laws on defamation in Azerbaijan and Turkey, as well as the excessive legal actions under related civil law in Armenia, Bulgaria and the Republic of Moldova.

16. The Assembly recalls the crucial importance of freedom of expression and information through the media before and during elections. The Assembly therefore calls in particular on Armenia, Azerbaijan, the Russian Federation, Turkey and Ukraine, where recent election observation reports found a biased media environment and other shortcomings, to take concrete steps to remedy such shortcomings. Member States are reminded of Committee of Ministers Recommendations CM/Rec(2007)15 and No. R (1999) 15 on measures concerning media coverage of election campaigns.

17. The Assembly regrets that media ownership is not made transparent in all member States and asks them to adopt the necessary provisions to this end. Lack of transparency is typically used to hide political or commercial interests in controlling major media companies. The Assembly calls on member States to take proper action for ensuring media transparency and pluralism and promoting journalistic standards.

18. The Assembly notes with concern recent incidences of collusion of media and media owners with politicians and State officials, which undermine public confidence in democratic government and independent media. Politicians and State officials must avoid any relations with the media which may lead to a conflict of interest, anti-corruption laws should be implemented and media and journalists should adhere to their professional ethics. In this context, the Assembly welcomes the establishment in 2011 by the British Government of the public inquiry led by Lord Justice Leveson into the practices and ethics of the British media, following the police bribery and phone-hacking scandal of the News International Group.

19. Despite the multiplication of digital media outlets, public service broadcasting remains a major source of information in Europe. The Assembly notes with concern recent reports about political pressure on public service broadcasters in Bosnia and Herzegovina, Croatia, Hungary, Italy, Romania, the Slovak Republic, Serbia, Spain and Ukraine and invites the European Broadcasting Union to co-operate with the Council of Europe in this regard. It reminds member States of paragraphs 8.20 and 8.21 of its [Resolution 1636 \(2008\)](#) on

indicators for media in a democracy: public service broadcasters must be protected against political interference in their daily management and their editorial work; senior management positions should be refused to people with clear party political affiliations; public service broadcasters should establish in-house codes of conduct for journalistic work and editorial independence from political influence.

20. The Assembly regrets that many journalists in Europe work in precarious situations resulting from an increase of free-lance positions, lack of respect for social rights and generally low income. Where the journalistic profession is weakened by such circumstances, professional quality and ethics are at stake. The Assembly reminds member States of the revised European Social Charter (ETS No. 163) and invites journalists to use their collective rights in order to improve their employment conditions.

## **B. Draft recommendation<sup>3</sup>**

1. Referring to its Resolution ... (2013) on the state of media freedom in Europe, the Parliamentary Assembly calls on the Council of Europe as a whole and on member States individually to strengthen their efforts to protect freedom of expression and information through the media.
2. The Assembly recommends that the Committee of Ministers:
  - 2.1. strengthen its intergovernmental work on the respect of Article 10 of the European Convention on Human Rights (ETS No. 5);
  - 2.2. address an open invitation to the European Federation of Journalists (Brussels), the Association of European Journalists (Brussels), the International Press Institute (Vienna), Reporters without Borders (Paris), Article 19 (London), PEN International (London) and other interested media freedom organisations to regularly report serious violations of media freedom to the Secretary General of the Council of Europe, and ask the latter to make such information available to the relevant bodies of the Council of Europe;
  - 2.3. consider the feasibility of creating an Internet-based platform for the processing and dissemination of the information collected under paragraph 2.2 above;
  - 2.4. co-operate with the European Broadcasting Union in strengthening the political independence of public service broadcasters in Europe;
  - 2.5. award annually the Youth Media Award as a recognition of quality journalism on human rights issues, following the very positive experience of the competition for the Award in 2011;
  - 2.6. forward this recommendation and Resolution ... (2013) on the state of media freedom in Europe to the competent national ministers, in particular those responsible for media, justice and international co-operation.

---

3. Draft recommendation adopted by the committee on 2 October 2012.

## C. Explanatory memorandum by Mr Johansson, rapporteur

### 1. Introduction

1. The Committee on Culture, Science and Education appointed me Standing Rapporteur on media freedom on 27 January 2011. In this capacity, I tabled, on 3 February 2011, a motion for a recommendation on the state of media freedom in Europe ([Doc. 12518](#)).
2. The present report continues thematically and chronologically the prior work by the late Andrew McIntosh (United Kingdom, SOC), which led to Assembly [Recommendation 1897 \(2010\)](#) on respect for media freedom, and presents the results of my work on this subject.
3. For the preparation of this report, the committee held an exchange of views in Strasbourg on 25 January 2011 with Dunja Mijatović, Representative on Freedom of the Media of the Organization for Security and Co-operation in Europe (OSCE), and Arne König, President of the European Federation of Journalists.
4. Both also presented oral reports at a hearing on this subject by the Sub-Committee on the Media, together with Agnès Callamard, Executive Director of Article 19 – Global Campaign for Free Expression, William Horsley, Media Freedom Representative of the Association of European Journalists, and Pauls Raudseps, Chairman of the Advisory Board of the Latvian weekly news magazine *lr*. Thomas Hammarberg, Council of Europe Commissioner for Human Rights, presented a written contribution.<sup>4</sup> This hearing took place at the Swedish Parliament in Stockholm on 12 September 2011 with the participation of Liselott Hagberg, Deputy Speaker of the Swedish Parliament, and Hanna Hellquist, State Secretary to the Swedish Minister for International Development Co-operation.
5. William Horsley was subsequently commissioned to prepare a background report on serious violations of media freedom in Europe, covering in particular the period 2010-2012. He presented his background report to the committee in Strasbourg on 26 June 2012.<sup>5</sup> Together with William Horsley, I recorded a video interview on this subject.<sup>6</sup>
6. On this occasion, the committee held also an exchange of views on media freedom with Nils Muižnieks, Council of Europe Commissioner for Human Rights since April 2012, and Ambassador Thomas Hajnoczi, Permanent Representative of Austria to the Council of Europe and Thematic Co-ordinator on Information Policy of the Committee of Ministers.
7. On 25 January 2012, I received a letter from the Spanish Federation of Journalists “FAPE” complaining about the systematic refusal of questions from journalists during government press conferences. This information was subsequently reflected in the background report prepared by William Horsley.
8. I am deeply grateful for the contributions provided by the distinguished participants and experts since January 2011 and in particular for the background report by William Horsley, which serves as a basis for parts of this explanatory memorandum. I also appreciate the information and support provided by other committee members.

