Parliamentary Assembly
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COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

Resolution 2035 (2015)[1]
Final version

Protection of the safety of journalists and of media freedom in Europe

Parliamentary Assembly

1. Condemning in the strongest possible terms the terrorist attack on the French magazine *Charlie Hebdo* in Paris on 7 January 2015, the Parliamentary Assembly reiterates the importance of media freedom for democracy. The media create the public space for the dissemination of information and the expression of opinions. Media freedom therefore constitutes an important index for democracy, political freedoms and the rule of law in a country or region. Any attack on the media and journalists is an attack on a democratic society.

2. Appalled by the horrible and cowardly crimes committed in Paris, the Assembly underlines the importance it attaches to freedom of expression, one of the cornerstones of democracy. When in a society fear and self-censorship take the place of freedom to criticise and investigate, democracy is undeniably ailing. The freedom and safety of journalists are also our freedom and our safety.

3. Deeply concerned about the deterioration of the safety of journalists and media freedom in Europe, the Assembly urges member States to step up their domestic and multilateral efforts for the respect of the human rights to freedom of expression and information as well as to the protection of the life, liberty and security of those working for and with the media. Democracy and the protection of human rights depend on media freedom.

4. The Assembly recalls that political criticism and satire must be protected as an essential part of media freedom. Freedom of expression is applicable not only to information or ideas that are favourably received or perceived as inoffensive or with indifference, but also to those that offend, shock or disturb the State or any sector of the population, subject only to the conditions and restrictions provided for in the European Convention on Human Rights (ETS No. 5).

5. Recalling Recommendation 1702 (2005) on freedom of the press and the working conditions of journalists in conflict zones, the Assembly condemns the killings and the alleged targeted attacks on journalists in the armed conflict in eastern Ukraine and calls on the authorities of Ukraine to do their utmost to investigate those attacks and bring the perpetrators before the domestic courts. The Assembly welcomes the release of the Ukrainian journalists Roman Cheremsky on 27 December 2014 and Serhiy Sakadynskiy on 5 January 2015, who had been detained for months in the conflict area in eastern Ukraine. The Assembly notes with concern that the Ukrainian film producer Oleg Sentsov was transferred from detention in Simferopol to Moscow in May 2014 and has since been under criminal investigations by a Russian court in Moscow. Referring to the United Nations General Assembly Resolution A/RES/68/262 of 27 March 2014, which declared illegal the annexation of the Crimean Peninsula by the Russian Federation, Oleg Sentsov should be transferred by the Russian authorities to the appropriate law-enforcement authorities of Ukraine without further delay. The systematic harassment of the free and independent media in annexed Crimea, including the recent raid on the ATR television station, cannot be tolerated in Europe.

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1. *Assembly debate* on 29 January 2015 (7th and 8th Sittings) (see Doc. 13664, report of the Committee on Culture, Science, Education and Media, rapporteur: Mr Gvozden Srećko Flego). *Text adopted by the Assembly* on 29 January 2015 (8th Sitting).
See also Recommendation 2062 (2015).

6. Recalling in particular the events on Independence Square in Kyiv in February 2014, the Assembly condemns the alleged targeted physical attacks by police or security forces against journalists covering demonstrations and other popular protest movements. The Assembly is also concerned about allegations of targeted physical attacks against journalists during the events around Gezi Park in Istanbul in May and June 2013. The Assembly therefore calls for full judicial investigations into those attacks and reminds member States of their respective obligations under the European Convention on Human Rights.

7. Concerned by the detention of Khadija Ismayilova, the criminal charges against Emin Huseynov and the closure of Radio Free Europe/Radio Liberty in Baku in December 2014, the Assembly calls on the authorities of Azerbaijan to respect the right to the presumption of innocence as well as freedom of expression of foreign media in Azerbaijan. Considering the wide attention given to those criminal proceedings, judicial authorities should inform the media about their principal decisions, without prejudice to the secrecy of investigations and the rights of victims or defendants.

8. Referring to Resolution A/RES/68/163 of the United Nations General Assembly on the safety of journalists and the issue of impunity, the Assembly calls on member States to fully investigate all violent deaths of journalists, such as the deaths of Elmar Huseynov (2005) and Rafiq Tagi (2011) in Azerbaijan, Paul Klebnikov (2004) and Anna Politkovskaya (2006) in the Russian Federation, Dada Vujasinović (1994) and Milan Pantić (2001) in Serbia, Hrant Dink (2007) in Turkey, Martin O'Hagan (2001) in the United Kingdom and Georgiy Gongadze (2000) and Vasil Klementiev (2010) in Ukraine, as well as the murder of Erosi Kitsmarishvili, the media manager and founder of one of the major television channels in Georgia (2014).

9. Although any propaganda for war and any advocacy of hatred that constitutes incitement to discrimination, hostility or violence are prohibited by law under Article 20 of the United Nations International Covenant on Civil and Political Rights, the Assembly remains concerned about excessive application of such laws in some countries against media and journalists who express political criticism of the government. In this context, the Assembly welcomes the considerable reduction in the number of journalists detained in Turkey, but regrets, in spite of some progress, the arrest of one journalist following the operations involving some media in Istanbul on 14 December 2014, the recent denial by the Turkish Prime Minister's Directorate General of Press and Information (BYEGM) to grant permanent press cards to 94 journalists and the number of journalists who are still prosecuted or detained. The Assembly calls for further legislative reforms concerning in particular Articles 216, 301 and 314 of the Turkish Penal Code which could lead to arbitrary applications against journalists.

