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Respect for media freedom

Report
Committee on Culture, Science and Education
Rapporteur: Mr Andrew McINTOSH, United Kingdom

Summary

The Committee on Culture, Science and Education is shocked by the increase in attacks on journalists and media – at least 20 journalists have been killed since 2007 in Europe, including 13 in Russia. This report takes stock of the situation in the member states, using three categories of violations: the most severe violations of media freedom such as physical assaults, murders, intimidation or impunity for crimes targeting journalists; violations arising from the misuse of governmental power to direct the media; as well as threats linked to media ownership or to the absence of professional ethics.

The Council of Europe should collate information on violations of media freedom on a continuing basis, analyse this information systematically country by country and disseminate it to the governments of member states. It should assist member states to train their judges, law enforcement authorities and police in respecting media freedom. Member governments should review national legislation and practice.

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A. Draft recommendation

1. Recalling its Resolution 1535 (2007) on threats to the lives and freedom of expression of journalists, the Parliamentary Assembly notes with great concern that attacks on media and journalists as well as other serious violations of media freedom have increased and that at least 20 twenty journalists have been killed since 2007 in Europe. These alarming facts require the resolute reaffirmation that media freedom is a necessary condition for democracy and thus for membership with the Council of Europe. Member states and the Council of Europe must do more to ensure respect for media freedom and the safety of journalists.

2. In its Resolution 1535 (2007), the Assembly resolved to establish a specific monitoring mechanism for identifying and analysing attacks on the lives and freedom of expression of journalists in Europe as well as the progress made by national law enforcement authorities and parliaments in their investigations of these attacks. In support of this resolution, the Assembly welcomes and supports the appointment of a rapporteur on media freedom of its Committee on Culture, Science and Education.

3. The Assembly values highly the work of the Representative on Freedom of the Media of the Organization for Security and Co-operation in Europe (OSCE) and looks forward to continued and increased collaboration. It also appreciates the active contribution of such organisations as the International Federation of Journalists, the Association of European Journalists, the European Newspaper Publishers' Association, Article 19, the International Press Institute and Reporters Without Borders in identifying violations of media freedom.

4. The Assembly deplores the fact that, since the adoption of Resolution 1535 (2007), the Russian Federation has failed to conclude a proper investigation and adjudication of the murder of Anna Politkovskaya in Moscow on 7 October 2006 and to ensure that journalists can work freely and in safety. Thirteen more journalists have lost their lives in Russia since 2007: Ivan Safronov, Vyacheslav Ifanov, Ilyas Shurpayev, Gadji Abashilov, Sergey Protazanov, Magomed Yevloyev, Telman Alishayev, Shafig Amrakhov, Anastasia Baburova, Vyacheslav Yaroshenko, Natalia Estemirova, Abdulmalik Akhmedilov and Olga Kotovskaya.

5. The Assembly also deplores the fact that organised crime in several member states is threatening the safety of journalists, while law enforcement authorities remain ineffective against such threats. The Assembly is saddened by the murders of Georgi Stoev in Bulgaria on 7 April 2008 as well as Ivo Pukanic and Niko Franjic in Croatia on 23 October 2008. Critical media play an important role in discovering and shedding light on corruption and organised crime. The public has the right to be informed by the media about such facts. States should support such media.

6. Recalling its Resolution 1438 (2005) on freedom of the press and the working conditions of journalists in conflict zones, the Assembly deplores the fact that the war between Russia and Georgia in 2008 has also taken the lives of Alexander Klimchuk, Grigol Chikhladze, Stan Storimans and Giorgi Ramishvili.

7. The Assembly welcomes amendments made to Article 301 of the Turkish Penal Code but deplores the fact that Turkey has not abolished Article 301 or 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. Criminal charges have been brought against many journalists under the slightly revised Article 301, which still violates Article 10 of the European Convention on Human Rights.

8. Referring to its Resolution 1577 (2007) "Towards decriminalisation of defamation", the Assembly reaffirms that defamation and insult laws must not be used to silence critical comment and irony in the media. The reputation of a nation, the military, historic figures or a religion cannot and must not be protected by defamation or insult laws. Governments and parliaments should clearly and openly reject false notions of national interest evoked against the work of journalists. Nationalism must never again become the misguided reason for killing journalists, or depriving them of their rights or liberty.

9. The Assembly notes with concern that excessive punitive sanctions have been imposed on media outlets. Government members and parliamentarians should not use their political influence to silence critical media, but rather engage in a constructive debate through all media.

10. The Assembly reaffirms that the introduction of digital broadcasting must not be used to discriminate for party political reasons against individual broadcasters.

11. The Assembly therefore recommends that the Committee of Ministers:

    11.1. review national legislation and practice to ensure that anti-terrorism measures fully respect media freedom in accordance with Recommendation 1706 (2005) on media and terrorism;

11.2. assist member states in training their judges, law enforcement authorities and police in respecting media freedom, in particular as regards protection of journalists and media against violent threats;

11.3. give its full support to the mechanism proposed by the Steering Committee on the Media and New Communication Services for promoting compliance with Article 10 of the European Convention on Human Rights and other Council of Europe standards on media freedom;

11.4. call on the governments of all member states, and in particular those of Azerbaijan, the Russian Federation and Turkey, to revise their defamation and insult laws and their practical application in accordance with Assembly Resolution 1577 (2007);

11.5. call on the governments of all member states, and in particular of Armenia, Azerbaijan, Italy, Moldova, the Russian Federation and Ukraine as well as Belarus, to ensure fair and equal access of all political parties and candidates to the media before elections and pay particular attention to this issue when assessing future elections;

11.6. call on the Government of the Russian Federation to ensure that the high number of murders of critical journalists are investigated and adjudicated;

11.7. call on the Government of Armenia to revise their legislation on the allocation of broadcasting licences, which was passed as a countermeasure to the judgment of the European Court of Human Rights in the case of *Meltex Ltd and Mesrop Movsesyan v. Armenia* of 17 June 2008.

12. Referring to its Resolution 1636 (2008) and the basic principles for assessing media freedom, the Assembly asks the Secretary General of the Council of Europe to allocate the resources necessary to:

12.1. collate information on a continuing basis from media freedom organisations including the International Federation of Journalists, the Association of European Journalists, the European Newspaper Publishers' Association, the International Press Institute, Article 19, and Reporters Without Borders, identifying violations of media freedom;

12.2. analyse this information on a systematic basis, country by country, using the indicators for media freedom set out in Resolution 1636 (2008);

12.3. make such information publicly available in electronic form on the website of the Council of Europe, and in accompanying hard copy;

12.4. issue electronic and print reports on this information and analysis to the governments and parliaments of member states and to the media, not less frequently than every three months, highlighting the important events of the most recent period in each country and requiring remedy when necessary.

13. Referring to its Resolution 1387 (2004) on monopolisation of the electronic media and possible abuse of power in Italy, the Assembly asks the Venice Commission to prepare an Opinion on whether, and to what extent, legislation in Italy has been adapted to take account of their Opinion on the compatibility of the laws "Gasparri" and "Frattini" of Italy 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).

14. The Assembly invites the parties to the Partial Agreement "Group of States against Corruption" (GRECO) to emphasise in their work the importance of media freedom and the role of investigative journalism in combating corruption and to ask the European Union to accede to GRECO.

15. The Assembly invites the European Union Agency for Fundamental Rights as well as national human rights institutions in member states to co-operate with the Council of Europe in assisting governments, courts and media organisations with their pursuit of remedies for serious violations of media freedom.

16. For the purposes of the publication proposed in paragraph 12 above, the Assembly invites the International Federation of Journalists, the Association of European Journalists, the European Newspaper Publishers' Association, Article 19, the International Press Institute, Reporters Without Borders and other media freedom organisations to continue to provide regular information to the Assembly and the rapporteur on media freedom of the Committee on Culture, Science and Education about serious violations of media freedom in Europe which may require inter-parliamentary attention and follow-up.

B. Explanatory memorandum by Andrew McIntosh, rapporteur

1. Introduction

1. This report follows my earlier report which led to Assembly Resolution 1535 (2007) and Recommendation 1783 (2007) on threats to the lives and freedom of expression of journalists. It is structured in accordance with the basic principles stipulated in Assembly Resolution 1636 (2008) on indicators for media in a democracy, using three basic categories of violations.