### 2. Standards on media freedom

9. Article 10 of the European Convention on Human Rights (ETS No. 5, “the Convention”) is the most fundamental norm in Europe establishing freedom of expression and information and media freedom developed through extensive case law by the European Court of Human Rights (“the Court”). In December 2011, the Court published a research report on positive obligations on member States under Article 10 to protect journalists and prevent impunity.<sup>7</sup> The Committee of Ministers and the Parliamentary Assembly have produced a substantial number of declarations, recommendations or resolutions which are particularly relevant for this evaluation of media freedom.<sup>8</sup>

4. See <https://wcd.coe.int/ViewDoc.jsp?id=1840757>.

5. See the full report of William Horsley: [www.assembly.coe.int/Communication/26062012\\_HorsleyReport\\_E.pdf](http://www.assembly.coe.int/Communication/26062012_HorsleyReport_E.pdf).

6. See [http://coenews.coe.int/vod/20120626\\_mb03\\_w.wmv](http://coenews.coe.int/vod/20120626_mb03_w.wmv).

7. See [www.echr.coe.int/NR/rdonlyres/16237F92-BCB9-4F12-9B1C-0EF6E3B2CB27/0/RAPPORT\\_RECHERCHE\\_Positive\\_obligations\\_under\\_Article\\_10\\_EN.pdf](http://www.echr.coe.int/NR/rdonlyres/16237F92-BCB9-4F12-9B1C-0EF6E3B2CB27/0/RAPPORT_RECHERCHE_Positive_obligations_under_Article_10_EN.pdf).

See also the Committee of Ministers Guidelines on eradicating impunity for serious human rights violations, adopted on 30 March 2011: [www.coe.int/t/dgi/publications/others/h-inf\\_2011\\_7en.pdf](http://www.coe.int/t/dgi/publications/others/h-inf_2011_7en.pdf).

8. See [www.coe.int/t/dghl/standardsetting/media/Doc/PACE\\_en.asp](http://www.coe.int/t/dghl/standardsetting/media/Doc/PACE_en.asp) and [www.coe.int/t/dghl/standardsetting/media/Doc/CM\\_en.asp](http://www.coe.int/t/dghl/standardsetting/media/Doc/CM_en.asp).

10. Article 19 of the International Covenant of Civil and Political Rights (ICCPR)<sup>9</sup> is the basis of the work of the United Nations Human Rights Council, which established the position of special rapporteur on the promotion and protection of the right to freedom of opinion and expression. The mandate of Frank La Rue from Guatemala was extended until 2014. In his annual report of 4 June 2012 to the Human Rights Council,<sup>10</sup> Frank La Rue mentioned that only 15% of his 218 official communications in 2011 concerned Europe, Central Asia and North America. A request from 2009 to visit Italy is still pending. Following an ad hoc visit to Hungary in 2011, he published a press release indicating his concerns about Hungarian media legislation. No visits are planned to other Council of Europe member States. In November 2011, he issued a press release on new legislation in Belarus with other mandate holders of the Human Rights Council.

11. The OSCE established the position of representative on freedom of the media in 1997. Dunja Mijatovic from Bosnia and Herzegovina was appointed the current representative in 2010. Her work is based on relevant international legal standards of the United Nations and the Council of Europe. In her latest Regular Report to the Permanent Council of the OSCE,<sup>11</sup> Dunja Mijatovic lists her many contacts with the participating States of the OSCE. It has been particularly useful that she established a regularly up-dated list of journalists imprisoned in Turkey.<sup>12</sup>

12. Article 11 of the European Union Charter of Fundamental Rights<sup>13</sup> is in force since 1 December 2009. However, Poland and the United Kingdom had negotiated an opt-out protocol,<sup>14</sup> which seems to exclude the application of Article 11 by the European Union Court of Justice for those countries. The Czech Republic was subsequently able to obtain the same opt-out privilege. Therefore, uniform application of Article 11 throughout the European Union may not be ensured, except indirectly through the application of the standards under Article 10 of the European Convention on Human Rights by the Court of Justice.

### 3. Follow-up on previous reports

#### 3.1. Recommendation 1950 (2011) on the protection of journalists' sources

13. The Sub-Committee on Media and Information Society and, subsequently, the full committee designated me in 2012 to follow up Assembly Recommendation 1950 (2011) on the protection of journalists' sources. This recommendation contains a reference to the Hungarian media laws, which is relevant to this report.

14. Paragraph 4 of Recommendation 1950 (2011) states: "Referring to the new Press and Media Law of Hungary (Law CIV of 2010 on the freedom of the press and the fundamental rules on media content), the Assembly expresses its concern that limits to the exercise of media freedom fixed by Article 4.3 and the exceptions to the right of journalists not to disclose their sources stipulated in Article 6 of this law seem to be overly broad and thus may have a severe chilling effect on media freedom. This law sets forth neither the procedural conditions concerning disclosures nor guarantees for journalists requested to disclose their sources. The Assembly calls on the Government and Parliament of Hungary to amend this law, ensuring that its implementation cannot hinder the right recognised by Article 10 of the Convention."

15. This concern was shared by the Commissioner for Human Rights in his Opinion of 25 February 2011.<sup>15</sup> The Resolution on media law in Hungary, adopted by the European Parliament on 10 March 2011, expressly referred to this opinion and underlined the obligation of Hungary to revise its media laws.<sup>16</sup> The Secretary General of the Council of Europe asked external experts to prepare an analysis of these Hungarian media laws. This analysis was published on 16 May 2012.<sup>17</sup>

---

9. See the full text of the ICCPR: <http://www2.ohchr.org/english/law/ccpr.htm>.

10. See <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G12/137/87/PDF/G1213787.pdf?OpenElement>.

11. See [www.osce.org/fom/91528](http://www.osce.org/fom/91528).

12. See [www.osce.org/fom/91070](http://www.osce.org/fom/91070).

13. See the full text of the Charter at [www.europarl.europa.eu/charter/pdf/text\\_en.pdf](http://www.europarl.europa.eu/charter/pdf/text_en.pdf).

