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(Final version)

Threats to media freedom and journalists' security in Europe

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A. Draft Resolution

1. Without the right to freedom of expression, and free, independent and pluralistic media, there is no true democracy. The Council of Europe and its Parliamentary Assembly are firmly committed to strengthening media freedom in all its aspects, including the right of access to information, the protection of sources, the protection against searches of professional workplaces and private domiciles and the seizure of materials, the safeguard of editorial independence and of the ability to investigate, criticise and contribute to public debate without fear of pressure or interference. The safety of journalists and other media actors is a fundamental component of this freedom.
2. Under the European Convention on Human Rights – in particular, but not only, its Article 10 – member States have a positive obligation to establish a sound legal framework for journalists and other media actors to work safely. However, threats, harassment, legal and administrative restrictions and undue political and economic pressure are widespread. Worse still, in some countries, journalists who investigate affairs involving corruption or abuse of power, or who merely voice criticism of political leaders and governments in power, are physically attacked, arbitrarily imprisoned, tortured or even murdered. In this respect, the Assembly also refers to its Resolution 2293 (2019) “Daphne Caruana Galizia’s assassination and the rule of law in Malta and beyond: ensuring that the whole truth emerges”.
3. According to the information published by the Council of Europe Platform to promote the protection of journalism and safety of journalists (the Platform), from 2015 to 25 November 2019, 26 journalists have been killed, including 22 cases where there has been impunity, and 109 journalists are currently in detention; 638 serious press freedom violations have been perpetrated in 39 countries. Threats on media freedom and the safety of journalists have become so numerous, repeated and serious that they are jeopardising not only citizens’ right to be properly informed but also the stability and smooth functioning of our democratic societies.
4. The Council of Europe bodies, including the Parliamentary Assembly, must not only keep on advocating the development in all European countries and beyond of a safe environment for journalists and other media actors, but they must make use of all their leverage to prompt member States to remedy quickly and effectively any threats to media freedom, urging and supporting the reforms required to this aim.
5. Therefore, the Assembly calls on member States to protect more effectively the safety of journalists and media freedom. In this connection, they must:
 - 5.1. fully implement Recommendation CM/Rec(2016)4 on the protection of journalism and safety of journalists and other media actors;

- 5.2. carry out effective, independent and prompt investigations into any crimes against journalists, such as killings, attacks or ill-treatment, and bring to justice authors, instigators, perpetrators and accomplices who are responsible under the law, ensuring that there is no impunity for attacks against journalists;
- 5.3. set up national mechanisms consistent with the UN Plan of Action on the Safety of Journalists and the Issue of Impunity, ensuring that such mechanisms are designed and implemented under strong political and operational leadership, with proper inter-agency co-ordination and in genuine partnership with civil society, notably journalists' associations and trade unions, and media freedom watchdog organisations;
- 5.4. fight on-line harassment of journalists, particularly female journalists and journalists belonging to minorities, and enhance the protection of investigative journalists and whistleblowers;
- 5.5. support the establishment of early-warning and rapid-response mechanisms, such as hotlines or emergency contact points, to ensure that journalists have immediate access to protection whenever they are threatened;
- 5.6. pay particular attention to the rising number of attacks on journalists and media outlets from groups of extremists and criminal organisations, and take appropriate preventive measures when journalists' life or safety is exposed to a real and immediate risk;
- 5.7. enhance the co-operation and exchange of information, expertise and best practices with other States whenever crimes against journalists involve cross-border or online dimensions;
- 5.8. back up laws protecting journalists with effective law enforcement apparatus and redress mechanisms for victims and their families;
- 5.9. avoid arrest and extradition of journalists in exile to their countries of origin where they risk punishment and persecution.

Amendment 8

Tabled by Ms Lesia ZABURANNA, Mr Andrii LOPUSHANSKYI, Ms Mariia MEZENTSEVA-FEDORENKO, Ms Yevheniia KRAVCHUK, Mr Egidijus VAREIKIS

In the draft resolution, paragraph 5.9, after the words: "punishment and persecution", insert the following words: "and prosecution under criminal law".