10. Recalling the judgment of the European Court of Human Rights in the case of *Ahmet Yildirim v. Turkey* (18 December 2012), the Assembly concurs that the right to Internet access is considered to be inherent in the right to freedom of expression and information, as expressed in Resolution 1987 (2014) on the right to Internet access. Therefore, the Assembly considers the generalised blocking by public authorities of websites or web services as a serious violation of media freedom, which deprives a high and indiscriminate number of Internet users of their right to Internet access. The Assembly welcomes the fact that Turkey has introduced legal measures to restrict the possibilities for blocking specific Internet content.

11. Aware of the dissuasive effect of legislation on defamation, the Assembly calls on member States to review such legislation in accordance with Resolution 1577 (2007) "Towards decriminalisation of defamation". Such review should deal with criminal law penalties as well as civil procedures for defamation which could financially threaten, in a disproportionate way, journalists and media. Referring to the opinion on the legislation on defamation of Italy by the European Commission for Democracy through Law (Venice Commission) (6-7 December 2013), the Assembly urges the Italian Parliament to resume consideration of its legislation in accordance with this opinion.

12. Referring to the opinion of the Council of Europe Commissioner for Human Rights on Hungary's media legislation (25 February 2011) and the subsequent co-operation of the Council of Europe with Hungary, the Assembly urges the Hungarian Parliament to pursue further reforms of its legislation in order to improve the independence of the media regulatory authorities, the State news agency and the public service broadcasters, to increase transparency and pluralism in the private media, as well as to combat racist expressions against ethnic minorities.

13. Referring to the opinion of the Venice Commission on Azerbaijan's legislation pertaining to the protection against defamation (14 October 2013) and the observations of the Commissioner for Human Rights in this regard (23 April 2014), the Assembly urges the Azerbaijani Parliament to amend its legislation in order to bring it into line with Azerbaijan's obligations under the European Convention on Human Rights and with the legislative proposal made by the Plenum of the Supreme Court of Azerbaijan. In the meantime, the

Assembly urges the authorities to use the existing legislation with caution, to take particular steps to guarantee the right to a fair trial in this regard, and to avoid prison sentences for such offences as proposed by the Plenum of the Supreme Court.

14. In addition to the observations expressed with regard to Georgia in Resolution 2015 (2014) on the functioning of democratic institutions in Georgia and Resolution 1920 (2013) on the state of media freedom in Europe, the Assembly notes with concern the controversial changes in media ownership following the 2012 parliamentary elections and the recent adoption of legislation aimed at curbing the financial independence of private broadcasters and thus potentially influencing their editorial independence.

15. Although media freedom is widely proclaimed in Europe, the Assembly regrets that this freedom is frequently restricted by limiting the freedom and safety of journalists. Danger to journalists, be it physical, financial, existential or a combination thereof, restricts their journalistic freedom and affects the results of their work, sometimes forcing them to satisfy the demands of editors, publishers, owners, advertisers, politicians or others.

16. Pluralism in the media is a necessary condition for a pluralistic society and a pluralistic political system. Transparency of media ownership is necessary in order to control media concentration, to prevent the media from being in the hands of a few and to enable pluralism of media ownership. Therefore, the Assembly proposes publicising a “Media Identity Card” which should, *inter alia*, provide information about the owners of the media outlet concerned and those who contribute substantially to its income, such as big advertisers or donors.

17. Recalling its Recommendation 1878 (2009) on the funding of public service broadcasting, the Assembly continues to be alarmed by tendencies in some member States to erode the financial stability and the independence of public service broadcasters. Public service broadcasting remains an important element in a democratic society for providing the general public with unbiased information and culture in an increasingly commercialised, economically weakened and politically controlled media landscape.

18. Recalling its past reports on serious violations of, and challenges to, media freedom, the Assembly considers it important that media freedom in Europe remains on the agenda of the Assembly and of the Council of Europe as a whole. The adoption of this resolution is only one step in a necessarily ongoing process of awareness and scrutiny by parliamentarians and governments throughout Europe of serious violations of media freedom.

19. The Assembly invites:

19.1. national parliaments to hold annual public debates (hearings, committee meetings or plenary sessions), with the participation of associations of journalists and the media, on the state of media freedom in their respective countries;

19.2. the Commissioner for Human Rights to pay particular attention to the situation of media freedom in all conflict zones in Europe, particularly in eastern Ukraine;

19.3. the Venice Commission to:

19.3.1. analyse the conformity with European human rights standards of Articles 216, 301 and 314 of the Turkish Penal Code and Law No. 5651 of Turkey, as well as their application in practice;

19.3.2. identify the provisions which pose a danger to the right to freedom of expression and information through the media in the Hungarian Act CLXXXV of 2010 on Media Services and Mass Media, the Hungarian Act CIV of 2010 on the Freedom of the Press and the Fundamental Rules of Media Content and the Hungarian tax laws on progressive tax on advertising revenue for media;

19.4. the Conference of International Non-governmental Organisations (INGOs) to promote closer co-operation between NGOs working for media freedom and the safety of journalists and all Council of Europe bodies and institutions;

19.5. the committees of the European Parliament dealing with media freedom to establish close co-operation with the Assembly regarding political action against serious violations of media freedom.