14. See the text of the protocol:

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2007:306:0156:0157:EN:PDF>.

15. See the Opinion:

<https://wcd.coe.int/com.intranet.InstraServlet?>

[Index=no&command=com.intranet.CmdBlobGet&IntranetImage=1902982&SecMode=1&DocId=1702724&Usage=2](https://wcd.coe.int/com.intranet.CmdBlobGet&IntranetImage=1902982&SecMode=1&DocId=1702724&Usage=2).

16. See <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2012:199E:0154:0157:EN:PDF>.

17. See [www.coe.int/c/document\\_library/get\\_file?uuid=fbc88585-eb71-4545-bc5d-b727e35f59ae&groupId=10227](http://www.coe.int/c/document_library/get_file?uuid=fbc88585-eb71-4545-bc5d-b727e35f59ae&groupId=10227).

16. Following the legislative revisions enacted on 24 May 2012, the OSCE Representative on Freedom of the Media,<sup>18</sup> as well as Human Rights Watch (Berlin),<sup>19</sup> welcomed the withdrawal of most requirements for journalists to reveal their sources of information, but raised concerns about other aspects of the media laws which were not remedied, in particular the lack of independence of the new regulatory authority.

17. The Assembly's Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee) asked the European Commission for Democracy through Law (Venice Commission) in June 2012 for an opinion on the Hungarian laws on the judiciary. It would be helpful to have a complementary opinion by the Venice Commission regarding the revised Hungarian media laws.

### **3.2. Recommendation 1897 (2010) on respect for media freedom**

18. Referring to [Resolution 1535 \(2007\)](#) on threats to the lives and freedom of expression of journalists, paragraph 4 of [Recommendation 1897 \(2010\)](#) deplored that "the Russian Federation has failed to conduct a proper investigation and to bring those responsible for the murder of Anna Politkovskaya in Moscow on 7 October 2006 to justice and to ensure that journalists can work freely and in safety". After the Supreme Court had overturned the acquittal of three suspects by the Moscow District Military Court on 25 June 2009, the new investigations indicated the former policeman Dmitry Pavliuchenkov as being responsible for organising the murder of Anna Politkovskaya, but he was released from detention on 31 May 2012 and put under house arrest because of poor health. Those facts do not seem to lead to a proper conclusion of the trial.

19. Although the Investigative Committee of the Russian Federation was established in 2011 under the President of the Russian Federation, Russia still remains the most dangerous country in Europe for journalists because of the number of murdered journalists as well as the number of unresolved murder cases. The Committee to Protect Journalists (New York) published on 17 April 2012 its 2012 Impunity Index, which lists Russia as the only Council of Europe member State among the 10 worst countries worldwide.<sup>20</sup> Recently, the Head of the Investigative Committee, Aleksandr Bastrykin, was accused of having seriously threatened Sergey Sokolov, the Deputy Editor of *Novaya Gazeta*. Both men have supposedly settled this alarming controversy.<sup>21</sup>

20. Two cases of murders of journalists referred to in [Recommendation 1897 \(2010\)](#) have meanwhile been adjudicated:

- In November 2010, a court in Croatia convicted six people over the 2008 car bombing which killed Ivo Pukanic, the owner and editorial director of the political weekly *Nacional*, and Niko Franjic, its marketing director. The court said the motive of the bombing was to prevent the paper from publishing information in its possession exposing the practice of illegal tobacco smuggling in the Balkans.
- In Russia, in April 2011, two men described as ultranationalists were convicted and sentenced to long prison terms for the murders on a Moscow street in 2009 of the young journalist Anastasia Baburova and human rights lawyer Stanislav Markelov.

21. In paragraph 7 of [Recommendation 1897 \(2010\)](#), the Assembly welcomed amendments made in 2008 to Article 301 of the Turkish Penal Code, but deplored the fact that Turkey had neither abolished Article 301 nor completed investigations into the murder of Hrant Dink in Istanbul on 19 January 2007, especially as regards possible failures of the police and security forces. The Assembly was of the opinion that the slightly revised Article 301 still violated Article 10 of the European Convention on Human Rights.

22. On 14 September 2010, the European Court of Human Rights found a violation of Articles 2 and 10 of the Convention by Turkey for not having protected Hrant Dink against death threats and for having violated his freedom of expression.<sup>22</sup> On 25 July 2011, Ogün Samast was convicted by a Turkish court for the murder of Hrant Dink, but it remains unclear whether he acted alone. Despite the judgment by the European Court of Human Rights of 14 September 2010, the Nobel Prize Laureate for Literature, Orhan Pamuk, was sentenced on 27 March 2011 by a Turkish court to pay moral damages under Article 301 of the Turkish Penal Code to a few Turkish individuals for his statement to a Swiss newspaper in 2005.<sup>23</sup>

18. See [www.osce.org/fom/90823](http://www.osce.org/fom/90823).

19. See [www.hrw.org/news/2012/05/25/hungary-new-laws-curb-media-freedom](http://www.hrw.org/news/2012/05/25/hungary-new-laws-curb-media-freedom).

20. See <http://cpj.org/reports/2012/04/impunity-index-2012.php#index>.

21. See <http://en.rsf.org/russia-novaya-gazeta-deputy-editor-flees-13-06-2012,42789.html>.

22. Judgment of 14 September 2010 in the case of *Dink v. Turkey* (Applications Nos. 2668/07, 6102/08, 30079/08, 7072/09 and 7124/09). See the press release: <http://hudoc.echr.coe.int/sites/eng-press/pages/search.aspx?i=003-3262169-3640194>.

23. The number of prosecutions opened under the revised Article 301 of the Turkish Penal Code dropped considerably because of the new requirement of having the Turkish Minister of Justice authorise such prosecution. Nevertheless, the latter requirement seems to blur the separation of powers between the judiciary and the government and thus may lead to a politicisation of judicial investigations and prosecutions under the unduly vague but harsh Article 301. “Since its unacceptably broad terms result in a lack of foreseeability as to its effects”, the European Court of Human Rights declared in the case of *Altuğ Taner Akçam v. Turkey* on 25 October 2011, that Article 301 of the Turkish Penal Code violates Article 10 of the Convention, because it does not have the “quality of law” required under Article 10, paragraph 2, of the Convention.<sup>24</sup>

24. As long as Article 301 of the Turkish Penal Code is not fully repealed by the Turkish Parliament or courts, the hostile political climate will still exist against journalists and others writing, in particular, about the targeted mass killings and expulsion of Armenians by the Ottoman Empire during the First World War. This climate had led to the death threats against Hrant Dink, Orhan Pamuk, Altuğ Taner Akçam and others. Therefore, the Assembly must call on Turkey to definitively repeal Article 301.