Amendment 6

Tabled by Mr Andrej HUNKO, Mr Axel SCHÄFER, Mr Alexandros TRIANTAFYLIDIS, Mr George KATROUGALOS, Mr Constantinos EFSTATHIOU, Mr Gianni MARILOTTI, Mr Roberto RAMPI

In the draft resolution, at the end of paragraph 5.9, insert the following words: "and defend the freedom of media and security of journalists, namely in the case of Julian Assange as his possible extradition to the USA would set a

6. The Assembly calls on member States to create an enabling and favourable media environment and review to this end their legislation, seeking to prevent any misuse of different laws or provisions which may impact on media freedom – such as those on defamation, anti-terrorism, national security, public order, hate speech, blasphemy or memory laws – which are too often applied to intimidate and silence journalists. In this connection, they must, in particular:
- 6.1. propose no penal sanctions for a media offence – especially prison sentences, closure of media outlets or blocking of websites and social media platforms – except in cases where other fundamental rights have been seriously impaired, for instance in the case of hate speech or incitement to violence; ensure that these sanctions are not applied in a discriminatory or arbitrary way against journalists;
- 6.2. recognise, and ensure respect of, the right of journalists to protect their sources, and develop an appropriate normative, judicial and institutional framework to protect whistleblowers and whistleblowing facilitators, in line with PACE Resolution 2300 (2019) “Improving the protection of whistleblowers all over Europe”;
- 6.3. facilitate journalists’ work in specific difficult contexts, such as in conflict zones or in public rallies;
- 6.4. firmly condemn police violence against journalists and establish deterrent sanctions in this respect;
- 6.5. develop specific training programmes for law-enforcement bodies and officials who are responsible for fulfilling State obligations concerning the protection of journalists;

precedent and threaten journalists' freedoms in all member states."

Amendment 1

Tabled by Mr Kamil AYDIN, Ms Zeynep YILDIZ, Ms Serap YAŞAR, Mr Zafer SIRAKAYA, Mr Ziya ALTUNYALDIZ

In the draft resolution, paragraph 6.1, after the words "incitement to violence", insert the following words: "or acts related to terrorism".

Sub-amendment 1 to amendment 1

Tabled by the Committee on Culture, Science, Education and Media

In amendment 1, delete the words "acts related".

Amendment 5

Tabled by Mr Stefan SCHENNACH, Mr Constantinos EFSTATHIOU, Mr Kimmo KILJUNEN, Ms Thórhildur Sunna ÆVARSDÓTTIR, Ms Selin SAYEK BÖKE, Mr Frithjof SCHMIDT

In the draft resolution, at the end of paragraph 6.2, insert the following words: "in this respect, consider that the detention and criminal prosecution of Mr Julian Assange sets a dangerous precedent for journalists, and join the recommendation of the UN Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment who declared, on 1 November 2019, that Mr Assange's extradition to the United States must be barred and that he must be promptly released."

- 6.6. avoid any misuse of administrative measures, such as registration or accreditation, and of tax schemes to harass journalists or apply pressure to them;
- 6.7. develop constructive, nondiscriminatory mechanisms of dialogue with media and journalists standing or ad hoc committees, bringing together politicians, judges, public prosecutors, police officers, journalists and editors, to discuss problems concerning journalists' security, and look for solutions in a collaborative framework, also paying specific attention to the need to ensure effective protection for investigative journalists, as well as to the higher vulnerability of women journalists and the particular vulnerability of freelancers.
7. The Assembly condemns the rise of aggressive behaviour and violent verbal attacks by political figures and representatives of the authorities against journalists and calls on all political leaders to combat this phenomenon.
8. The Assembly notes with concern that public service media have been under increasing pressure in most parts of Europe, suffering from funding cuts and new laws or regulations which limit their independence or reduce their remits. The Assembly reaffirms and commends the crucial role that public service media play in a democratic society and it calls again on member States to ensure their adequate and sustainable funding, editorial independence and institutional autonomy.
9. While the above-mentioned problems or at least some of them are observed in various proportions in most countries, the Assembly has to note that, concerning media freedom and safety of journalists, the situation in some member States is particularly worrying. In this context, the Assembly specifically calls on:
 - 9.1. Azerbaijan to radically modify the actual hostile environment which seriously curtails media freedom and, in particular:
 - 9.1.1. ban the abuse of penal legislation to silence independent journalists, who are today systematically threatened with unfounded criminal charges, trumped-up evidence and unjustified imprisonment;
 - 9.1.2. review urgently all cases of imprisoned journalists and media professionals, and free all those who are detained without any serious and substantiated evidence of criminal activities;
 - 9.1.3. refrain from the adoption of restrictive administrative measures, such as a travel ban on journalists, which limit their freedom to properly inform the public;
 - 9.1.4. end legal harassment of independent news agencies, for example through false accusations of tax-evasion or under-declaring profits;
 - 9.1.5. stop systematically blocking access to independent news websites;
 - 9.1.6. stop any administrative and political pressure against the only independent news agency Turan and against the Institute for Reporters' Freedom and Safety (IRFS);