– Category A covers the most severe and damaging violations of media freedom, including physical assaults and murder, intimidation, impunity for crimes targeting journalists and the application of excessively severe penal laws to protect state officials from the level of criticism which is to be expected in a democracy (Resolution 1636 (2008) paragraphs 8.1, 8.2 and 8.14).

– Category B applies to governments' dealings with the media in law and administration. These indicators concern violations of media freedom arising from the misuse of governmental or other powers to direct the media, especially in elections (Resolution 1636 (2008) paragraph 8.5), interference with media freedom through ownership, control and regulation (paragraphs 8.7, 8.15 to 8.19 and 8.22 to 8.24), the damaging impact of laws on anti-terrorism, extremism and state security on freedom of expression, access to information and confidentiality of sources (paragraphs 8.3 to 8.10 and 8.24) and the independence of public sector broadcasting (paragraphs 8.20 and 8.21).

– Category C covers the need for diverse media ownership, (Resolution 1636 (2008) paragraph 8.18) professional and ethical conduct on the part of media owners, managers, editors and workers (paragraphs 8.12, 8.13, 8.21 and 8.26), decent working conditions (paragraph 8.11), procedures to deal with disputes and complaints (paragraph 8.25) and effective national reviews of the condition of media freedom.

2. I wish to express my deep appreciation to William Horsley, International Director of the Centre for Freedom of the Media at the University of Sheffield and Media Freedom Representative of the Association of European Journalists, who was commissioned to prepare a substantial background report on serious violations of media freedom in Europe between 2007 and 2009. This explanatory memorandum uses parts of the background report.

3. For the preparation of this report, the Sub-Committee on the Media held a hearing on media freedom in Luxembourg on 26 October 2009. I appreciate the substantial contributions made during this hearing by Marc Gruber from the International Federation of Journalists, Danièle Fonck, Alvin Sold and Michal Musil from the European Newspaper Publishers' Association, Boyko Boev from Article 19, Boris Bergant from the International Press Institute/South East Europe Media Organisation and Olivier Basille from Reporters Without Borders. The hearing was kindly hosted by the Chamber of Deputies of Luxembourg.

4. On this occasion, the German journalist Hans-Martin Tillack handed over to the Council of Europe an original copy of the "European Charter on Freedom of the Press" prepared and signed by many leading European journalists. The charter was received during that meeting of the Sub-Committee on the Media in Luxembourg by the Chairman of the Committee of Ministers, Mr Samuel Žbogar, Minister for Foreign Affairs of Slovenia, as well as myself on behalf of the Assembly.

5. This symbolic reminder of the need to respect media freedom in any democracy reflected the desire of media and their organisations that the Council of Europe increase its efforts. It was a reminder that constant attention is necessary in order not to put democracy at stake by neglecting serious violations of media freedom. Democracy and media freedom are core values of the Council of Europe.

2. Category A: murders, violence against journalists and the most serious violations

2.1. Armenia

6. Harassment of journalists and direct controls on the media intensified around the time of the February 2008 presidential election. Several journalists, including photographer Gagik Shamshyan, were injured in assaults by police during protests after the election. The Committee to Protect Journalists (CPJ) reported that a reporter, Lusine Barseghyan, was assaulted while attempting to document abuses at a Yerevan polling station. During a three-week long state of emergency all independent reporting was banned. In March 2007 similar government controls on the media were imposed during a temporary state of emergency under the previous administration.

7. Several other journalists suffered assaults in 2008, including Hrach Melkumyan, Yerevan bureau chief of Radio Free Europe/Radio Liberty and Edik Baghdasaryan, editor of the online news magazine *Hetq* and chair of the Armenian Association of Investigative Journalists.

8. On 30 April 2009 Argishti Kivirian, editor of the online news website *Armenia Today*, was attacked by three unknown assailants outside his home in Yerevan, leaving him with severe injuries. He was reportedly beaten on his head and body with clubs or wooden poles and one of the attackers also fired gunshots, which caused no injuries. Colleagues said they believed the attack was related to his work.

2.2. Azerbaijan

9. The Azerbaijan authorities have been accused of arbitrarily imprisoning journalists and mistreating them in jail. On 17 August 2009 Novruzali Mamedov, the editor of a defunct minority newspaper *Talyshi Sado*, died in a Baku prison, where he had been serving a ten-year sentence since February 2007. The CPJ had protested that Mamedov was jailed on fabricated charges, including treason. The Paris-based International Federation for Human Rights alleged that he was tortured in jail. Several international groups claimed that he had also been denied necessary medical treatment while suffering from ill health in prison. A prison spokesman said the cause of his death was a stroke. *Talyshi Sado* stopped publishing soon after Mamedov was jailed.

10. Police brutality is alleged in the case of Emin Huseynov, head of the Institute for Reporters' Freedom and Safety in Azerbaijan, who suffered head injuries when he was reportedly struck by police with the butt of a gun in a Baku police station on 14 June 2008. Huseynov was covering an event at a Baku cafe when it was raided by police. Officials later attributed his injuries to self-harm.

11. The 2005 murder of Elmar Huseynov, editor-in-chief of the journal *Monitor* and leading advocate of democratisation, remains unsolved. Huseynov was killed outside his home in the run-up to elections in 2005. International media monitoring groups have alleged that government officials were involved in Huseynov's death.

12. Eynulla Fatullayev, the editor of *Gundelike Azerbaijan* and the Russian-language newspaper *Realny Azerbaijan*, has been in prison since his conviction in April 2007 over allegations he made in newspaper articles that Elmar Huseynov's murder was ordered by high-ranking officials. International PEN and the CPJ denounced as "politicised" Fatullayev's convictions for terrorism and inciting ethnic hatred. In total he received an eight-year jail sentence. Earlier he had been given a suspended sentence after being found guilty of defaming the interior minister. CPJ states that he had received death threats. His newspaper's offices were also shut down.

13. The OSCE Representative on Freedom of the Media reported that in May 2007 another *RealnyAzerbaijan* reporter, Uzeyir Jafarov, had been almost beaten to death.

14. On 21 April 2009, three journalists serving jail sentences on defamation and other charges were released. The World Association of Newspapers and News Publishers (WAN-IFRA) on 24 September 2009 called for the release of a further five editors, journalists and bloggers from prison. WAN-IFRA claimed that all five were being punished for criticising the government, and it deplored the "pervasive climate of intimidation and fear" in the media environment of Azerbaijan.

2.3. Bosnia and Herzegovina

15. In September 2008, death threats were received by several radio and print journalists who covered an event in Sarajevo focusing on gay rights.

2.4. Bulgaria

16. On 7 April 2008 Georgi Stoev, a newspaper columnist and author of several popular books about organised crime in Bulgaria, was shot dead in a street in Sofia; CPJ reported that he had predicted that he would be killed for his writings. No suspects were identified.

17. Ognyan Stefanov, the editor of the investigative website Frognews was left unconscious for three days and was critically injured after being attacked with hammers by masked men outside a restaurant in Sofia on 22 September 2008. Reporters Without Borders (RWB) reported that Stefanov's injuries included two broken legs and a broken arm.

18. RWB reports that on 9 February 2007 two men threatened to throw acid at Maria Nikolaeva after she had co-written a critical article about a project to build a block of flats on Bulgaria's largest protected site, the nature reserve in Strandja on the Black Sea.

19. RWB concluded that investigative journalism and media pluralism in Bulgaria are seriously threatened by organised crime and various forms of pressure from political and business quarters, and said that self-censorship had grown more common because of the evident risks to journalists' safety following the murder of Stoev and the attack on Stefanov.

2.5. Croatia

20. On 23 October 2008 Ivo Pukanić, the owner and editorial director of the Croatian political weekly *Nacional*, and Niko Franjic, the newspaper's marketing director, were killed by a bomb which exploded under the editor's car outside the newspaper's offices in Zagreb. These were the first murders of media workers since the Balkan wars of the 1990s. *Nacional* has a reputation for reporting on crime, corruption and human rights abuses. Criminal gangs are believed to be responsible, and five men have been charged in connection with the murders. Pukanić had earlier received death threats. The World Association of Newspapers (WAN) had earlier criticised the poor record of Croatia's law-enforcement agencies in prosecuting those who attack journalists.

21. The South East Europe Media Organisation (SEEMO) expressed alarm over death threats received in 2008 by Drago Hedl, journalist with the weekly *Feral Tribune*, who had investigated war crimes against civilians committed in 1991, and Vedran Strukar, of Europe Press Holdings, whose family members were also threatened with violence.

