



## Resolution 2141 (2017)<sup>1</sup>

# Attacks against journalists and media freedom in Europe

Parliamentary Assembly

1. The right to freedom of expression and information through the media is a necessary requirement for any democratic society. The Parliamentary Assembly therefore welcomes the establishment, in 2015, of the Platform to promote the protection of journalism and safety of journalists and notes with concern that, unfortunately, the relevance of this tool has been confirmed by the high number of cases which have given rise to alerts about serious threats to media freedom in Europe. The Assembly therefore remains attentive to the situation of media freedom and the safety of journalists in Europe.

2. Following [Resolution 2035 \(2015\)](#) on the protection of the safety of journalists and of media freedom in Europe, a few cases referred to therein have been resolved. The Assembly welcomes in particular the fact that, as suggested in Opinion No. 715/2013 of the European Commission for Democracy through Law (Venice Commission), the Italian Parliament is debating a government bill aimed at abolishing detention for cases of defamation through the media. The Assembly also welcomes the release from detention of Khadija Ismayilova, but expresses concern with regard to the legal proceedings, travel bans and restrictions on freedom of movement imposed on her and on other journalists in Azerbaijan that are designed to prevent them from carrying out their independent work. The Assembly also welcomes Georgian legislation which provides a framework for freedom and stability of the media, as well as the law on broadcasting, and encourages all responsible authorities to continue strengthening the independence and diversity of the public and private media. The Assembly invites member States to promote the dissemination of information about criminal proceedings against organised crime and to discourage all those who try to reduce the visibility of the above proceedings.

3. The Assembly regrets, however, that some concerns expressed in [Resolution 2035 \(2015\)](#) have to be reiterated, regarding:

3.1. the Ukrainian film producer Oleg Sentsov, who was abducted from the Crimean Peninsula and sentenced by a Russian military court in Rostov-on-Don to 20 years' imprisonment in Yakutsk, in Russia; the Assembly urges the Russian authorities to transfer him to the competent law-enforcement authorities of Ukraine without further delay;

3.2. the closure of the broadcaster ATR and other Crimean-Tartar media in the wake of the illegal occupation and annexation of the Crimean Peninsula of Ukraine by Russian authorities; concerned about the general situation of media freedom in the Crimean Peninsula occupied by Russia, the Assembly calls on the Russian authorities to also respect freedom of expression and information through the media in areas which are *de facto* controlled by them outside the territory of Russia, in violation of Resolution A/RES/68/262 of the United Nations General Assembly on the territorial integrity of Ukraine;

3.3. media freedom and security for journalists in the eastern parts of Ukraine which are still under the *de facto* control of belligerent separatist military forces supported by the Russian Federation;

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1. *Assembly debate* on 24 January 2017 (4th Sitting) (see [Doc. 14229](#), report of the Committee on Culture, Science, Education and Media, rapporteur: Mr Volodymyr Ariev). *Text adopted by the Assembly* on 24 January 2017 (4th Sitting). See also [Recommendation 2097 \(2017\)](#).



- 3.4. the previous and continuing changes in media ownership in Georgia, which have an impact on media pluralism and diversity in Georgia. Efforts to change the ownership of the country's most popular pro-European TV station have caused continual concern among many international interlocutors and in civil society.
4. The Assembly notes with sadness that 16 journalists have died violently in member States since January 2015 and strongly calls on the competent prosecutors to thoroughly investigate the still not fully resolved deaths of:
  - 4.1. Pavel Sheremet, a Belarusian journalist who was working for *Ukrayinska Pravda* and *Radio Vesti* in Ukraine when he died in a car explosion in Kyiv on 20 July 2016;
  - 4.2. Mustafa Cambaz, a Turkish photojournalist with the newspaper *Yeni Şafak*, who died from a gunshot wound to the head in Istanbul in the early hours of 16 July 2016 during the failed military coup d'état;
  - 4.3. Naji Jerf, a Syrian journalist who had made several films about atrocities committed by both "IS"/Daesh and the current Syrian Government, who was shot dead in Gaziantep (Turkey) on 27 December 2015.
5. 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 reiterates its call for member States to fully investigate 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, Georgiy Gongadze (2000) and Vasil Klementiev (2010) in Ukraine, as well as Martin O'Hagan (2001) in the United Kingdom.
6. Conscious of the difficulties and serious challenges Turkey is facing with regard to the failed coup d'état, the terrorist attacks, the crisis caused by the enormous number of refugees and the war in Syria, the Assembly expresses its concerns regarding the dire situation for the media and journalists in Turkey under the decrees passed during the state of emergency, in particular the dissolution and seizure of assets of media companies, the detentions of writers, journalists, editors and executives of media companies, as well as the cases of deviations from criminal procedure law, including access to a lawyer and the right to be informed promptly of the nature and cause of the criminal charges.
7. The Assembly calls on the Turkish authorities to:
  - 7.1. release from detention all journalists who have not been indicted for actively participating in terrorist acts – among others the journalist and writer Nazlı Ilıcak, as well as the head of the board of the newspaper *Cumhuriyet*, Akin Atalay, its editor-in-chief Murat Sabuncu, its cartoonist Musa Kart, Kadri Gürsel and several of its columnists – and to immediately check and improve their conditions of detention; the Assembly welcomes the statement by the Minister of Culture and Tourism of Turkey, Mr Nabi Avci, that writers, journalists and cartoonists should not be tried while in detention like murderers;
  - 7.2. review the emergency decrees in so far as they order the arrest of writers and media staff and the public seizure of media companies and their assets;
  - 7.3. consider treating as a priority the applications submitted to the Constitutional Court by media outlets or media staff;
  - 7.4. revise Articles 216, 299, 301 and 314 of the Penal Code in accordance with Opinion No. 831/2015 of the Venice Commission;
  - 7.5. revise Law No. 5651 on regulation of publications on the internet and combating crimes committed by means of such publication, in accordance with Opinion No. 805/2015 of the Venice Commission;
  - 7.6. strengthen the editorial independence of the state broadcaster Türkiye Radyo Televizyon in accordance with the Assembly's [Resolution 1636 \(2008\)](#) on indicators for media in a democracy;
  - 7.7. take into account the new country report on Turkey by the United Nations Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression.