- 9.2. Hungary to immediately address the grave problem of media pluralism; the politically and economically biased licensing media conglomerate concentrating 78% of the Hungarian media closely associated with the ruling party is totally incompatible with freedom of expression and information;
- 9.3. Malta to:
 - 9.3.1. urgently end the prevailing climate of impunity and implement PACE Resolution 2293 (2019). In this connection, the Assembly welcomes the recent announcement of revised terms of reference and composition of a public independent inquiry into the murder of Daphne Caruana Galizia, following the concerns set out in the Declaration of the PACE Committee on Legal Affairs and Human Rights;
 - 9.3.2. as recommended by the Council of Europe's Commissioner for Human Rights, repeal any laws allowing the posthumous pursuit of defamation cases, targeting journalists, against their heirs. It is unacceptable that over 30 posthumous civil defamation proceedings against Daphne Caruana Galizia's family are still under way;
- 9.4. the Russian Federation – which holds the dubious record number of alerts on serious attacks against, and harassment and intimidation of, journalists – to immediately:
 - 9.4.1. address the problem of violence against journalists, including murders, physical attacks and threats, arrests, imprisonment, on-line harassment; take remedial action to impede such crimes and put an end to the climate of impunity that encourages further attacks; those who carried out or ordered the crimes must be brought to justice;
 - 9.4.2. prevent police violence against journalists, as has happened during July-August 2019 demonstrations in Moscow; apply deterrent sanctions against policemen who are responsible for such unacceptable misuse of power;
 - 9.4.3. stop intimidation of journalists by way of arrests and imprisonment under forged accusations of drug dealing or other, in order to prevent journalistic investigations of corruption and misuse of power as in the case of the journalist Ivan Golunov;
 - 9.4.4. cease abusing anti-terrorism laws to apply censorship to the media, as in the case of the journalist Svetlana Prokopyeva, who was charged with “publicly justifying terrorism” and could face up to seven years in prison, for expressing on-air her opinion about a teenage suicide;
 - 9.4.5. review the terms of reference of the Russian federal media regulator, Roskomnadzor, to limit its excessive power in the monitoring and censorship of the media, including on-line media; the blocking of independent media outlets without any warning or explanation, as recently happened to the Fergana news website, is an action amounting to censorship that is incompatible with the freedom of the media;

- 9.4.6. modify the recent legislation on false news and disrespect for the state, the authorities and society, and bring it into line with the Council of Europe standards; general prohibitions on the dissemination of information based on vague and ambiguous ideas, including “false news” or “non-objective information”, are incompatible with the provisions of the European Convention on Human Rights and must be abolished; they have a chilling effect of self-censorship on journalists and other media professionals and allow the government to silence any criticism against the ruling power, putting journalists and bloggers who oppose it in jail, and to determine the makeup of the media landscape by forcing media outlets to remove content identified by the authorities as “socially dangerous” or “disrespectful” or having their websites blocked;
- 9.4.7. stop discriminating against the main organisations defending the media by declaring them “foreign agents”; repeal the new bill adopted by the State Duma which extends the status of “foreign agents” to freelance journalists and bloggers receiving grants, salaries, or payment for specific pieces of work from any foreign source: marking with the “foreign agent” label the information published by independent journalists and bloggers will have a chilling effect on freedom of expression and of the media;
- 9.5. Turkey – the country which has the highest number of imprisoned journalists in the Council of Europe region – to immediately:
 - 9.5.1. end abusing the penal code and anti-terrorism laws to silence media outlets and journalists: the latter are placed in arbitrary pre-trial arrest and detention, and are held for months, sometimes for years, before their cases come to court; the European Court of Human Rights has consistently condemned such detentions as a real and effective constraint on freedom of expression that leads to self-censorship;
 - 9.5.2. in line with PACE Resolution 2121 (2016), repeal Article 299 (Insulting the President of the Republic), repeal or amend Article 301 (Degrading the Turkish Nation, the State of the Turkish Republic, the Organs and Institutions of the State) and ensure a strict interpretation of Article 216 (incitement to violence, armed resistance or uprising) and Article 314 (Membership of an Armed Organisation) from its penal code which, according to the Venice Commission, contains excessive sanctions and is too widely applied against freedom of expression and information;
 - 9.5.3. ensure that the over 150 media outlets which were closed and the about 10 000 media employees which were dismissed after the failed coup in 2016 have access to effective domestic remedies and, if the case arises, obtain adequate compensation;
 - 9.5.4. eliminate from the recently adopted legislation all provisions retained from the abolished emergency decrees that make it possible to apply radical measures against the media;