2.6. Georgia

22. In August 2008, four journalists were killed and at least 10 others were injured while reporting on the conflict in Georgia.

23. On 10 August 2008 Alexander Klimchuk, the head of the Tbilisi-based Caucasus Images photo agency and Grigol Chikhladze, a freelance worker for the same agency, were killed while trying to enter Tskhinvali in South Ossetia while on assignment for the Russian news service Itar-Tass.

24. On 12 August 2008 Stan Storimans, a Dutch cameraman for RTL television was killed in a military attack on the Georgian town of Gori and his reporter colleague Jeroen Akkermans was injured. A Dutch Government inquiry found that Russian cluster munitions were responsible for the death and injury, but the claim was disputed. Akkermans has lodged a complaint against Russia over the attack with the European Court of Human Rights.

25. On 6 September Giorgi Ramishvili of the Rustavi 2 television station was killed, reportedly shot while filming around the Georgian village of Shavnabada near Tbilisi.

26. On 7 November 2007, during popular protests against the Government of Georgia over alleged corruption and abuses of power, a large force of armed troops stormed the privately owned Imedi television station, which had been a focus for airing the views of the political opposition. The troops detained and threatened hundreds of staff and destroyed much of the station's equipment, forcing it to stop broadcasting. A number of employees were assaulted by riot police after being ejected from the building. Human Rights Watch and other international organisations questioned the legality of the operation, which the government claimed was prompted by a threat to national security. When the station was allowed back on air five months later it was under different ownership and had softened its critical stance towards the government.

27. Article 19 accused the Georgian Government of breaking its commitment to freedom of expression by suppressing the media during the parliamentary and presidential elections in 2008, as well as the August 2008 conflict with Russia.

28. The Georgian authorities were strongly criticised by international monitoring organisations for censorship of the media, including the blocking of Russian-language broadcasts, at the time of the conflict.

2.7. Greece

29. Journalists' groups voiced serious concern after four armed men invaded the private broadcaster *TV Alter* in Athens on 17 February 2009, fired several shots and threw an explosive device at the building shouting threats at the journalists there. They reportedly called themselves the "revolutionary sect". The motive for the attack was not made clear.

2.8. Hungary

30. On 22 June 2007 a brutal assault was inflicted on Iren Karman, a woman journalist who was investigating alleged corruption involving criminal gangs related to oil deals done in the 1990s. She was abducted in Budapest, severely beaten, and left on a bank of the Danube suffering from head wounds and internal bleeding,

2.9. Italy

31. Senior Italian prosecutors say that murder threats and physical assaults are commonly being used by criminal elements including the Mafia, to force Italian journalists to stay silent about organised crime.Writer and journalist Roberto Saviano, the author of the book entitled *Gomorra*, has been forced to live under police protection since October 2006 after receiving threats because of his investigations into the Neapolitan Mafia, the Camorra. RWB estimates that 10 other journalists have also had to seek police protection because of personal threats.

32. On 2 September 2007 two men were discovered trying to place a home-made bomb under the car of Lirio Abbate, a correspondent in Palermo for the national news agency ANSA. That followed publication of his book *Complici* [The Accomplices] dealing with connivance between the political world and the Mafia.

2.10. Moldova

33. Police were accused of using excessive force, assaulting and arresting a number of journalists during post-election demonstrations on 8 April 2009 and in the following days. The government stopped a number of Romanian and other foreign journalists from entering the country around that time and detained others who were already there.

34. The OSCE Representative on Freedom of the Media complained to the government about the police behaviour and the restrictions on reporting. He also called on the journalists reporting on the street protests and clashes to do so objectively, without inflaming the situation.

2.11. Russia

35. The lengthy catalogue of violent deaths among journalists in Russia is an affront to the principles of the Council of Europe, including the right to life and to freedom of expression. These documented cases seem to show persistent and careless violation of the requirement to protect journalists against physical attacks, and a habitual failure to deal with assaults and threats adequately through the courts.

36. On 2 March 2007 Ivan Safronov, a military affairs correspondent for the *Kommersant* newspaper, died after falling from the fourth floor of his apartment block in Moscow. Investigators attributed the death to suicide, but his family and friends stated their belief that he was killed because of his work. He had been preparing to publish articles revealing evidence about questionable arms sales to the Middle East. The CPJ and others called for a full investigation. However, no suspects are being sought.

37. On 5 April 2007 Vyacheslav Ifanov, a cameraman for the independent television station Novoye Televideniye Aleiska in the Siberian city of Aleisk died in his car garage and was declared to be the victim of self-induced carbon monoxide poisoning. However, the CPJ reported that family members said they had found wounds on his body and that he had received death threats. Ifanov was killed the day after his television station broadcast a report about an earlier attack on him in January, in which he suffered concussion after a group of unidentified men wearing camouflage uniforms had beaten him, allegedly warning him to stop his investigative reporting work or face worse punishment. No suspects were identified.

38. On 21 March 2008 Ilyas Shurpayev, a television reporter for Russia's Channel One who had reported widely from the Russian Republic of Dagestan, was stabbed and apparently strangled in his Moscow apartment. Three suspects were arrested and accused of his murder and of theft, and sentenced to long

prison terms. The CPJ reports that Shurpayev had described himself as having been branded as a dissident. He was killed shortly after he had written an article for a newspaper in Dagestan which had rejected his writing as too controversial. Three men were convicted but further investigations are called for.

39. Also on 21 March 2008, Gadzhi Abashilov, the head of the state radio and television company in Dagestan and a former deputy information minister there, was shot dead in his car in the capital, Makhachkala. His driver was badly injured. No suspects were identified.

40. On 31 August 2008 Magomed Yevloyev, the publisher of the popular independent news website Ingushetia.ru was was shot dead while in the custody of officers of the Ministry of the Interior after his arrest at the airport of the Ingush capital, Nazran. Contradictory official statements were made about the killing but it was later announced that one of the officers would be charged with negligent homicide. Yevloyev's family have demanded the investigation should be extended to seek those responsible for ordering the killing. They have taken their appeal to the European Court of Human Rights. Preliminary hearings opened in 2008. Yevloyev and his website were known for his work exposing official corruption, alleged election fraud and human rights abuses in Ingushetia.

41. In 2007 the website's chief editor, Roza Malsagova, left Ingushetia after saying that she had been assaulted by Ingush authorities and had received physical threats. She also faced criminal prosecution for distributing allegedly extremist materials and inciting ethnic hatred. The Moscow-based SOVA Center for Information and Analysis, which monitors issues of xenophobia and civic freedoms in Russia, said in a report on 29 July 2009 that while various charges used to prosecute Ingushetia.ru were unfounded, certain texts published there did contain xenophobic statements against Ossetians. It also reported that the website had since been allowed to reopen as Ingushetia.org.

42. On 2 September 2008 Telman Alishayev, a presenter on TV-Chirkei in Makhachkala, Dagestan, was shot in an attack by two assailants while driving his car and died the next day. He had reported critically about the ultra-conservative Wahhabi sect of Islam and received death threats. The investigation continues.

43. On 5 January 2009 Shafig Amrakhov, editor of the online news agency RIA 51, died six days after he was shot in the head several times with a gun using rubber bullets at his home in Murmansk. The CPJ reports that he had made public criticisms of the Murmansk governor shortly before his murder and had been denied accreditation to attend President Vladimir Putin's last press conference in that office in February 2008. Mr Amrakhov had suffered a serious injury in an earlier assault in 1997. No suspects were identified.

44. On 19 January 2009 Anastasia Baburova, a reporter for the independent newspaper *Novaya Gazeta*, was shot and fatally wounded in a Moscow street by a man wearing a ski mask; she had attended a press conference with a leading human rights lawyer Stanislav Markelov, whom the gunman shot dead first and who may have been the main target of the shooting. A prosecutor said one suspect whose identity is known to the authorities is being sought. The investigation continues.

45. On 30 March 2009 Sergey Protazanov, a layout designer for *Grajdanskoye Soglasye*/ [Civic Concord], a critical local newspaper in the Moscow suburb of Khimki, died two days after he was attacked close to his home, according to what he told the newspaper's editor Anatoly Yurov. The International Federation of Journalists (IFJ) reported that investigators made contradictory statements about the manner of his death, and then determined that he had died from a stroke after falling downstairs. The Glasnost Defence Foundation (GDF) and IFJ reported information that Protazanov had been preparing newspaper coverage of alleged fraud in recent local mayoral elections. Anatoly Yurov had also been stabbed in an attack in February 2008. Six months after Protazanov's death no criminal case has yet been opened.