25. The Turkish Constitutional Court invalidated, on 2 May 2011, the time limitation for filing criminal charges against journalists under Article 26 of the Turkish Press Law, thus extending to eight years the possible opening of prosecutions against journalists. In view of the political interpretation of various unduly broad penal law provisions, this extension has an additional chilling effect on media freedom in Turkey.

26. In paragraph 13 of [Recommendation 1897 \(2010\)](#), the Assembly asked the Venice Commission to analyse whether, and to what extent, legislation in Italy has been adapted to take account of its Opinion on the compatibility of Italy’s “Gasparri” and “Frattini” laws with Council of Europe standards in the field of freedom of expression and pluralism of the media, adopted by the Venice Commission at its 63rd Plenary Session (Venice, 10-11 June 2005).<sup>25</sup> Following a discussion in the Venice Commission, its Secretary informed the chairperson of the committee by letter dated 26 July 2010 that “the (few) amendments which have been made to the two laws in question since 2005 address other issues than those which were the subject of the Venice Commission’s recommendations”.

27. It is therefore necessary to follow up the implementation by Italy of these recommendations of the Venice Commission, possibly together with the Committee of Ministers and the Commissioner for Human Rights.

28. Expressing its concern at the official warning addressed by the Justice Ministry of Belarus on 13 January 2010 to the Belarusian Association of Journalists (BAJ), the Assembly asked the Venice Commission, in paragraph 14 of [Recommendation 1897 \(2010\)](#), to analyse the compatibility of such a warning with universal human rights standards.

29. Responding to this request, the Venice Commission concluded in its Opinion of 17-18 December 2010:<sup>26</sup>

*“100. The Ministry of Justice’s Order has restricted the rights of a group of journalists to freedom of expression and the right to seek and impart information. To be able to enjoy freedom of expression of the press requires that journalists must have effective protection by their trade union or association. By denying the BAJ the right to issue press cards for their journalists the Belarusian authorities are denying these journalists the rights to have their interests protected by their association. At the same time the domestic legal situation is stripping the journalists’ association, the BAJ, of effective power to protect members’ interests.*

*101. The Ministry of Justice’s Order constitutes, in the opinion of the Venice Commission, a violation of Articles 19 and 2 of the ICCPR and Articles 11 and 10 of the ECHR.*

*102. Additionally, since the Ministry of Justice’s Order creates a discriminatory situation, it also constitutes a violation of Article 26 of the ICCPR, and Article 14 ECHR taken together with Article 10 of the ECHR, and Protocol No. 12 to the ECHR.”*

---

23. See [www.hurriyetdailynews.com/default.aspx?pageid=438&n=orhan-pamuk-will-pay-compensation-for-his-words-court-decided-2011-03-27](http://www.hurriyetdailynews.com/default.aspx?pageid=438&n=orhan-pamuk-will-pay-compensation-for-his-words-court-decided-2011-03-27).

24. Judgment of 25 October 2011 in the case of *Altuğ Taner Akçam v. Turkey* (Application No. 27520/07): <http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-107206>.

25. See the Opinion of 10-11 June 2005: [www.venice.coe.int/docs/2005/CDL-AD\(2005\)017-e.pdf](http://www.venice.coe.int/docs/2005/CDL-AD(2005)017-e.pdf).

26. See the Opinion of 17-18 December 2010: [www.venice.coe.int/docs/2010/CDL-AD\(2010\)053rev-e.pdf](http://www.venice.coe.int/docs/2010/CDL-AD(2010)053rev-e.pdf).

30. A second Opinion adopted by the Venice Commission on 17-18 June 2011 came to the same conclusion with regard to official warnings sent to the Belarusian Helsinki Committee.<sup>27</sup> The proper implementation of these opinions by the authorities in Belarus is still outstanding.

31. In 2012, the United Nations Human Rights Council established the mandate of a special rapporteur on the human rights situation in the Republic of Belarus. Regrettably, Russia voted against the establishment of this post and the Republic of Moldova abstained, while all other Council of Europe member States in the United Nations Human Rights Council had voted in favour. The Assembly should invite this special rapporteur to co-operate with the relevant Assembly committees.

#### 4. Serious violations of media freedom 2010-2012

32. [Recommendation 1897 \(2010\)](#) covered the period until January 2010. The serious violations of media freedom which have occurred since then are documented below, based on the background report prepared by William Horsley.<sup>28</sup> article

##### 4.1. Deadly attacks against journalists

33. Azerbaijan, 23 November 2011: Rafiq Tagi died four days after suffering multiple stab wounds in an attack outside his home in Baku. He reported for Radio Free Europe/Radio Liberty and several newspapers. He had previously received threats to his life and had been jailed in 2007 on charges of inciting religious hatred. The death *fatwa* issued against him by Grand Ayatollah Fazel Lankarani in Iran in 2006 for having reprinted the Mohammed cartoons of *Jyllands-Posten* had been criticised in Assembly [Resolution 1535 \(2007\)](#).

34. Belarus, 3 September 2010: Aleh Byabenin, Director of the critical news website Charter 97, was found hanged at his summer house outside Minsk. His family reported signs of serious injuries on his body and rejected the official explanation of suicide. Byabenin had reported on cases of corruption and human rights abuses. He had previously received threats. In 2011, the Charter 97 website was reportedly one of those which were blocked by order of the government.

35. Bulgaria, 5 January 2010: Boris Nikolov Tsankov, a journalist and author specialised in reporting on organised crime, was shot and killed by gunmen on a busy Sofia street. Tsankov had received death threats and had reportedly survived two bomb attacks on his home several years earlier.

36. Greece, 19 July 2010: Sokratis Giolia, Director of the radio station Thema 98.9 FM and manager of the popular political blog *Troktiko* was shot several times by unidentified men outside his Athens home. The authorities cast suspicion on an extremist revolutionary sect. Colleagues of Giolia reportedly stated their belief that he was killed because of his investigative journalistic work.