8. Concerned about media freedom in the Russian Federation, the Assembly calls on the Russian authorities to:
  - 8.1. drop its criminal charges for “separatism” and related offences against the Ukrainian journalists Anna Andrievska, Natalya Kokorina and Mykola Semena for their reports about the illegal occupation and annexation of the Crimean Peninsula by the Russian Federation;
  - 8.2. release Roman Sushchenko, a correspondent for the Ukrainian national information agency Ukrinform in France since 2010, who has been detained in Moscow on charges of “espionage” since 30 September 2016;
  - 8.3. exert its influence over the belligerent separatist military forces in eastern Ukraine in order to ensure that journalists can report safely from those areas in accordance with Assembly [Resolution 1438 \(2005\)](#) on freedom of the press and the working conditions of journalists in conflict zones;
  - 8.4. respond to the alerts published on the Platform to promote the protection of journalism and the safety of journalists, and collaborate effectively with the Council of Europe in upholding media freedom.
9. Referring to paragraph 9 of its [Resolution 2062 \(2015\)](#) on the functioning of democratic institutions in Azerbaijan, the Assembly reiterates its concern with regard to retaliation against independent media and advocates of freedom of expression in Azerbaijan. In this regard, it deplores the arbitrary application of criminal legislation to limit freedom of expression, in particular the reported recent use of different criminal laws against journalists and bloggers, and recommends taking the measures necessary to ensure a genuinely independent and impartial review by the judiciary of cases involving journalists and others expressing critical opinions.
10. Recalling the decision adopted by the Committee of Ministers between 6 and 8 December 2016 on the Mahmudov and Agazade group of cases against Azerbaijan, the Assembly regrets the absence of information on measures taken to ensure the adequacy of legislation on defamation and expresses, in this context, grave concern about recent legislative amendments to the Criminal Code that introduce new defamation offences subject to imprisonment, irrespective of whether incitement to violence or hatred is involved.
11. In particular the Assembly calls on the Azerbaijani authorities to:
  - 11.1. cease targeting the Institute for Reporters’ Freedom and Safety (IRFS) and guarantee necessary conditions for the organisation to be able to operate freely in the country;
  - 11.2. stop harassment against independent blogger and IRFS Chairman Mehman Huseynov, return his identification documents and investigate allegations of ill-treatment against him;
  - 11.3. drop the criminal case against independent media outlet Meydan TV, refrain from pressuring its staff and contributors and lift all travel bans imposed on them;
  - 11.4. lift all investigations against Radio Free Europe/Radio Liberty and allow its office in Baku to carry out its normal activities.
12. The Assembly furthermore notes with deep concern that the protection of media freedom under Article 10 of the European Convention on Human Rights (ETS No. 5) is also lacking in other territories of member States which are *de facto* controlled by separatist regimes, namely in Nagorno-Karabakh of Azerbaijan, Abkhazia and South Ossetia of Georgia and Transnistria of the Republic of Moldova. Therefore, the Assembly pays particular tribute to the few investigative journalists who dare shed light on the situation in those otherwise totally non-transparent and lawless areas.
13. Referring to paragraph 2.7 of its [Resolution 2064 \(2015\)](#) on the situation in Hungary following the adoption of [Resolution 1941 \(2013\)](#), the Assembly welcomes progress in combating racist and xenophobic expression in the media and also welcomes the constructive dialogue between the Hungarian authorities and the European Commission in this regard, and calls on the Hungarian authorities to:
  - 13.1. revise certain parts of its media legislation in accordance with Opinion No. 798/2015 of the Venice Commission, which acknowledges the efforts of the Hungarian Government in terms of improving legislation in this field so far;
  - 13.2. reconsider, in accordance with Decision No. SA.39235 of 4 November 2016 by the European Commission, Act XXII of 2014 on Advertisement Tax, which created a discriminatory tax on the publication of advertisements in the media in Hungary;
  - 13.3. ensure that advertising contracts involving public authorities and State companies are concluded with all media in a fair and transparent manner;