46. On 30 June 2009 Vyacheslav Yaroshenko, the editor-in-chief of *Korruptsiya i Prestupnost* [Corruption and Crime] died of head injuries he reportedly suffered during an attack by unknown assailants at the entrance of his apartment building in Rostov-on-Don. Police said it was likely that Yaroshenko died from a fall downstairs, but his colleagues and international organisations suspect he was murdered and allege negligence by the investigators. He had published reports about alleged corruption involving law enforcement agencies in the city. No criminal investigation has been opened.

47. On 15 July 2009 Natalia Estemirova, who worked in Chechnya for the human rights organisation Memorial, was abducted in a street in Grozny. Her body was found, with bullet wounds to the head and heart, in neighbouring Ingushetia later the same day. An investigation was ordered but several international organisations cast doubt on its impartiality. Estemirova had published articles implicating forces loyal to the Chechen President Ramzan Kadyrov in torture and other severe human rights crimes. After her death, Russian human rights figures called for local law-enforcement forces to be investigated in connection with the murder. No suspects have yet been identified.

48. After Estemirova's death, Memorial said it would be forced to withdraw from Chechnya because of the unacceptable risk to the lives of its staff. She had contributed articles to *Novaya Gazeta* and is the fifth journalist writing for the paper to be killed since 2000.

49. On 11 August 2009 Abdulmalik Akhmedilov, deputy editor of *Khakikat* [Truth], a newspaper published in the Avar language of Dagestan, was shot dead by unknown assailants as he left his home in Makhachkala. GDF and IFJ reported that eye witnesses said his attackers used a car with tinted windows and no number plates. Investigators were quoted as saying they would investigate various possible motives for the murder. The chief editor of *Khakikat*, Ali Kamalov, alleged it was politically motivated. Akhmedilov had criticised federal and local law-enforcement bodies for suppressing religious and political dissent under the guise of an anti-extremism campaign. Investigations are ongoing.

50. Of all these cases only one – the death of Ilyas Shurpayev – has resulted in a legal conviction. Following the murder of Abdulmalik Akhmedilov in Dagestan, the OSCE Representative on Freedom of the Media, Miklos Haraszti, sent a letter to the Russian Foreign Minister Sergei Lavrov saying that the Russian Government must publicly acknowledge that the campaign against journalists and human rights activists in the Russian Federation is intolerable, adding that the highest levels of law enforcement must be taken to task after proving unable to resolve earlier cases. Mr Haraszti called for an action plan to put an end to what he termed a “human rights crisis”.

51. The situation in Russia today for independent-minded and inquiring journalists was described in September 2009 by a representative of the Centre for Journalism in Extreme Situations (CJES), Oleg Panfilov, as a “constant state of fear”. CJES estimates that several hundred Russian journalists have chosen to go abroad because of risks to their personal safety and the severe limits placed on their professional freedom inside Russia, while others have abandoned journalism.

52. Independent Russian journalists are united in saying that self-censorship is now widespread among Russian media workers, driven by the fear of violence following the multitude of assaults on inquiring journalists. In 2008, 69 other physical assaults and 35 cases of threats to the safety of journalists in Russia were recorded by the IFJ and the GDF, confirming Russia's reputation as the most dangerous country in Europe for journalists.

53. Among the most severe was the apparent murder attempt on 12 November 2008 against Mikhail Beketov, editor-in-chief of the independent newspaper *Khimkinskaya Pravda* in the Khimki area of Moscow. He was beaten unconscious outside his home by unknown attackers using metal bars. The assault left him with life-threatening head injuries and doctors had to amputate one of his legs. Colleagues reported that he had been warned of a plan to murder him so as to stop him reporting on alleged official corruption and his car had been set on fire. Beketov had investigated alleged official corruption related to a motorway construction project through a local area of protected forest which was opposed by local people.

54. On 3 February 2009 Yuri Grachev, 72-year-old editor of a Moscow area newspaper *Solnechnogorsky Forum*, was beaten unconscious outside his home near Moscow. He had published articles that were sharply critical of local officials’ conduct in recent elections.

55. On 10 March 2009 Vadim Rogozhin, an investigative journalist and managing director of Vzglyad [View], a media holding company in the southern city of Saratov, was attacked outside his apartment by two assailants and critically injured by blows to the head with a blunt axe. He had reported on alleged corruption in the regional government and security agencies.

56. On 12 March 2009 Maksim Zolotarev, editor of the independent *Molva Yuzhnoye Podmoskovye* [Molva South] newspaper in Serpukhov near Moscow, was beaten by attackers with clubs outside his apartment. He subsequently said that he had quit journalism because of intimidation. The CPJ reported that Zolotarev described the attack as retaliation for the paper’s reporting on corruption.

57. The public condemnation by elected political figures of violent crimes against media workers is essential to create the necessary political climate to deter any recurrence of such outrages. The first recorded response to Anna Politkovskaya’s death from the then President of Russia, Vladimir Putin, provoked international dismay: the Russian leader spoke dismissively about the murdered journalist as someone with minimal influence in Russia.

58. However at a press conference in January 2007 President Putin expressed concern about her death and described the problem of the persecution of journalists in Russia as one of most pressing facing his government. The record of killings and assaults on journalists in Russia calls for unambiguous condemnation

and determined executive leadership. President Dmitry Medvedev, who took over that office in 2008, has condemned violence against journalists in strong terms, but appropriate legislative and political reforms have yet to follow.

2.12. Attacks on human rights defenders

59. Murders and acts of violence against prominent human rights defenders, including lawyers, in Russia have further eroded the possibility for a free press to continue to exist, both because those attacks spread fear and because journalists depend on a small number of determined and authoritative individuals for reliable information from dangerous regions, including Chechnya.

60. International condemnation and outrage followed the street killing of prominent human rights lawyer Stanislav Markelov, shot in January 2009 together with Anastasia Baburova, and the death of Zarema Sadulayeva, who worked for a children's charity in Chechnya and was killed there on 12 August 2009 together with her husband.

61. The risks to the safety of those who take a public stand for freedom of speech and conscience in the face of threats or coercion were again demonstrated by threats made in late September 2009 to the life of Alexander Podrabinek, a former anti-communist dissident and freelance journalist, by the right-wing pro-Kremlin youth movement Nashi. Podrabinek wrote an article on a news website criticising Russia's Soviet past, including the crimes of Stalinism, and accusing the present Russian Government of seeking to rehabilitate the image of the Soviet Union. He and his family went into hiding after Nashi members threatened to sue him and staged menacing protests outside his home, and personal details including his home address were posted on other Internet sites.

2.13. Serbia and Kosovo[1]

62. Physical assaults and serious threats against journalists continued to be reported in Serbia and Kosovo, mostly related to residual nationalist and political tensions. In Serbia, the SEEMO reported that the editor of RTV TNT in Bela Crkva, Stefan Cvetkovic, was assaulted on 18 July 2008, apparently on account of his on-air reports. In September 2008 a group of nationalist protestors forced their way into the Beta news agency in Belgrade to demand coverage of their protests against the arrest of the war crimes suspect Radovan Karadžić. In March 2008 SEEMO reported that two senior editors of the weekly *Nedeljni Telegraf* had received death threats.

63. In Kosovo, death threats were made against the television presenter Jeta Xharra in June 2009 following her investigative reports on the public television channel RTK about limits on press freedom in Kosovo and alleged atrocities committed by the Kosovo Liberation Army in the conflict of the late 1990s.

2.14. Spain

64. The armed Basque separatist organisation ETA has continued to attack and threaten journalists who criticise its use of terrorist violence and extortion.

65. Among the most recent incidents of violence directed against the media in the Basque country were an explosion at the EiTB public broadcasting headquarters in Bilbao on 31 December 2008 and another against a television transmission facility in Hernani on 16 January 2009. The attacks caused significant damage but no injuries.

66. RWB reported that as a result of these incidents journalists have for many years been intimidated into compromising the way they report on ETA, and that in May 2008 around 40 of them in the Basque country were obliged to live under police protection.

2.15. Turkey

67. On January 19 2007, Hrant Dink, the editor of the bilingual Armenian-Turkish magazine *Argos*, was shot dead outside his Istanbul office. The trial of 18 defendants continues.

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1. All references in this text to Kosovo, whether to the territory, institutions or population, shall be understood to be in full compliance with United Nations Security Council Resolution 1244 and without prejudice to the status of Kosovo.