37. Latvia, 19 July 2010: Grigorijs Nemcovs, publisher of the Russian language newspaper *Million* and a local politician, was shot and killed in a café in Daugavpils in a suspected contract killing. He had previously received death threats and his home had been attacked by arsonists in 2007.

38. Russia (Dagestan), 11 May 2010: Shamil Aliyev, Director of the popular radio stations Pribol and Batan and of TNT-Makhachkala television network was shot dead by unknown gunmen at a site where a new facility was under construction.

39. Russia (Dagestan), 21 May 2010: Sayid Ibragimov, Director of the local television station TBS was killed together with four technicians while driving to carry out engineering work on a transmitter. His car was ambushed and a group of suspected militants set off an explosion and attacked with firearms.

40. Russia (Dagestan) 11 August 2010: Magomedvagif Sultanmagomedov, Head of Makhachkala-TV and the Nurul Irshad (Light of Truth) publishing house, was fatally injured when unidentified gunmen opened fire on his car while he was driving through the streets of Makhachkala, the capital of Dagestan. He was described as a vocal opponent of Wahhabism, and had reportedly survived an attempt on his life in 2008.

41. Russia (Dagestan), 8 May 2011: Yakhya Magomedov, journalist and editor of the Avar language Islamic newspaper *As-Salam*, died when he was shot four times by unidentified persons in the Khasavyurt district.

27. See the Opinion of 17-18 June 2011: [www.venice.coe.int/docs/2011/CDL-AD\(2011\)026-e.pdf](http://www.venice.coe.int/docs/2011/CDL-AD(2011)026-e.pdf).

28. See the full report by William Horsley: [www.assembly.coe.int/Communication/26062012\\_HorsleyReport\\_E.pdf](http://www.assembly.coe.int/Communication/26062012_HorsleyReport_E.pdf).

42. Russia (Dagestan), 15 December 2011: Hadzhimurad Kamalov, founder and writer on the daily newspaper *Chernovik*, was shot several times and killed by an unidentified gunman late at night when leaving his office. He was a well-known critic of official abuses and corruption, and was murdered on the date set aside to commemorate all Russian journalists who have died because of their profession. He and other *Chernovik* journalists had been threatened and several of its other journalists had been charged with extremism after accusing regional authorities of corruption and abuses.

43. Russia, 22 June 2012: Anatoly Bitkov, chief editor of Kolyma Plus, a regional television company, was found dead with multiple stab wounds at his home in Magadan on the Sea of Okhotsk in the Russian Far East.

44. Turkey, 4 April 2010: Metin Alatas, a reporter for the *Azadiya Welat* newspaper was found hanged from a tree in the district of Adana in the mainly Kurdish south-eastern region of Turkey. Colleagues reportedly disputed the official presumption of suicide. Alatas had received threats and had been attacked and injured by a group of men the previous year.

45. Ukraine, 11 August 2010: Vasyl Klymentyev, editor of the Kharkiv-based newspaper *Novy Stil*, was investigating a case of alleged corruption when he was apparently abducted. Only his mobile phone was found in a reservoir near where he was last seen alive.

#### **4.2. Armenia**

46. In Armenia, the decriminalisation of libel in 2010 was followed by more than 30 civil defamation cases, many brought by senior officials or politicians against the media. A number of Armenian cases resulted in newspapers being ordered to pay very high fines and damages. In the case of *Haykakan Jamanak (Armenian Times)*, the newspaper had to pay 6 million Armenian Dram (approximately US\$16 000) to each of the three parliamentarians who successfully sued it. The paper was able to pay the fines with the help of donations from its readers.

47. In the case of the Armenian parliamentary elections on 6 May 2012, a joint delegation of international election observers of the OSCE, the Parliamentary Assembly and the European Parliament reported (in preliminary findings) a general lack of public confidence in the integrity of the election process. In the media, the practice by several television channels of using material taken from paid political advertisements in some of their news coverage damaged the credibility of their reporting. Armenian journalists' groups, including the NGO Investigative Journalists, reported that the media's political independence and capacity to report freely on important issues in the campaign, including allegations of corruption, were seriously hampered by pressures for self-censorship.

48. Investigative Journalists also reported that incidents of intimidation, including personal threats directed at journalists, reached the exceptionally high number of 33 between January and September 2011. Three physical assaults on journalists were recorded in the first five months of 2012, including two during the parliamentary elections. Journalists have also faced dozens of libel suits brought by politicians and other public figures. The 2010 Law on Television and Radio, which gave regulators new powers to award and revoke broadcasting licences, has intensified the pressures of broadcasters to avoid or tone down criticism of those in authority.

#### **4.3. Azerbaijan**

49. Eynulla Fatullayev, the editor of *Realny Azerbaijan*, was jailed from 2007 to 2011 on what the European Court of Human Rights ruled in 2010<sup>29</sup> had been fabricated charges. The Azerbaijani authorities kept Fatullayev in prison for another year on new and unconvincing charges related to the possession of drugs. He was released in May 2011 following the announcement of a presidential pardon.

50. The final report of the OSCE's Office for Democratic Institutions and Human Rights (OSCE/ODIHR) election observer mission to the Azerbaijan parliamentary elections on 7 November 2010 found that the strong pro-government bias of the great majority of media had impaired voters' ability to make an informed choice. The media's freedom to report had been reduced, as the observers wrote, "due to violence, detentions, defamation lawsuits and other forms of pressure, as well as impunity for those who commit such acts".

---

29. *Fatullayev v. Azerbaijan*, Application No. 40984/07, judgment of 22 April 2010, <http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-98401>.

51. A number of physical assaults against media workers are reported every year. Among those cases, in June 2011, two foreign women reporters, Amanda Erickson, who is an American freelance, and Celia Davies, a Briton working for the Institute for Reporters Freedom and Safety, were attacked and beaten outside a Baku apartment block.

52. Two video bloggers, Emin Milli and Adnan Hajizade, were detained in 2009 and remained in jail for over a year on charges including hooliganism after satirising leading politicians in a video posted on the Internet. The International Freedom of Expression Exchange (IFEX) reported in May 2012 that seven journalists and two bloggers were detained or serving jail sentences in Azerbaijan on spurious charges.