13.4. strengthen media pluralism and diversity and ensure transparency of media ownership, especially where a media outlet is effectively held or controlled by a commercial entrepreneur who has been awarded public contracts.

14. Noting that on 22 June 2016 the Polish Parliament passed, as an interim law, an act on the National Media Council – a new pluralistic body with the power to nominate and dismiss management and supervisory boards of public media – thus enhancing the influence of the governing majority over public media, the Assembly holds this matter under consideration. It further notes that the Polish authorities have confirmed that the opinion of Council of Europe experts will be taken into account in the legislative process.

15. Expressing concern about reports of plans by Euronews to close down its Ukrainian service and to limit the rights of journalists to apply for some vacant positions within the company, contrary to French and European labour laws and with clear signs of potential discrimination, the Assembly notes that dozens of Euronews employees joined a strike at the company's headquarters in Lyon on 5 December 2016 against the plans to close its Ukrainian service and to cut several other Euronews services. The Assembly calls on the French authorities to closely monitor the situation and to make sure that none of the concerned employees' legal rights are violated or limited.

16. Noting the recent auction of private broadcasting licenses by the current Greek Government, the Assembly recalls that, while Article 10 of the European Convention on Human Rights allows States to require licenses for broadcasting, restrictions need to be necessary in a democratic society and the award of licenses has to be made in a transparent and reasoned process. The Assembly notes that Greece has suspended the initiation of a public auction until the official publication of the relevant judgment of the Greek Council of State and that it has declared that it will comply fully and unreservedly with that judgment. The Assembly also notes that the Greek Government has legislated that the number of television broadcasting licenses will be determined with the consent of the National Board for Radio and Television, the relevant independent authority, which will also conduct the public auction.

17. Regarding the media situation in Belarus, the Assembly welcomes the report of 21 September 2016 by the United Nations Special Rapporteur on the situation of human rights in Belarus. The Assembly regrets that media pluralism and diversity are still absent. This fact limits the Belarusian people in exercising public control over government conduct and especially hampers the respect of democratic standards during elections.

18. Several governments have tightened their anti-terrorism legislation by enlarging the criminal offence of aiding and abetting terrorist activities, as well as by allowing law-enforcement authorities to search and seize the work of journalists. However, overbroad applications of such laws are not permissible under Article 10 of the European Convention on Human Rights.

19. The Assembly is alarmed that journalists have sometimes been targeted by police action during violent demonstrations. While law-enforcement authorities can stop such demonstrations and order journalists to leave the scene, the physical integrity of those journalists and the integrity of their equipment must be respected. Media must not be hindered when reporting on such demonstrations, which are of public concern in a democracy.

20. Welcoming the fact that investigative journalists have revealed government misconduct in some member States, the Assembly is nonetheless alarmed that many of these journalists have faced pressure from governments, law-enforcement authorities or organised crime. The rights of whistle-blowers and the right of journalists not to disclose their sources must be respected. The Assembly invites the Group of States against Corruption (GRECO), Transparency International and the Global Investigative Journalism Network to co-operate more closely in their work in this context.

21. Noting that the situation of public service broadcasting is difficult in several member States, the Assembly recalls that the independence of such broadcasters from governments has to be ensured through law and practice. Governments and parliaments must not interfere in the daily management and editorial work of such broadcasters, which should establish in-house codes of conduct for journalistic work and editorial independence from political sides. Senior management positions should be refused to people with clear party political affiliations.

22. Welcoming the efforts of the Ukrainian authorities to establish a strong public broadcasting system, the Assembly emphasises the importance of continuing without delay the full implementation of the public broadcasting law adopted by the Ukrainian Parliament in April 2014, and of transforming State media outlets into public service media.

23. Welcoming the fact-finding work on serious violations of media freedom by professional media organisations throughout Europe, the Assembly calls on member States, the European Union, the Organization for Security and Co-operation in Europe (OSCE) and the United Nations to join forces with the Council of Europe and support its Platform to promote the protection of journalism and safety of journalists. The Platform alerts and governmental responses should be used for in-depth analyses of serious cases of attacks on journalists and media freedom, especially where the severity and frequency of such attacks indicate systemic problems in member States.