68. The behaviour of Turkish police during the investigation and the conduct of the trials of suspects in Hrant Dink's murder have given rise to complaints of negligence, obstruction and collusion on the part of members of the security forces. A number of other senior public officials were removed from office on the grounds of dereliction of duty. In early 2007 Turkish television broadcast video footage of several police and gendarmerie officers posing for a photograph with Ogün Samast, who was under arrest for shooting Hrant Dink.

69. The Turkish Government, under international pressure, amended Article 301 of the Turkish Penal Code on 30 April 2008, but the changes have been widely criticised as inadequate. The original wording criminalised "denigration of Turkishness, the Republic, the institutions and organs of the State". The new wording substituted "Turkish nation" for "Turkishness". The maximum sentence was reduced from three to two years' imprisonment, and the amended law says that prosecutions must first be approved by the Minister of Justice. Previously it had been possible for nationalist-minded lawyers to instigate prosecutions themselves.

70. The changes have not substantially reduced the number of court cases in which writers or journalists have been prosecuted for their published opinions. The Turkish monitoring organisation Bianet reports that between April and June 2009 125 people, 57 of them journalists, were on trial for expressing their opinions.

71. International PEN reported in September 2009 that there are currently more than 70 outstanding cases of journalists and writers facing criminal investigation or trial in Turkey for expressing their opinions. Of those, 27 individuals face possible criminal prosecution under Article 301. International PEN says at least seven applications for criminal investigation under the amended Article 301 are currently under consideration by the Ministry of Justice. So far no prosecution under the amended article has been confirmed.

72. The Article 19 organisation reports that other frequently used provisions of the penal code used to prosecute journalists and writers are Article 216, prohibiting "inflaming hatred and hostility among the people", and Law 5816, which criminalises "insulting the memory of Ataturk". The largest number of charges brought against journalists for "speech crimes" relate to Kurdish issues.

73. RWB reported two more recent attacks on journalists. Haci Bogatekin, owner of the fortnightly publication *Gerger Kirat*, was injured and his camera was broken in an attack on 28 July 2009, while reporting on a fire at a controversial waste site in the south-eastern province of Adiyaman. RWB alleged then that beatings were commonly being ordered or carried out by local officials as a means to silence journalists. And on 6 July 2009 Durmuş Tuna, the owner of local *Söke Gerçek* newspaper in south-western Turkey, suffered a broken arm in an assault by a group of men. He had reported on corrupt practices in the local government.

2.16. Ukraine

74. In Ukraine, three former police officers were convicted in March 2008 for the murder of Georgiy Gongadze and the investigation has gathered momentum.

75. In September 2009 the European Court of Human Rights ruled against the Government of Ukraine for failing to protect the life of the journalist or to conduct an effective investigation into his murder for some years after it took place. A more open political climate now prevails, matched by a lively independent media sector. In a second Interim Resolution CM/ResDH(2009)74 in September 2009, the Committee of Ministers welcomed recent progress in the investigation, including the rearrest of the fugitive former general, Oleksiy Pukach, the superior of the convicted former policemen.

2.17. United Kingdom

76. In September 2007 a death threat was received from a presumed loyalist paramilitary group in a message sent to a Northern Ireland television studio. It was accompanied by a bullet and bore the name and address of Robin Livingstone, the editor of the *Andersonstown News*. RWB criticised the police's failure to bring to justice the killers of the Belfast journalist Martin O'Hagan, who was murdered by a group believed to be loyalist paramilitaries in September 2001. RWB called on the police to do more to protect journalists and prosecute those responsible for attacks on them, and welcomed new inquiries focusing on O'Hagan's writings on alleged collusion between the security forces and paramilitary groups.

2.18. Belarus

77. Belarus, which is not a member state of the Council of Europe, is ranked in 188th place out of 195 countries in Freedom House's Global Press Freedom Ranking for 2009, judging it to have the worst record of any country in Europe. Reporters Without Borders said on 12 February 2008 that the free press there had

virtually disappeared because of regular administrative harassment and a repressive framework of laws. The government has recently indicated its willingness to allow some independent newspapers to be published and sold.

78. Article 19 reports several recent attacks on journalists, including an assault on photographer Uladzimir Hrydzin on 16 April 2009 and the detention and confiscation of equipment from journalist Siarhei Panamarou and his crew on 17 April 2009.

79. Article 19 and others have pressed the Belarus authorities over their continuing failure to resolve the October 2004 murder of journalist Veranica Charkasava and the disappearance in July 2000 of cameraman Dmitri Zavadski.

2.19. Attacks and threats against journalists from religious circles following the Danish cartoons controversy

80. The Muhammad cartoons controversy in 2005 and 2006 gave rise to large and violent protests across the Muslim world and in some European cities, representing a challenge to Europe's liberal concept of press freedom from the Muslim religious minority within Europe. That segment of society demonstrated its demand for limits to freedom of expression to take account of special religious sensibilities.

81. Media freedom suffered because some figures at the centre of the dispute, including a number of Danish cartoonists, were forced into hiding by threats of violence by Islamic extremists, and newspapers in some countries such as the United Kingdom appeared to exercise self-censorship out of fear of reprisals.

82. However, the reprinting of the cartoons in newspapers in most European countries demonstrated the strength of public feeling in favour of the free expression of ideas, even when they may cause offence. The principle that defamation laws can apply only to individuals but not to a religious faith such as Islam has also been publicly reaffirmed. Many states have engaged in new forms of dialogue among religious and other civic groups which have sometimes contributed to better mutual understanding between people of different faiths and convictions. If that continues, the principle of free expression will be well served.

83. Potential risks to individuals' safety still persist. In Denmark, a fresh plot was discovered in February 2008 to kill Kurt Westergaard, who drew the much-criticised turban cartoon. He complained that he was again forced to be a fugitive in his own country.

84. In Sweden in August 2007, some Muslim groups condemned another cartoon by Lars Vilks in the newspaper *Nerikes Allehanda* depicting the prophet Muhammed. The cartoon was said to have been printed, such as the earlier Danish ones, to highlight the issue of self-censorship and freedom of expression. The cartoonist received threats and several art galleries refused to show Vilks' work for fear of reprisals.

85. In France, Robert Redeker, a philosophy professor, was also forced to seek police protection after he received threats to his life on account of a column he wrote in *Le Figaro* newspaper in September 2006 on how the free world should respond to Islamist intimidation. A young Moroccan man was arrested in Libya in early 2007 and admitted calling, on an Islamist website, for the professor to be killed.

86. In the United Kingdom, Martin Rynja, owner of independent publishing company Gibson Square, suffered an arson attack on 27 September 2008, when petrol was poured through the letterbox of the publishing house, which is also his home, and set alight. In 2009 three Muslim men were each sentenced to four-and-a-half years in prison for the attack. It followed Rynja's publication of *The Jewel of Medina*, a fictional account of the relationship between the prophet Muhammad and his very young wife Aisha.

3. Category B: the state's relationship with the media and serious violations of journalists' freedom of information and expression

87. The evidence of this report indicates that governments themselves are most responsible for encroachments on the standards of media freedom upheld by the Council of Europe. The removal of many of the impediments to free, plural and professional media therefore lies in their hands.

88. The International Press Institute, which represents editors, media executives and leading journalists, stated in its review of 2008: "The gradual backslide in European press freedom continued this year, as governments further dented journalists' right to protect the confidentiality of their sources, strengthened and applied criminal defamation legislation, and used counter-terrorism as a pretext to stifle free speech."

89. Twenty years after the end of the Cold War, many traditional political party structures in Europe have been swept away and replaced by new ones and fierce contests have intensified among competing political forces to control, influence or directly own mass media.

90. This pattern of extreme antagonism between rival political forces and their media allies lies behind a series of numerous displays of intolerance on the part of elected politicians towards critical media in recent years. Political leaders have not only stepped up attempts to dominate the news agenda by exerting influence on public sector broadcasters and other "friendly" media. They have also been quick to prosecute journalists for defamation or other offences,

91. The Council of Europe and the OSCE, through its Representative on Freedom of the Media, have both identified the dangers for freedom of expression arising from the exercise of state power, especially in the following areas, whose importance is emphasised in the list of indicators given in Resolution 1636 (2008): pressures on the media in elections, the use of criminal laws and administrative means to block journalistic inquiry, the impact and uses of the Internet, and manipulation of public service broadcasting.