- 9.5.5. ensure that the newly introduced regulation empowering the Radio and Television Supreme Council to supervise internet media strictly abides by the case-law of the European Court of Human Rights;
- 9.5.6. revise the Internet Act in order to avoid unnecessary and unjustified blocking of access to internet resources on the grounds of "national security";
- 9.5.7. in the framework of the announced Judicial Reform Strategy, focus on the protection of journalists' safety and ensure, in that context, that meaningful steps be taken to expand freedom of expression and of the media and guarantee judicial independence, in line with Council of Europe standards.

Amendment 2

Tabled by Mr Kamil AYDIN, Ms Zeynep YILDIZ, Ms Serap YAŞAR, Mr Zafer SIRAKAYA, Mr Ziya ALTUNYALDIZ

In the draft resolution, paragraph 9.5.6, replace the word "revise" with the following words: "continue the reforms for revising".

Amendment 3

Tabled by Mr Kamil AYDIN, Ms Zeynep YILDIZ, Ms Serap YAŞAR, Mr Zafer SIRAKAYA, Mr Ziya ALTUNYALDIZ

In the draft resolution, paragraph 9.5.7, after the words "Judicial Reform Strategy", insert the following words: "which indicates the commitment of Turkish authorities to expand the protection of fundamental freedoms despite the difficulties and serious challenges Turkey has been facing with regard to the failed coup d'état, terrorist attacks and conflict in Syria."

Amendment 7

Tabled by Mr Eerik-Niiles KROSS, Mr Iulian BULAI, Mr Sergiy VLASENKO, Mr Martin POLIAČIK, Mr Mihail POPSOI, Mr Aleksander POČIEJ, Mr Kęstutis MASIULIS, Mr Luís LEITE RAMOS

In the draft resolution, after paragraph 9.5.7, insert the following paragraph:

"Georgia to address concerns of prosecution of media owners and managers: - shareholder of opposition TV Mtavari Giorgi Rurua, who has also backed a pro-European protest movement in Georgia, was arrested on alleged illegal possession of a firearm in a case which the country's civil society views as politicised. The arrest came after the 28 November statement of the Chairman of the ruling Georgian Dream party Bidzina Ivanishvili that some [politicians] have been serving jail terms for many years and many more will have to serve such years. Nika Guaramia, CEO of Mtavari and Vato Tsereteli, owner of critical TV station Pirveli, are also being prosecuted."

Amendment 4

Tabled by Ms Yuliya LOVOCHKINA, Mr Stefan SCHENNACH, Ms Klötilda BUSHKA, Mr Ervin BUSHATI, Ms Eglantina GJERMENI, Mr Frithjof SCHMIDT, Mr Titus CORLĂȚEAN, Mr Gheorghe-Dinu SOCOTAR, Ms Doris BARNETT, Mr Christian PETRY, Mr Axel SCHÄFER, Mr Kimmo KILJUNEN, Mr Roberto

RAMPI, Mr Piero FASSINO, Mr Henrik MØLLER, Mr Lars Asian RASMUSSEN

In the draft resolution, before paragraph 10, insert the following paragraph:

"The Assembly expresses its concern over numerous cases of murder and attacks against journalists as well as the absence of proper investigation and punishment of perpetrators in Ukraine. In this regard the Assembly calls upon the Ukrainian authorities to ensure journalists' security and media freedom as well as to carry out full, independent and unbiased investigations of unresolved deaths and attacks against journalists in Ukraine."