#### **4.4. Belarus**

53. Before the presidential election in Belarus in December 2010, the State's overwhelming dominance of mainstream media, including television and newspapers, and relentless harassment of critical and independent journalists, as well as other civil society representatives and political opponents, led international observers to declare that the election had failed every major test of fairness. In December 2010, immediately after the voting, six members of the Minsk NGO Belarusian Association of Journalists were indicted on what were seen as politically motivated charges of organising mass protests against election fraud.

54. The offices of the opposition website Charter 97 were raided and computers and files were seized. Its editor, Natalya Radina, was detained for 39 days following her arrest on 19 December 2011 and she then fled the country. This severe harassment of Charter 97 editorial members followed the suspicious death in 2010 of Aleh Byabenin, the website's then editor.

55. Andrzej Poczobut, a correspondent for the Polish newspaper *Gazeta Wyborcza*, was convicted on charges of insulting President Lukashenko. The prominent journalist Irina Khalip was found guilty of organising protests. Both were given suspended prison sentences. Between May and July 2011, at least 12 reporters and media workers were detained or beaten by police while covering a fresh series of popular large-scale peaceful street protests, and police also seized cameras and broadcasting equipment. After 800 teddy bears had been dropped over Belarus from a plane as a political sign in July 2012, the three journalists Anton Suryapin, Yulia Doroshkevich and Iryna Kozlik were arrested for having disseminated photos of the bears; Sergey Bashamirov was also arrested for allegedly having aided the pilots.

#### **4.5. Bulgaria**

56. In Bulgaria, in May 2012, Lidia Pavlova, a journalist for the *Struma* newspaper known for investigating organised crime, was threatened and her car was reportedly destroyed on two occasions. Her son, a witness in a criminal trial against the leaders of a well-known organised crime syndicate, was severely beaten in 2008 and again in 2010, and his car has also been set on fire.

57. In 2011, the investigative journalist Mirolyuba Benatova from the leading private television channel bTV was the target of a barrage of hate speech online. Press reports said that Benatova was subjected to a deliberate hate campaign by Facebook users and her page was suspended after a group branded her as an enemy of the Bulgarian People.

#### **4.6. Greece**

58. In Greece, in April 2012, police deliberately attacked a number of journalists and photographers during street protests in Athens, causing injuries. One of them, the head of the Greek Photojournalists' Association, Mario Lolos, suffered a fractured skull when he was beaten by riot police in the centre of Athens. Several journalists were beaten and suffered injuries during earlier street protests in central Athens during 2011.

#### **4.7. Hungary**

59. In Hungary, the package of media laws enacted in late 2010 by a newly elected government enjoying a commanding two-thirds majority in parliament raised acute concerns on the part of the Venice Commission, which concluded that the new media laws, together with constitutional amendments to the country's judicial system giving sweeping powers to the president of a new National Judicial Office, amounted to a threat to fundamental democratic freedoms. The concerns centred on the evident failure to guarantee the political independence of media regulators, new powers to regulate media content, including that of print media, and to demand so-called "balanced" reporting, and the erosion of journalists' right to protect their sources.

60. Amendments were subsequently made to some elements of the media laws (for example concerning the protection of journalists' sources) in response to rulings by the Hungarian Constitutional Court, as well as requests from the Council of Europe and the European Commission. In May 2012, however, another assessment by external experts on behalf of the Secretary General of the Council of Europe identified several key elements which still failed to meet Council of Europe standards.<sup>30</sup> The dialogue continues between the Council of Europe and the Hungarian authorities; the most recent expert meeting took place at the end of August 2012.

#### **4.8. Italy**

61. In Italy, a number of journalists, including Roberto Saviano, have been in hiding or otherwise protected from the threat of attack by Mafia criminals.

62. Concerns about political interference in the RAI, the public broadcasting service, were present especially during Prime Minister Berlusconi's term of office over most of the past ten years. They were based on the fact of the influence exerted by his party on senior editorial appointments and his public pronouncements denouncing media that were critical or hostile to him. The favourable coverage of Mr Berlusconi in some of the RAI's output pointed to a pattern of editorial interference. In 2011, shortly before he left office, he was accused of pressuring the broadcaster to stop broadcasting the highly critical programme *Annozero*.

#### **4.9. Romania**

63. In Romania, on 15-16 January 2012, several media workers from the Mediafax news agency, Antena 3 TV and the DC News website were assaulted by police while covering anti-government protests in Bucharest, despite reportedly identifying themselves as journalists.

#### **4.10. Russian Federation**

64. In spite of pledges of effective counter-measures by senior political leaders, the Centre for Journalism in Extreme Situations (Moscow) reported that, in addition to the killings documented here, other attacks against journalists have continued at the rate of about one per week throughout the past three years. Many assaults by police and other security personnel on reporters and television teams have been documented.

65. In November 2010, Oleg Kashin, a reporter for the business daily *Kommersant*, was brutally beaten by two men outside his home in Moscow. His attackers struck him with full force on the head and body with metal bars for over a minute before escaping. The attack was recorded on a video, which was later widely circulated, and it drew widespread public condemnation, including from the then Russian President Dmitry Medvedev. No progress in the investigations has been announced yet. Oleg Kashin is one of a number of journalists who have been assaulted in the Khimki area (Moscow region) after reporting on allegations of corruption among various regional government officials, including those related to a highway construction project through the Khimki natural forest. He had previously been threatened.

66. On 16 and 17 May 2012, a *Kommersant* reporter, Aleksandr Chernykh, was one of several journalists beaten by police while covering public demonstrations in Moscow protesting at the installation of President Putin for a third term of office. Reporters without Borders said the police had behaved with shocking brutality against journalists who were carrying press cards. After the December 2011 Duma elections, many reporters were also detained at protests in the capital and in St Petersburg.

67. In April 2012, Elena Milashina, a journalist for the opposition publication *Novaya Gazeta*, was brutally beaten on her way to her apartment. Her work often focused on exposing the operations of the Russian Government in the Caucasus.

68. On 29 May 2012, Sergei Aslanyan, a radio journalist for Mayak radio, was stabbed several times in the neck and body by a masked man outside his home in southern Moscow.