3.1. Restrictions, harassment and media bias in elections

92. Fair access to the media for all candidates, especially at times of elections, is central to the workings of democracy. That principle has however been violated in a number of post-communist member states, where international election monitors have found evidence of serious distortions and bias in media reporting on elections. In some cases they have been unable to carry out their work because of a lack of co-operation from the host governments.

93. In Armenia the mass protests following the contested victory of Serzh Sargsyan in the presidential election of 19 February 2008 prompted the declaration of a state of emergency, including provisions for strict censorship of all publications for twenty days. Several media outlets closed down in that time rather than submit to censorship. A report by the Association of European Journalists (AEJ) of 5 December 2008 revealed that most leading newspapers and broadcasting organisations openly took sides between the pro- and anti-government political forces while covering these events, showing that media independence from political authorities in Armenia had been effectively blocked in a climate of extreme political polarisation and mutual antagonism.

94. For the Azerbaijani presidential election on 15 October 2008, the Parliamentary Assembly's election observation mission found that candidates were able to convey their messages to voters without impediment. But it reported that in the four weeks before the election public television devoted 51% of its coverage to the incumbent president, Ilham Aliev, and his supporters, which was positive or neutral, while only 12% was devoted to all the other political parties together. Some journalists who had criticised the authorities were charged with criminal offences or faced civil lawsuits, some of them resulting in prison sentences and fines.

95. In the case of the Belarus parliamentary elections of September 2008, the Parliamentary Assembly pointed to the lack of pluralist information for voters as one of the serious flaws which undermined the election result.

96. In Russia, the OSCE Representative on Freedom of the Media found that in the period preceding the Duma elections of December 2007 as well as the presidential election of 3 March 2008, numerous violations, including harassment of media outlets, legislative limitations, and media bias took place, which prevented fair and equal media access. The governing United Russia Party and its chosen candidate Dmitry Medvedev were given extensive and favourable coverage on Russia's national television channels, far out of proportion to that given to the rest.

97. This contributed to the conclusions of international observers that the Duma elections failed to meet many international standards for democratic elections, and that the presidential election was not free and fair, in part because of the unequal access of the candidates to the media.

98. The well-documented existence of formal or informal blacklists of individuals who are effectively barred from appearing on mainstream media in Russia represents blatant bias and a violation of Council of Europe standards,

3.2. The impact of anti-terrorism, anti-extremism laws and security laws on media freedom and challenges to the confidentiality of sources

99. The rule in democratic states is that laws for the protection of state secrets, national security or against incitement to hatred must respect the right to freedom of expression and can only be overruled in exceptional cases.

100. That principle was upheld in the Committee of Ministers' 2005 Declaration on Freedom of Expression and Information in the Media in the Context of the Fight against Terrorism**.** It says that states should not introduce any new restrictions on freedom of expression and information in the media unless strictly necessary and proportionate. It also reaffirmed that states should respect the right of journalists not to disclose their sources of information beyond what is permitted in the European Convention on Human Rights and refrain from exerting any kind of pressure on them.

101. Yet in numerous cases states have been accused of prosecuting journalists without due regard for the principle that reporting such matters may constitute a genuine public interest. Respect for the confidentiality of journalists' sources has also been challenged repeatedly in the courts.

102. Examples of judicial investigations of journalists on security-related charges that seem to violate agreed standards on access to information and freedom of expression include:

– Germany: in June 2007 the Federal Intelligence Agency began criminal investigations of 17 prominent journalists, seeking evidence to prosecute them for revealing state secrets, after politicians had leaked details of the German intelligence agency's role in assisting the secret United States programme of "extraordinary renditions" of terrorist suspects. The cases were dropped;

– Ireland: on 4 August 2009 the Supreme Court upheld the right of the editor of the *Irish Times*, Geraldine Kennedy, and reporter Colm Keena, to keep the identity of their sources secret, after they refused to reveal the source of an article about payments to the former Irish Prime Minister Bertie Ahern;

– The Netherlands: security officials secretly monitored the conversations of staff at *De Telegraaf* newspaper to try to identify the source of a leak, and arrested and detained two journalists. An attempt to prosecute them was rejected by a court;

– Russia: the Centre for Journalism in Extreme Situations says that some 60 journalists have faced criminal investigation or prosecution in the past year under the law against extremism, which contains a definition of extremism that includes criticism of public officials. Recently, however, several proposed amendments which would have further tightened the legal constraints on media reporting were rejected by the Duma or the Supreme Court;

– Switzerland: three *SonntagsBlick* reporters were prosecuted in 2007 for revealing evidence of the secret United States prisons for terror suspects in European Union countries. The journalists were acquitted in a military court;

– Turkey: on 22 August 2009 the *Günlük* newspaper was shut down for publishing an article deemed to constitute propaganda for a terrorist organisation. The article by a Toronto University academic, Professor Amir Hassanpour, referred to Turkey's policies limiting the use of the Kurdish language as "linguicide" and mentioned the Kurdistan Workers' Party, the PKK, which is banned as a terrorist organisation in Turkey and the European Union;

– United Kingdom: the Northern Ireland correspondent of the *Sunday Tribune*, Suzanne Breen, was charged in 2009 for refusing to reveal the source and details of her contacts with the paramilitary Real IRA, after she reported its admission of responsibility for the killing of two British soldiers earlier in the year. The judge acquitted the journalist, citing Article 10 of the European Convention on Human Rights and saying that her life would be at risk if she handed over the material.

103. Governments in other member states have adopted a range of other laws in the name of national security or protecting the public, which are seen as curtailing the freedom of journalists and media organisations to hold power to account and promote open debate.

104. Spain: International PEN reported in December 2007 that a number of journalists and writers, among more than 60 people, were convicted on charges of terrorism for allegedly supporting the armed separatist group ETA. Some of the journalists worked for the Basque newspaper *Egin*.

105. European Union states: serious concerns have been raised by civil rights and media watch groups concerning the European Union directive on the retention of personal data on telephone, e-mail and Internet communication. It is feared that they could enable governments to easily identify journalists' confidential

contacts with sources. The European Union's directive on data retention is now in force. It requires telecommunications providers across Europe to collect and retain information on all users' activities and keep them for at least six months. The degree of access by state authorities to the data varies in different countries.

106. Those concerned for media freedom welcomed the long overdue judgment of the European Court of Human Rights in 27 November 2007 awarding substantial damages to the former *Stern* magazine correspondent in Brussels, Hans-Martin Tillack. The Court ruled that Belgian police had violated his right to free expression when in 2004 they seized his papers and equipment on suspicion of bribing European Union officials for information. Tillack had published reports on irregularities in the European Union's anti-fraud office OLAF.

107. The European Union is called on, as a supranational organisation with effective governmental powers, to show a keen awareness of its responsibilities regarding the legitimate freedom of the media to report on matters of public interest.

3.3. Internet and new media

108. The rapid spread of the Internet and digital mobile media has had a liberating effect on the overall media landscape. The new technologies have broken the traditional hold of a limited number of newspapers and television and radio stations on media markets. The infinite expansion in the number of broadcasting channels and online information sources available to all has brought an extraordinary expansion of choice, and access to information on demand.

109. However, a Freedom House (FH) report "Freedom on the Net: A Global Assessment of Internet and Digital Media" concerning Internet and digital media in selected countries, published in March 2009, found that governments in Europe have adopted various means for controlling Internet and mobile phone technologies, including surveillance and the application of laws requiring service providers to retain records of communications traffic.

110. In Estonia, several media websites as well as those of government and public offices were the target of massive cyber attacks in April and May 2007. Suspicions were raised about Russian involvement but no definite explanation was forthcoming. The attacks followed strong condemnation by some sectors of opinion in Russia of Estonia's decision to move a war memorial – a statue of a Soviet soldier – from central Tallinn to another location.

111. FH found that the Russian Government had launched at least seven criminal cases against bloggers and citizen journalists. In one case a blogger, Savva Terentyev, was convicted in July 2008 of denigrating the dignity of the police and sentenced to one year on probation. Since 2000 all Internet service providers have been obliged to install a software system which gives the police and internal security service access to Internet traffic. Current laws allow the government to intercept Internet traffic without a warrant.

112. In Turkey, government censorship of Internet sites is widespread. FH reported that more than 1 300 websites had been blocked by the Turkish telecommunications authorities as of 1 December 2008. The video-sharing website YouTube has remained banned since May 2008 after the site had featured material apparently deemed insulting to Ataturk, the founder of the Turkish Republic. Other social networking sites such as MySpace and Twitter have also been affected.