10. The Assembly welcomes the constructive attitude that a number of member States have shown so far with regard to the Platform and the alerts published therein. As examples: France and Ukraine have set up response mechanisms to co-ordinate adequate follow-up to the alerts seeking to solve them. In the Netherlands, the public prosecution, the police authorities and media outlets concluded an agreement to adopt preventive measures and co-ordinate responses to instances of violence. Encouraging progress could be acknowledged in North Macedonia, where pressure and prosecutions against journalists have been significantly reduced.
11. With the hope that all member States will recognise the added value that the Platform represents and the importance of the contribution that its partners offer to the Council of Europe, the Assembly calls on member States to:
 - 11.1. engage in an unreserved support and effective co-operation with the Platform, also contributing financially to its operation;
 - 11.2. establish appropriate response mechanisms and provide substantive responses to the alerts posted in the Platform, looking for prompt remedial actions and adopting targeted measures to avoid repetitive cases;
 - 11.3. consider how other member States are enhancing their collaboration with the partners of the Platform, seeking to follow positive examples and good practices;
 - 11.4. support the development of other similar transnational technical platforms on which media professionals would be able to signal any threats to their security.
12. Finally, the Assembly calls on national parliaments to ensure that governments act in full respect of the Council of Europe standards concerning the right to freedom of expression, including media freedom and the safety of journalists. National parliaments must be the guardians of this right and ensure full engagement of the State apparatus at all levels: political, legislative, judicial, law enforcement and educational. In this connection, national parliaments should take more account of the Council of Europe work, and particularly bring the recommendations of the Committee of Ministers, and PACE reports and resolutions, to the attention of their relevant committees,

and build on these texts when drafting legislation relevant
for media freedom and the safety of journalists.

B. Draft Recommendation

1. The Parliamentary Assembly, referring to its Resolution ... (2019) on "Threats to media freedom and journalists' security in Europe", recalls that the right to freedom of expression and free, independent and pluralistic media are fundamental prerequisites of a true democracy. The safety of journalists and other media actors is a key component of this freedom. Member States have a positive obligation to establish a sound legal framework for journalists and other media actors to work in safe conditions.
2. However, threats, harassment, legal and administrative restrictions and undue political and economic pressure are widespread. In some countries, journalists who investigate affairs involving corruption or abuse of power, or who merely voice criticism of political leaders and governments in power, are physically attacked, arbitrarily imprisoned, tortured or even murdered.
3. Threats on media freedom and the safety of journalists have become so numerous, repeated and serious that they are jeopardising not only citizens' right to be properly informed but also the stability and smooth functioning of our democratic societies. The Council of Europe must make use of all its leverage to prompt member States to remedy these threats quickly and effectively by urging and supporting the reforms required to this aim.
4. In this context, the Platform to promote the protection of journalism and safety of journalists is an essential collaborative tool which helps to raise awareness on the situation in the member States and to identify positive and negative trends. Moreover, the Platform encourages joint efforts and more synergic action of the different stakeholders, and it provides benchmarks for the design and effective implementation of national strategies intended to uphold media freedom and journalists' security.
5. In order to reinforce the role of the Platform and tap all of its potential, the Assembly recommends that the Committee of Ministers:
 - 5.1. encourage member States to promptly and substantively respond to alerts by taking appropriate remedial actions;
 - 5.2. hold regular exchanges within the Committee on the alerts published on the Platform and on the follow-up actions taken by the member States;
 - 5.3. organise an annual dialogue with the partners of the Platform, based on their annual report, in order to identify systemic challenges concerning media freedom and the safety of journalists in the member States, as well as possible solutions to meet those challenges;
 - 5.4. consider the Platform and its alerts on media freedom and safety of journalists violations as a basis to set priorities and assess the progress of the implementation strategy of Recommendation CM/Rec(2016)4 on the protection of

journalism and safety of journalists and other media actors;

- 5.5. make available the resources and the support needed to give the Platform greater visibility, recognition and impact.