Parliamentary Assembly
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COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

Resolution 1920 (2013)[1]
Final version

The state of media freedom in Europe

Parliamentary Assembly

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, such as 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 2007 condemnation concerning a death fatwa that had been issued against him in Iran for having published 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 the 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 extremely high number of journalists imprisoned, detained or prosecuted in Turkey for having expressed their political opinions and contributed to the political debate necessary in a vibrant democracy. The enormous number of cases has a paralysing effect on Turkey's media environment and journalists.

1. *Assembly debate* on 24 January 2013 (8th Sitting) (see Doc. 13078, report of the Committee on Culture, Science, Education and Media, rapporteur: Mr Johansson). *Text adopted by the Assembly* on 24 January 2013 (8th Sitting).

7. While welcoming the fact 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 of 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. It is rather difficult for the Assembly to comprehend the large number of criminal investigations which have been 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 Ergenekon criminal organisation. 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.

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 this 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 Bespalov; 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 authorities 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 Bulgaria and the Republic of Moldova. The Assembly, while welcoming the efforts of Armenia to address the issues with regard to libel suits, encourages the Armenian authorities to continue work in this direction. The Assembly expresses its concern regarding attempts to restore criminal prosecution for defamation in the Ukrainian legislation. Referring to the recent fourteen-month prison sentence imposed on Alessandro Sallusti in Italy, the Assembly asks the Venice Commission to prepare an opinion on whether the Italian laws on defamation are in line with Article 10 of the European Convention on Human Rights.

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 to take steps to remedy shortcomings identified in recent election observation reports. Member States are reminded of Committee of Ministers Recommendations CM/Rec(2007)15 and No. R (99) 15 on measures concerning media coverage of election campaigns. The Assembly expresses its concern about the record number of violations against journalists recorded in Ukraine in the last ten years, especially during the 2012 parliamentary elections.

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. It welcomes the report on transparency of media ownership in Europe prepared by Access Info Europe (Madrid) and the Open Society Media Programme (London) in October 2012 and invites the European Audiovisual Observatory (Strasbourg) to develop further its MAVISE database on media ownership and to provide assistance to its members in establishing transparency of media ownership.

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 Hungary, Italy, Romania, 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 governments in some member States have replaced senior staff in their public service broadcasters after a change in government in order to influence the political orientation of those broadcasters. In this regard, it is particularly alarming that the Georgian Prime Minister suggested merging the Georgian public service broadcaster with the private broadcaster TV9 owned by his wife and amending the Georgian law on broadcasting.

21. The Assembly expresses concern over a series of surprise financial inspections of the Georgian public broadcaster, following aggressive political statements by senior government officials in parallel with the introduction of controversial amendments to the law on broadcasting. These steps preceded statements by Prime Minister Bidzina Ivanishvili on the desirability of the public broadcaster’s merger with TV9, owned by his wife, as well as of ownership shifts in the private Georgian media.

22. The Assembly regrets that many journalists in Europe work in precarious situations resulting from an increase in freelance 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.

23. The Assembly welcomes the successful organisation of the Inter-parliamentary Seminar on the Independence and Financing of Public Service Broadcasting, which was hosted by the Croatian Parliament in Zagreb on 15 October 2012 with the financial support of the Open Society Media Programme. It invites national parliaments and partner organisations to collaborate on similar projects in the future.