113. The potential for monitoring users and infringements of privacy have led concerned groups to warn about dangers to the ability of journalists to safeguard the confidentiality of their sources of information. FH reported that in the United Kingdom in 2007 there were more than 500 000 requisitions of communications data from telephone providers, including mobile phone companies, and Internet service providers. The contents of e-mails and other data can only be obtained with a warrant from the Home Secretary (Interior Minister.)

114. FH also reported that freedom of expression in the United Kingdom has been threatened by the growth of so-called libel tourism, whereby litigants in other countries have successfully brought lawsuits in Britain to silence and intimidate journalists and other content producers. The United Kingdom is seen as having favourable libel laws for litigants and anyone may sue in a British court provided that the contested material has been accessed in Britain. FH states that this appears to have had a powerful inhibiting effect on investigative journalists and others, and may result in widespread self-censorship.

3.4. Political pressures, use of libel laws, and favouritism and exclusion of selected media

115. In a democracy, reasonable dealings between journalists and politicians and government officials require political openness. However, in some European countries public officials have instead made the relationship into one of open hostility and antagonism. This has sometimes led to the enactment of oppressive press laws, discriminatory access to information and press events, and in some cases to a climate of intimidation incompatible with European standards.

116. The Assembly has noted that a high number of court cases involving prosecutions of journalists under defamation and other speech offence laws is a sign of problems with the framework of law. Yet in March 2007 the OSCE Representative on Freedom of the Media found that at least 36 Council of Europe member states still have criminal penalties for defamation, despite appeals to downgrade it to a civil offence.

117. Special provisions for extra penalties in cases of insults to senior public officials are also commonplace, contrary to rulings by the European Court of Human Rights.

118. In Azerbaijan, the OSCE Representative on Freedom of the Media has criticised the continued imprisonment of two bloggers, Emin Abdullayev and Adnan Hajizade, charged with hooliganism, terrorism and tax evasion – the OSCE Representative on Freedom of the Media called these “trumped-up charges” and has called for an end to official harassment of both men.

119. In Italy, Prime Minister Silvio Berlusconi, whose business empire includes several of the most popular television channels and a number of news publications, has used that position to bolster his political image in ways which have been sharply criticised in Italy and abroad. Critics say his excessive media influence distorts the way his government’s difficulties and personal scandals affecting him are reported to Italians through the media. In the past he has threatened critical journalists with exclusion from access to his press appearances. In 2009 he started lawsuits against the Spanish newspaper *El País* over publication of embarrassing photos of one of his parties; against the French weekly *Le Nouvel Observateur* over an article alleging links between Italian politicians and Russian mafia elements; and against two Italian newspapers, including *La Repubblica,* for repeatedly printing a series of questions for him to answer concerning his private life and public duties. The OSCE Representative on Freedom of the Media has called on Mr Berlusconi to drop the civil libel actions. He said the lawsuits were an abuse of media freedom because the persistent posing of questions is an important part of the media’s “corrective function.”

120. In Lithuania a press law was passed in 2009 limiting freedom of expression by making it a crime to hold someone up to ridicule. The law was presented as a measure to protect children against the detrimental effects of public information. But there are concerns that it could limit satirical speech and prevent the press from exercising its right to criticise and the public’s right to receive such content freely.

121. In Russia, Article 19 and other organisations have protested on a continuing basis against the government’s use of laws on criminal defamation, extremism and national security to intimidate and prosecute journalists.

122. Many media and other international organisations that promote open exchanges of all kinds with Russia are shocked that contracts with international broadcasters, including the BBC and Radio Liberty/ Radio Free Europe, for re-broadcasting programmes from abroad via good-quality FM frequencies have been ended, depriving Russians of an established source of information and contact beyond Russia’s borders.

123. In Slovakia Prime Minister Robert Fico branded parts of the media as political opposition and was accused of refusing to speak to the more critical journalists. A Press Act granting a blanket right of reply to any person mentioned in newspaper articles has been criticised as being potentially crippling to press freedom.

124. In Slovenia more than 500 journalists signed a petition in late 2007 against interference in the independence of the media, including senior staff appointments by Prime Minister Janez Janša’s government. For many months the government refused to discuss the issues with journalists’ representatives. A Finnish television journalist, Magnus Berglund, who in September 2008 disclosed alleged corruption by senior Slovene public officials through an arms deal with Finland, learned in July this year that he was being charged by Slovenian prosecutors with defamation.

125. On 13 November 2007 a cartoonist Guillermo Torres and writer Manel Fontdevila were fined €3 000 in Spain for defaming Crown Prince Felipe in a cartoon published in the satirical weekly *El Jueves*. The whole week’s edition was ordered to be taken off the newsstands on the grounds that it insulted the royal family.

126. In Turkey, Prime Minister Recep Tayyip Erdoğan and members of his government have been seen to conduct a campaign of harassment of the country's largest media conglomerate, the Dogan Media Group, which has taken an oppositional stance towards the present government. The prime minister has called publicly for readers to boycott its publications. And in 2008 several journalists working for the Dogan Group, including the newspaper *Milliyet*, complained that they were denied accreditation or access to press events with Prime Minister Erdoğan after he was reported to have ordered them to be blacklisted.

127. In September 2009 the Turkish Finance Ministry imposed a crushing fine amounting to €1.74 billion for alleged tax irregularities on the business. Shortly afterwards reports said the fine was being increased further by some 30% to take account of interest and penalty charges. The International Press Institute's National Committee in Turkey said that the size of the combined fines demanded by the government exceeded the total value of the media group itself, and therefore amounted to a direct seizure and liquidation of a media organisation. The European Commission has condemned the fine as excessive and a danger to media pluralism and to freedom of speech.

128. In January 2009 the International Press Institute criticised attempts to prosecute Turkish cartoonists for lampooning senior government figures. In January 2008 two cartoonists for *Cumhurryet*, Musa Kart and Zafer Temoçin, faced criminal proceedings over caricatures of Turkey's president, on the grounds that they insulted the head of state. Such actions contradict rulings by the European Court of Human Rights, which say that state officials shall not be protected against criticism or insult at a higher level than ordinary people.

3.5. Public service broadcasting

129. The Council of Europe reaffirmed, in the political declaration made at the ministerial conference in May 2009, that public service media are a fundamental part of the media landscape in the democratic societies of Europe. Their importance lies in their guaranteed editorial independence and institutional autonomy, which helps to ensure media diversity. The ministers stressed that by virtue of their statutory independence and public role, public service television and radio broadcasting media can counterbalance the misuse of power in situations of strong concentration of the media.

130. The need to protect public service broadcasting (PSB) against political interference by means of statutory rules and an internal culture of fairness, balance and independence should be underlined.

131. But the survival of Europe's long-standing model of PSB, based on independence bolstered by public consent and financed by a licence fee system, is threatened by commercial competition, falling audience shares and political meddling.

132. The Open Society Institute (OSI), in its 2008 study "Television across Europe: More Channels, Less Independence", found that the politicisation of regulatory bodies has escalated across Europe.

133. Clear examples of politicisation of public broadcasting, it says, are to be seen in Poland, Romania and Slovakia. Poland's new media law abolishes television and radio fees from 2010, replacing them with subsidies. In July 2007 the OSCE Representative on Freedom of the Media expressed concerns that the reforms fail to secure the financial and editorial independence of PSB, and will hasten the services' transformation into commercial entities.

134. OSI criticises the politicised appointments and lack of expertise of the members of the broadcasting councils of Bulgaria, the Czech Republic and Romania. In Lithuania, OSI says, public hostility to the licence fee and planned budgetary cuts point to the long-term decline of PSB. Ukraine has been asked to amend its law on television and radio broadcasting to lessen the current powers of the president to appoint members of the board.

135. In Italy, Prime Minister Silvio Berlusconi, whose business interests also include many of the country' private broadcasting channels, has blocked the passage of strict provisions on conflict of interest. A bill to guarantee the public broadcaster RAI's independence from political influence failed to be enacted.

136. In Germany and Austria, the established system whereby the senior management and editorial appointments in public broadcasting reflect the strength of rival political parties can be criticised for undermining journalistic independence by openly taking account of political affiliations. In Austria some broadcasting journalists have questioned the guidelines on news coverage which take account of political factors in deciding on coverage and running orders on news bulletins.