69. Attacks on journalists' sources of information are also of great concern. The lawyer Sergei Magnitsky was tortured and killed in a Russian prison on 16 November 2009 after having been held for 358 days in detention without trial.<sup>31</sup> He had found evidence of large-scale corruption between public officials and organised crime, for which he has even been prosecuted after his death.

---

30. See [www.coe.int/c/document\\_library/get\\_file?uuid=fbc88585-eb71-4545-bc5d-b727e35f59ae&groupId=10227](http://www.coe.int/c/document_library/get_file?uuid=fbc88585-eb71-4545-bc5d-b727e35f59ae&groupId=10227).

31. See Written Declaration No. 490:

70. In 2010, the official investigating committee responsible for judicial follow-up after the killings of journalists and others announced it was re-opening five unsolved murders from past years, but little progress has been made. It is to be welcomed that a law was passed designating crime against journalists as a category of offence attracting higher penalties than others, but positive effects have not yet become evident. In 2011, a new investigative committee was established under the Russian President.

71. The final report by the OSCE/ODIHR on the presidential election on 4 March 2012 found a clear bias on State-controlled television channels in favour of the winning candidate, the then Prime Minister Vladimir Putin, had played a significant part together with the exclusion of rival candidates and the partisan use of other State resources in skewing the result in his favour. ODIHR reported that a combination of factors led to an atmosphere of intimidation of the media. The parliamentary election period in 2011 coincided with a notable increase in the number of detentions, assaults and threats against journalists. The same occurred in 2012 before the presidential election. Journalists and media outlets also faced an increased number of criminal investigations by government agencies.

#### **4.11. Serbia**

72. In Serbia, in July 2010, an influential columnist for the weekly *Vreme*, Teofil Pančić, suffered concussion and serious injuries when he was attacked on a bus in Belgrade by two masked assailants who beat him using metal bars and then fled. Colleagues believe he was targeted for his writings.

73. The general situation of media freedom in Serbia was recently assessed by independent experts<sup>32</sup> on the basis of Assembly [Resolution 1636 \(2008\)](#) on indicators for media in a democracy. The survey showed in particular problems concerning the judiciary, the independence of regulatory authorities and public service broadcasting, labour-related and social rights of journalists, the safety of journalists and the freedom to criticise State officials.

#### **4.12. “The former Yugoslav Republic of Macedonia”**

74. In “the former Yugoslav Republic of Macedonia”, the broadcasting licence of the leading privately owned television station TV A1 was withdrawn and three newspapers, including the country’s most widely read daily *Vreme*, were forced to close as a consequence of punitive action by the authorities. The closures followed a long-running investigation into the owner of the media group which controlled TV A1 and the newspapers for alleged tax irregularities and money laundering and demands for repayment of a large sum of outstanding debts.

#### **4.13. Turkey**

75. Turkey is now estimated to have more journalists in detention than any other State in the world. In April 2012, as many as 95 journalists were in jail awaiting trial or serving sentences after being convicted, according to a detailed report published by the OSCE Representative on Freedom of the Media. This number has even increased since. The up-dated list of names of all those individuals is published on the OSCE website.<sup>33</sup>

76. The majority have been charged or convicted under laws related to terrorism or incitement to violence or hatred, or insulting the Turkish nation or institutions of the State. Many of the imprisoned journalists were arrested and charged in connection with the long-running “Ergenekon” investigation into an alleged plot in 2003 to overthrow the government. Others are being prosecuted over the issue of the Kurdish struggle for more autonomy. A number of those convicted have been given prison sentences of more than 50 years. In addition to those jailed, many hundreds of other journalists have been subjected to criminal investigations, often resulting in the loss of employment or severe interruption of their professional work.

77. Upon the invitation of the Turkish Prime Minister, Recep Tayyip Erdoğan, the Secretary General of the Council of Europe, Thorbjørn Jagland, appointed Gérard Stoudmann on 30 May 2011 as his Special Envoy to assess the situation of media freedom in Turkey and focus on precise recommendations related to the implementation of Article 10 of the European Convention on Human Rights.<sup>34</sup> As follow-up action, bilateral

---

<http://assembly.coe.int/Mainf.asp?link=/Documents/WorkingDocs/Doc11/EDOC12744.htm>.

32. See the report: [www.civilrightsdefenders.org/files/Serbian-Media-Scene-VS-European-Standards.pdf](http://www.civilrightsdefenders.org/files/Serbian-Media-Scene-VS-European-Standards.pdf).

33. See [www.osce.org/fom/89371](http://www.osce.org/fom/89371).

34. See <https://wcd.coe.int/ViewDoc.jsp?id=1794287&Site=DC>.

assistance and co-operation projects are being pursued between the Council of Europe and Turkey, for example regarding the future execution by Turkey of past judgments of the European Court of Human Rights as well as study visits by Turkish judges to other countries.

78. Following a visit to Turkey in July 2011, the Commissioner for Human Rights, Thomas Hammarberg, wrote that the large number of journalists in prison was a symptom of a systemic dysfunction in the workings of the Turkish judicial process and that current practices had a distinct chilling effect on freedom of expression. Since that time, however, the number of journalists in Turkish prisons has almost doubled. The Commissioner specified to the Turkish authorities a number of fundamental changes to the country's laws and practices that are necessary to bring them into compliance with the Convention and with the case law of the European Court of Human Rights.

79. It is a matter for concern that the writer Orhan Pamuk was convicted in Turkey in 2011 and forced to pay a fine after a private lawsuit was brought against him by a group of individuals under Article 301, the law which makes it an offence to insult the Turkish nation. The plaintiffs won the case, claiming that they had suffered personal insult from an interview Pamuk had given to a Swiss newspaper in which he spoke about the unwillingness of people in Turkey to talk about the large-scale killing of Armenians and Kurds.

80. In July 2011, a young man of known nationalist views was sentenced to a prison sentence of over 20 years for shooting Hrant Dink in 2009, but the masterminds of the killing have not been convicted. A number of police, security officials and others were prosecuted for various degrees of involvement in the murder, but the judicial and disciplinary punishments imposed on some of them were light or trivial, while others escaped without any penalty at all.