137. The independence of PSB in France is threatened, Article 19 says, by a new system imposed in 2009 by President Sarkozy whereby he himself may appoint the head as well as the top broadcasters of the French public television broadcasting networks. The changes provoked a lengthy strike of Radio France Internationale staff in March 2009, protesting against 200 expected job losses.

138. Russia's state-dominated broadcasting structure is far from the concept of PSB based on clear impartiality rules and statutory independence.

139. Armenia, Azerbaijan and Belarus all maintain tight state controls over the management and work of their national television systems. Each is under pressure, however, to relax that stranglehold step by step. Armenia is being strongly pressed to permit the popular independent television channel A1+, whose broadcasting licence was taken away in 2002, to be awarded a new one in line with a ruling of the European Court of Human Rights.

4. Category C: journalists and civil society, professional standards and ethics

140. The freedom and integrity of the media are also threatened from within by intense economic pressures, professional or ethical misconduct and the loss of public trust which results from those weaknesses.

4.1. Economic and ownership pressures

141. Digital and mobile technologies have dramatically changed the information landscape, with new media formats and delivery platforms on the Internet and the new concept of "free news" for all consumers. Old media business models are failing. The new media blur the distinction between traditional broadcasting or print journalism and personal communications through "convergence". They also blur the line between professional journalism and "citizen journalism" or social networking. These things represent big challenges for media freedom and independence, and for quality journalism.

142. The drastic fall in advertising and sales revenues for mainstream media has been made more acute by the financial crisis of late 2008.

143. Media freedom is directly challenged when media outlets are taken over by owners whose main goal is either political advantage or financial profits, rather than the long-term welfare and reputation of the organisation and its employees.

144. In France, the ownership of several leading national newspapers has recently moved into the hands of business conglomerates with much publicised ties to the government. In June 2007 France's three main media unions voiced concern about the danger of media manipulation by big business interests, and called for new guarantees of editorial independence.

145. Elsewhere, including in Italy and Russia, media observers identify the phenomenon of a "fusion of political and media power" in the hands of particular individuals or political forces, which hampers media pluralism and independence.

146. The International Federation of Journalists has also raised the alarm about the growing insecurity of journalists' jobs and the big increase in the number of journalists obliged to work as freelancers or on short-term contracts, making them more vulnerable to pressures to adapt their work to please editors or their news sources.

147. In many states trade unions still complain of unfair treatment or lack of recognition, when they demand that work contracts or guarantees of editorial independence are fulfilled. In Turkey in June 2009, broadcasting members of the journalists' trade union Tüm Haber Sen issued a statement protesting against effective government control of the public broadcaster TNT.

4.2. Professional and ethical misconduct, public trust in media and national reviews of laws restricting freedom of expression

148. Media freedom in a democracy depends in part on the maintenance of good professional standards, which in turn fosters public trust. In states which enjoy a free press self-regulation is widely accepted in place of state controls and intervention.

149. However, only about half of the Council of Europe member states have press councils or other self-regulatory bodies which can claim to have effective authority and clear ethical as well as legal standards for the practice of journalism. In many cases the protection of privacy is weak and inadequate.

150. All over Europe leading media outlets, including public broadcasters, have been criticised for lapses in journalistic standards, including misleading reporting, manipulation of television quiz shows for the sake of ratings or profit, an excessive focus on celebrity and sensational crime or the failure to keep up standards of taste and decency.

151. Acknowledging this, the IFJ in 2008 launched an Ethical Journalism Initiative to recover standards of truth, fairness, independence, and professional social responsibility. The IFJ stated that many media have failed to meet important challenges. Instead of raising awareness and challenging ignorance about people from other racial or faith backgrounds, it says, many media stoke the fires of intolerance and racism. Such behaviour helps to bring journalism into disrepute especially if, as in a number of unfortunate cases, it involves actual law-breaking.

152. The Association of European Journalists, in a 2008 survey on trust in media across Europe, found that a major reason for the decline in that level of trust is the popular belief that journalists do not report truthfully and independently. The AEJ highlighted the resignation of eight journalists working for Russian state television in protest against a new policy of excluding from the airwaves a list of opposition figures on an official "blacklist".

153. In most states, keen debates about the media have focused on high-profile disputes between mainstream media and politicians, and on other issues such as digital switchover. Genuine reviews of the condition of media freedom and the causes of major violations could have positive effects, provided they are conducted fairly and with full participation by genuinely independent media as well as politicians and officials. To have credibility, the reviews must lead to the repeal or correction of laws and practices which are shown to break states' commitments on freedom of expression.

154. It is important that states promptly and willingly fulfil their commitment to conduct thorough and open reviews of their national laws to ensure that any impact of anti-terrorism measures on the right to freedom of expression and information is consistent with Council of Europe standards, as agreed in the relevant resolution at the May 2009 Reykjavik ministerial conference (document MCM (2009) 011, Political declaration and resolutions).

155. Among the most important elements for fostering media freedom is the recognition that accountable and properly-funded public service broadcasting, whether on existing or new platforms, has a valuable place in the media landscape. It needs to be promoted in some European states and protected in others.

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Members of the committee: Mrs Anne **Brasseur**, (Chairperson), Mr Detlef Dzembritzki (1st Vice-Chairperson), Mr Mehmet **Tekelioğlu** (2nd Vice-Chairperson), Mrs Miroslava **Němcová**, (3rd Vice-Chairperson), Mr Florin Serghei Anghel, Mr Lokman Ayva, Mr Walter **Bartoš**, Mrs Deborah Bergamini, Mrs Oksana Bilozir, Mrs Guðfinna S. Bjarnadóttir, Mrs Rossana Boldi, Mr Petru Călian (alternate: Mrs Mihaela **Stoica**), Mr Joan Cartes Ivern, Lord **Chidgey**, Mr Miklós, Csapody, Mrs Lena **Dąbkowska-Cichocka**, Mr Joseph Debono Grech, Mr Daniel Ducarme, Mrs Anke Eymer, Mr Gianni **Farina**, Mrs Blanca **Fernández-Capel Baños** (alternate: Mr Gabino **PucheRodriguez-Acosta**), Mrs Emelina **FernándezSoriano**, Mr Axel Fischer, Mr Gvozden Srećko **Flego**, Mr Dario **Franceschini**, Mr José Freire Antunes (alternate: Mr José Luís **Arnaut**), Mr Martin Graf, Ms Sylvi Graham, Mr Oliver Heald, Mr Rafael Huseynov, Mr Fazail İbrahimli, Mr Mogens Jensen, Mr Morgan Johansson, Mrs Francine John-Calame, Mr Jón Jónsson, Ms Flora Kadriu, Mrs Liana Kanelli, Mr Jan **Kaźmierczak**, Miss Cecilia Keaveney, Mrs Svetlana Khorkina, Mr Serhii Kivalov, Mr Anatoliy **Korobeynikov**, Ms Elvira Kovács, Mr József Kozma, Mr Jean-Pierre Kucheida, Mr Ertuğrul **Kumcuoğlu**, Ms Dalia Kuodytė, Mr Markku **Laukkanen**, Mr René van der Linden, Mrs Milica **Marković**, Mrs Muriel Marland-Militello, Mr Andrew **McIntosh**, Mrs Maria Manuela de **Melo**, Mrs Assunta Meloni, Mr Paskal Milo, Ms Christine **Muttonen**, Mr Tomislav Nikolić, Ms Anna Ntalara, Mr Edward **O'Hara**, Mr Kent Olsson, Mrs Antigoni Papadopoulos, Mr Petar Petrov, Mrs Zatuhi **Postanjyan**, Mrs Adoración Quesada Bravo, Mr Frédéric Reiss, Mrs Mailis Reps, Mrs Andreja **Rihter**, Mr Nicolae Robu, Mrs Tatiana Rosova, Mrs Anta Rugāte, Mr Leander Schädler, Mr André Schneider, Mr Predrag Sekulić, Mr Yury Solonin, Mr Christophe Steiner, Mrs Doris Stump, Mr Valeriy **Sudarenkov**, Mr Petro Symonenko, Mr Guiorgui Targamadzé, Mr Latchezar **Toshev**, Mr Hugo Vandenberghe, Mr Klaas De Vries, Mr Piotr **Wach**, Mr Wolfgang Wodarg.

NB: the names of the members who took part in the meeting are printed in **bold**

Secretariat of the committee: Mr Ary, Mr Dossow, Mr Fuchs