81. In Turkey, as many as 5 000 sites were estimated by the OSCE Representative on Freedom of the Media to have been blocked by order of the authorities between 2008 and 2010 in an attempt to enforce restrictions under an array of laws on terrorism, State security and insult which have been very widely criticised as outdated and contrary to European human rights standards.<sup>35</sup> For many years, the government ordered Internet service providers to block the YouTube site after videos were posted there which denigrated the State's founding figure, Mustafa Kemal Atatürk, and the Turkish flag. Google and other popular sites were also blocked.

#### **4.14. Ukraine**

82. Regarding the investigations of the murder in 2000 of Georgiy Gongadze, an investigative journalist and founder of the *Ukrainska Pravda* (Ukraine Truth) website, the trial began in April 2011 against Olexiy Pukach, a former Interior Ministry official, who had reportedly confessed to playing a direct part in the murder of Gongadze. As journalists and other members of the public have been barred from the proceedings, the Committee to Protect Journalists (CPJ) described the secrecy and irregularities in the Pukach trial and the previous failures to deliver prompt and impartial justice as significant setbacks in the fight against impunity. The CPJ reported that in 2011 journalists in Ukraine continued to face persistent danger from threats and physical attacks, and suffered censorship.

83. In March 2010, Vasyl Demyaniv, the editor of the independent newspaper *Kolomoyskiy Vestnyk*, suffered a fractured skull and knee injuries when he was attacked in the street. Two defendants were convicted and the motive was said to have been robbery, but Demyaniv stated that the two convicted men were innocent and that he had been attacked in retaliation for critical reporting on local government issues.

84. The Institute of Mass Information (IMI), a Kiev-based media monitoring organisation, reported that at least 25 physical assaults took place against journalists because of their work during the period from 2010 to 2011. The IMI disputes a claim by the Interior Minister that the great majority of those attacks against journalists are unrelated to their work. The IMI says that in at least 10 cases the perpetrators were law enforcement agents or other public officials.

85. In Ukraine, the presidential election of January and February 2010 was marred by blatantly partisan coverage by various media favouring one or other of the two main rival candidates, Viktor Yanukovich and Yulia Tymoshenko. Television channels allowed candidates to pay to appear and to place pre-recorded material on news and current affairs programmes, undermining the principle of media independence and objectivity. The ODIHR election observation mission noted that regional media consistently showed a bias in favour of the regional party or parties in power in each case. ODIHR recommended that rules on coverage of

---

35. See, for example, the cases pending before the European Court of Human Rights in *Yildirim v. Turkey* (Application No. 3111/10) and *Akdeniz v. Turkey* (Application No. 20877/10).

government ministers or others holding public office should forbid broadcasters from giving them privileged treatment in coverage during campaign periods. It also called for the State National Television Company of Ukraine to be transformed into a public service broadcaster. The government has initiated moves to do so and every effort should be made to implement the proposal without delay, in line with Council of Europe standards on impartiality and independence.

#### 4.15. United Kingdom

86. In the United Kingdom, the issues of press standards and ethics and of the relationship between the media and public officials, including politicians and police, are being examined by a judge-led public inquiry which is to report during 2012. The inquiry was opened following the scandal over revelations of large-scale phone hacking by employees of the *News of the World* newspaper to hear mobile phone messages left for public figures, celebrities and private individuals, and alleged unlawful payments to public officials, including police officers. The exposure of these practices led to dozens of arrests of editors and journalists as well as some public officials. It brought accusations of improper, collusive relations between the press and government officials, senior politicians and police officers, and of influence-peddling which may have improperly affected the outcomes of regulatory decisions, including decisions affecting the concentration of media ownership.

### 5. Conclusions

87. Freedom of expression and information constitutes a cornerstone of good governance and thriving democracy as well as a fundamental obligation of each member State under Article 10 of the European Convention on Human Rights.

88. Nevertheless, the police and the judiciary in several member States have failed to protect journalists and to properly investigate physical attacks on them. The Russian Federation remains the most dangerous country in Europe for journalists, because of the number of murdered journalists as well as the number of unresolved murder cases. In this country and in all other countries concerned, the competent national authorities must do more to properly investigate such cases and bring to justice those who instigate them.

89. Turkey is estimated to have more journalists in detention than any other State in the world. The latest election observation reports of the Assembly found a biased media environment and other shortcomings in several member States. In all these countries, media freedom should be strengthened by reviewing the laws and the practice by courts and the police.

90. Recent incidences of collusion of media and media owners with politicians and State officials undermine public confidence in democratic government and independent media. The media and public administration must assume their respective responsibilities in establishing measures against such misconduct, in particular through legal measures against corruption as well as media self-regulation and strict editorial independence of journalists from media owners.

91. As many journalists work in precarious situations, professional quality and ethics are often challenged by abuse by media owners and political or commercial interest groups. Member States must ensure that the employment conditions of journalists respect the provisions of the revised European Social Charter (ETS No. 163).

92. Despite the multiplication of digital media outlets, public service broadcasting remains a major source of information in Europe and constitutes a necessary tool for the public at large in an informed democracy. Public service broadcasters must therefore be protected against political interference in their daily management and their editorial work.

93. In this context, it is to be welcomed that the European Broadcasting Union (EBU) has taken action to bring its members into line with its declaration of core values and develop measures to highlight and correct members breaking those recommendations.<sup>36</sup> The EBU itself should refrain from organising events in countries with a poor record on human rights.

---

36. See [http://www3.ebu.ch/files/live/sites/ebu/files/Knowledge/Initiatives%20-%20Policy/Initiatives/v3\\_\\_WEB\\_NEW\\_GRAPHIC\\_LINE\\_Lettre\\_declaration\\_valeurs\\_PMS\\_EN.pdf](http://www3.ebu.ch/files/live/sites/ebu/files/Knowledge/Initiatives%20-%20Policy/Initiatives/v3__WEB_NEW_GRAPHIC_LINE_Lettre_declaration_valeurs_PMS_EN.pdf).

94. The Council of Europe as a whole and member States individually must strengthen their efforts to protect freedom of expression and information through the media. Member and observer States, partners for democracy and the European Union should be invited to provide voluntary contributions for the financing of additional activities in this field.

95. Under its terms of reference, the Assembly's Sub-Committee on Media and Information Society is entrusted to consider threats to freedom of expression and information, including media freedom and pluralism. It can thus take an active role in this regard.

96. In view of these conclusions, concrete action is proposed in the draft resolution and recommendation contained in this document.